

Film Classification and Censorship in Australia: a filmic image response perspective

by

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Table of Contents

Abstract	V
Declaration	VII
Acknowledgements	VIII
Introduction and Methodology	1
Introduction.....	1
Abjection.....	7
Quarantine.....	10
Taboo	12
Apparatus	14
Methodology and resources	20
Classification and Classification Review Board reports	21
Films.....	24
Illustrations	25
Chapter One: Evolution	26
Film censorship prior to 1970.....	27
Film classification, a national uniform system, and other procedural changes	31
Film censorship and additional suppression	35
Sex on film and the R classification	37
The role of context and precedence.....	40
State censorship and the national uniform system.....	43
Federal censorship policy	46
Film festival provisions.....	47
The introduction of VHS tapes.....	50
Videotape classification and the introduction of the X classification	52
Parliamentary committees and further reviews	59
The Howard Government's promise to abolish the X classification	62
The Australian Law Reform Commission and the National Classification Scheme.....	64
Chapter Two: Emotion	67
Disgust and extreme disgust.....	69
Anger and outrage.....	79
Chapter Three: Interpretation	84
The classification/censorship process.....	87

Violence	90
Animals.....	115
Sex.....	117
Bestiality	129
Love: an addendum	130
Children.....	133
Children presented as sexual objects for adult consumption.....	137
Children presented as sexual beings	144
Sexual violence	150
Modification and reclassification.....	158
Chapter Four: Participation.....	163
Designated sites of action.....	165
The Classification Board	165
Director of the Classification Board	170
The Classification Review Board.....	173
Aggrieved persons.....	176
Interested parties.....	184
The Federal Censorship Minister.....	187
The South Australian Classification Council.....	192
The Federal Court.....	194
Power, knowledge, and the control of truth regarding filmic image response	197
Appropriated sites of action	200
Voicing their opinion in public.....	201
Defying the law in public	204
Defying the system in private	211
Truth and resistance at the appropriated sites	213
Chapter Five: Perception.....	216
Offence: the classification/censorship system's filmic image response narrative	222
Harm: the media effects filmic image response narrative.....	236
Offence, harm and the self	244
Harm and the resistance.....	248
Offence revisited.....	260
Offence and the resistance.....	262
Chapter Six: Conclusion: towards an ethical filmic image response for viewers	264
Extreme disgust, outrage, and the classification/censorship system	266
Participation in the classification/censorship process.....	271

Perception: images, other viewers, and the self.....	276
The classification/censorship system's aims revisited.....	281
An aesthetics of existence	286
Reference List	297
Films.....	317
Online comments.....	319
Cases	324
Legislation and legislative instruments.....	324

Abstract

Since their introduction over 100 years ago, filmic images have consistently provided audiences with vicarious passage into uncharted worlds. However, they have simultaneously driven others to actively seek to curtail this exploration. In Australia, curtailment formally occurs via a state sanctioned film classification and censorship system, which is tasked with regulating offence in the context of adult viewing. This thesis examines how this system operates in practice and in society. Its focus, however, is not simply film classification or censorship. Drawing on Foucault's apparatus model, it instead proffers for examination an apparatus of filmic image response. After exploring the classification/censorship system's evolution from 1970 to present, this thesis turns to offence's legislative touchstones: disgust and anger. With reference to these emotions, it then investigates the interpretation of the classification/censorship legislation as it pertains to decisions delineating between licit and illicit images: those resulting in an R18+, X18+ or RC classification. The image categories it identifies as currently being at risk of censorship via X18+ or RC classification are: real death; actual sex; children, with a lawful nexus to child pornography; the commission of actual graffiti; and sexual violence. While sexual violence provides exception, this thesis concludes these images' prohibition is linked to the prevention of real life norm transgressions, which are independent of film and the screen.

Next this thesis explores those who participate in the classification/censorship process, uncovering their identities, as well as where and how they act, and to what end. Classification and censorship decisions have legal ramifications. However, they also disseminate the system's advocated filmic image response. With this in mind, this thesis then examines those who act outside the system. While such action has no legal bearing, it does provide an alternative filmic image response narrative to that espoused by the system. These instances are often understood as challenging film censorship in general. However,

this thesis reveals they are better framed as disputes over licit image boundary placement. Turning to Foucault's work on resistance, this thesis argues those seeking to challenge the censorship arm of the classification/censorship system must target that which underpins the system's rationales, as well as those of the people who participate in its operation seeking a censorial outcome. This is predominately – but not exclusively – the Religious Right.

This thesis further investigates the operation of the classification/censorship system's filmic image response narrative in the community, revealing the system is an influential voice in the apparatus of filmic image response. However, this thesis additionally identifies and examines the operation of another similarly influential response narrative: that advocated by the media effects tradition. Proponents of this tradition also threaten film censorship's abolition, meaning the resistance needs to target that which underpins their arguments too. Advances in technology have resulted in the classification/censorship system being unable to contain offensive images. Indeed, citizens are now required to govern themselves outside Australian cinemas and stores. The knowledge provided by this thesis regarding the classification/censorship system, and filmic image response formation, helps people do this ethically.

Declaration

I certify that this thesis does not incorporate without acknowledgment any material previously submitted for a degree or diploma in any university; and that to the best of my knowledge and belief it does not contain any material previously published or written by another person except where due reference is made in the text.

Catherine Schubert

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Introduction and Methodology

Introduction

Since their introduction over 100 years ago, filmic images have consistently provided audiences with vicarious passage into uncharted worlds. However, they have simultaneously driven others to actively seek to curtail this exploration. In Australia, film classification and – at its extreme – censorship is currently regulated by a mix of state and Federal laws that are both complex and polarising. Despite the dissonance they cause in the community – particularly when censorship is involved – film classification laws have the capacity, in prescribed circumstances, to demand the most serious penalty that Australia sanctions: imprisonment.¹ The inner workings of Australia’s film classification and censorship process have largely been obfuscated due to the nature of its work. This project aims to help elucidate how Australia’s film classification and censorship system operates in practice and in society, going beyond the facade of the instructing legislative documents’ textual content in ways that have not been done before.

To do this, Chapter One will provide an overview of the evolution of Australia’s classification and censorship system from 1970 to the present; Chapter Two will scrutinise the operation of the disgust and anger emotions; Chapter Three will examine how the current classification/censorship legislation is interpreted; Chapter Four will investigate external participation in the classification/censorship process; and Chapter Five will explore community perceptions linked to the images the classification/censorship system considers most problematic. Each of these chapters has its own meritorious ends, with the latter four all sequentially building on those before it. Together, however, they combine to provide a

¹ This is the case in all Australian jurisdictions except for South Australia where the maximum penalty is a fine.

detailed post-structuralist analysis of how Australia's film classification and censorship system is 'active and acted upon', as well as how it influences – and is influenced by – the society in which it operates (Kuhn, 1988, p. 6). They will also provide a blueprint for those seeking to resist film censorship in Australia, and knowledge that can be used to support the system of not only ethical viewing but ethical response proposed in Chapter Six.

Moving images in general are no longer the exclusive domain of professional filmmakers and commercial distributors. In 2012, the Australia Law Reform Commission (ALRC) observed that 'every minute over 60 hours of video content is uploaded to [the international video sharing website] *YouTube* (one hour of content per second)' (p. 26). Today, this rate has undoubtedly increased. The ALRC also noted this means that the line between consumer and creator is becoming increasingly blurred (2012, p. 26). Moving images – such as those on *YouTube* – lie beyond the reach of Australia's film classification and censorship system. This makes Chapter Six's proposed system of ethical response – and, consequently, this entire thesis – of utmost relevance.

Debate rages over that which should be included in the definition of film (Thomson-Jones, 2008, p. 1). This thesis, however, uses the terms 'film' and 'filmic image' to encapsulate all products with which the Australian classification and censorship system must deal: that which is intended for cinematic exhibition and commercial distribution via DVD, Blu-Ray or other comparable technology (*Classification (Publications, Films and Computer Games) Act 1995 (Cth) s 5* (definition of 'film')).² Here, these terms make no reference to how the product itself was created. Moving images that fall outside this category will simply be referred to as moving images, as has occurred above.

² This also includes television shows released on DVD or Blu-Ray, although these works will not be used as case studies.

The Australian system is undeniably one that both classifies and censors films. However, it has been fashioned to appear only as one of classification (Dalton and Schubert, 2011, pp. 44-45; Tiong Guan, 2013, p. 67). Indeed, the system's structure dictates that its Classification and Classification Review Boards – boasting up to 20 and eight members respectively – must give all that comes before them one of seven classifications: G, PG, MA, MA15+, R18+, X18+ or RC.³ These are its only options. RC, however, stands for “refused classification”, and these films are prohibited from screening in Australian cinemas and from being sold or hired through Australian stores. They are effectively banned, as are the unclassified films slated for film festival screening that were refused classification exemption by the Director of the Classification Board under the pre-September 2015 legislation. In this instance, the act of classification – and of classification exemption refusal – surreptitiously becomes one of censorship. Such wording can be seen as promoting obfuscation and opacity; a travesty which this thesis additionally seeks to rectify (Curry Jansen and Martin, 2004, p. 32; Dalton and Schubert, 2011, p. 50).

Through the act of censorship, the system establishes its borders; a boundary between the images it considers licit and illicit. It is the creation and implications of this boundary today which is of particular interest to this thesis, especially as it relates to films seeking an R18+ classification or film festival screening. This will be duly reflected in the aforementioned chapters' confines. The system's borders have the potential to be repositioned each time a film is censored via classification refusal. However, there is similar potential when a film is deemed suitable for adult viewing via the R18+ or X18+ classifications. Both these classifications also have restrictions attached, further nuancing this delineation. Indeed, while R18+ and X18+ films are not permitted to be distributed to minors, the public exhibition, sale and hire of X18+ films – which are colloquially referred to as pornography –

³ This is in accordance with section 7(2) of the (*Classification (Publications, Films and Computer Games) Act 1995* (Cth)). Membership is in accordance with sections 47 and 73. Not all members classify each film, although multiple members do in cases anticipated to be contentious. When it comes to classification review, decisions are made by a minimum of three members.

is prohibited in the Australian states.⁴ Consequently, this thesis considers an X18+ classification to also be an act of censorship.

The classification/censorship process itself is governed by a suite of Federal legislative documents: the *Classification (Publications, Films and Computer Games) Act 1995* (Cth), the *Guidelines for the Classification of Films 2012*, and the *National Classification Code (May 2005)*.⁵ Collectively, this thesis will refer to them as the classification – or classification/censorship – legislation. Enforcement measures, however, are determined and upheld by the states and territories, permitting jurisdictional inconsistency.⁶ The classification/censorship system's dual structure allows state and territory representatives to absolve themselves from acts of censorship by arguing they were simply heeding Commonwealth direction (Dalton and Schubert, 2011, p. 50). However, it also permits Federal representatives to deny their own involvement by arguing they simply give classifications with no control over their ramifications, furthering film censorship's obfuscation in Australia (Dalton and Schubert, 2011, p. 50).

⁴ X18+ films are permitted sale and hire in the Northern Territory and Australian Capital Territory but only in a 'restricted publications area' as so deemed by the sections 104 and 61 of the *Classification (Publications, Films and Computer Games) Enforcement Act* (NT), and the *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995* (ACT) respectively. X18+ films can also be exhibited in these areas in very limited circumstances.

⁵ These are the main pieces of legislation specifically relevant to the classification and censorship of films, and the ones with which this thesis will be engaging. A list of the other pieces of legislation relevant to the classification/censorship system as a whole can be found on the Australian Classification website. As will be seen, Chapters Three to Five reference the most recent incarnations of these legislative documents – as cited above – even when discussing films classified prior to their creation (but after 1 January 1996). This is because the wording of these documents pertinent to this thesis has largely remained the same throughout this time. Readers will, however, be alerted to any relevant changes as necessary.

⁶ This occurs under the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* (NSW), the *Classification (Publications, Films and Computer Games) Enforcement Act 1996* (WA), the *Classification of Films Act 1991* (Qld), the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* (Tas), the *Classification (Publications, Films and Computer Games) Act 1995* (SA), the *Classification (Publications, Films and Computer Games) Enforcement Act* (NT), the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* (Vic), and the *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995* (ACT).

To date, systems of film classification and censorship have largely remained on the periphery of criminological interest; an occurrence which this thesis strives to help remedy. Images themselves, however – both still and moving – are becoming an increasingly popular focus in criminology, studies of criminal justice, and critical legal studies. Here, images of – or associated with – crime are analysed. While far more nuanced than this implies, these works typically scrutinise how people and events are depicted (see, eg, Humphries, 2009; Cunneen, 2010; Brown, 2014), and/or the spectator (see, eg, Young, 2010a; Young, 2010b). The common thread linking these works is that the images with which they deal are of or about crime. Some of the images explored in this thesis, however, are not; a bold departure for literature of the criminological genre. Yet it is not so much what the images depict that is of interest to this thesis, although this remains integral to discussion. The point is that the images have been – or have the potential to be – rendered illicit at the hands of the Australian film classification and censorship system. Consequently, the images discussed in this thesis – and the classification and censorship system itself – are of the utmost relevance to criminology.

Young (1996; 2005; 2010b) has played an integral role in cementing the place of images in criminological study. Indeed, she argues ‘there increasingly appears a need for a specifically visual criminology’ (Young, 2014, p. 159), noting in the past the study of images has typically fallen ‘under the heading of cultural criminology’ (Young, 2014, p. 160). One of Young’s (2010b) focusses has been the power of filmic images via affect. The notion of film as a generator of emotion resonates with discussion throughout this thesis. However, for Young (2010b, p. 9), who draws on the work of Massumi (2002a; 2002b), affect is more than simply the elicitation of emotion, although emotion can be an indication of its occurrence. Affect is instead associated with intensity (Massumi, 2002a, pp. 212-213). Massumi (2002a, p. 211) argues that while people (bodies) are constrained by numerous structures, they always have ‘a margin of manoeuvrability’, no matter how small, within which they can strive to reach their potential. This process of potential realisation – despite its relentless nature – is what

Massumi conceptualises as affect (Massumi, 2002a, p. 212). Affect, therefore, connects people, places and situations (Massumi 2002a, p. 214), and '[w]ith intensified affect comes ... a heightened sense of belonging' (Massumi 2002a, p. 214). This perspective has led Young (2010b, p. 10) to argue that:

crime connects bodies known and unknown through the proliferation of images. The connection might be a minor or substantial interruption to one's sense of the proper, or a reinforcement of one's view of 'the state of society today', or an experience of the exhilaration of illicit behaviour.

This thesis contends the images which have been – or have the potential to be – rendered illicit by the Australian film classification and censorship system also perform a similar function. Connection here, however, does not simply stem from what the images depict but from their illicitness – or potential illicitness – as well.

Young (2005) has also explored the notion of judgement regarding art, and the role disgust plays; a particularly pertinent theme when it comes to film classification and censorship. This thesis too will draw on the operation of disgust, as well as anger, in the context of upper level filmic images; those classified R18+, X18+ and RC. These emotions were incorporated into the Federal classification legislation in 1996 (Office of Film and Literature Classification, 1995-1996, p. 86).⁷ This provides a formal link, which allows all decisions resulting in an X18+, RC or – to a lesser extent – R18+ classification to be traced back to the operation of these emotions. Decisions to refuse classification exemption can also be similarly tracked as such films are essentially deemed to feature X18+ or RC content.⁸ The operation of disgust and anger, and their relevance to the classification/censorship process, will be outlined in

⁷ They were inserted in the *Guidelines for the Classification of Films and Videotapes (1996)*; an earlier incarnation of the *Guidelines for the Classification of Films 2012*.

⁸ Prior to September 2015 this was expressed in paragraph 10 of the *Film Festival Guidelines 2007*. It is now conveyed in section 6C of the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)*.

Chapter Two, thus benefiting from Chapter One's preceding analysis. However, the concepts of abjection, taboo and quarantine are also particularly useful. They too speak to the images, as well as the operation, structure and intent of the classification/censorship system itself. These concepts will now take centre stage, setting the scene for the subsequent chapters.

Abjection

Many authors have used the concept of abjection – as conceived by Kristeva (1982) – to analyse filmic images (see eg, Creed, 1993; Magistrale, 2005). This is especially true regarding those featured in horror films; a genre which has – in the past – raised the ire of censors. Indeed, one censor even issued them with a blanket ban in 1948, without the possibility of recourse (Bertrand, 1978, p. 141; Griffith, 2002, p. 6). As Creed writes, 'the horror film abounds in images of abjection, foremost of which is the corpse, whole and mutilated, followed by an array of bodily wastes such as blood, vomit, saliva, sweat, tears and putrefying flesh' (1993, p. 10). With this in mind, it is easy to understand why this academic paring is so fruitful. Such images commonly feature in R18+ and RC films. However, the abject can also be used as a way of understanding all censored images and the film censorship process more generally. Here, rather than observing images that *depict* the abject, it is the images themselves which are *made* abject.

In a world that is divided between self and object, Kristeva sees the abject as that which was once part of the self but has since been rejected and jettisoned (1982, pp. 2, 4). The abject, however, remains distinct from the object (Kristeva, 1982, p. 1). Indeed, the only similarity they share is that they are both opposed to the self (Kristeva, 1982, p. 1). Here, a paradoxical situation arises for while the body strives to distance and ultimately eliminate that which is abject, the abject is forever needed by the body in its perpetual efforts to

demarcate the self (Kutzbach and Mueller, 2007, pp. 8-9). For Kristeva, this paradox is embodied in the relationship between mother and child (1982, p. 3). The child must separate from its mother to create its own identity but without the mother the child cannot come into being (Kristeva, 1982, p. 3).

As the abject was once part of the self, it remains intimately linked to the self, and this affords it immense power (Kristeva, 1982, pp. 3-4). As Kristeva writes, the abject 'is something rejected from which one does not part, from which one does not protect oneself as from an object' (1982, p. 4). This means the abject is perpetually unsettling, which has led to comparisons with the uncanny (Kristeva, 1982, p. 2). The abject, however, is more forceful in nature due to its origins as part of the self, although it is possible for that which is abject to also be considered uncanny (Kristeva, 1982, p. 5). The uncanny can be understood as 'a peculiar commingling of the familiar and unfamiliar', and some have argued this is a quality which epitomises film itself (Royle, 2003, p. 1). As Smith writes:

[e]arly viewers of film were amazed and moved by this miraculous gift dispensed by film, that of reanimating what had gone ... Like Christ calling Lazarus, film seemed to bring back to life what had been irrevocably lost; it blurred uncannily the distinction between life and death (2000, p. 121).

It is borders such as this which the abject also challenges. Indeed, as Kristeva writes, it is 'not lack of cleanliness or health that causes abjection but what disturbs identity, system, order. What does not respect borders, positions, rules' (1982, p. 4). For Kristeva, the ultimate example of the abject is the corpse as it reveals what the self must 'permanently thrust aside in order to live' (1982, p. 3).

There, I am at the border of my condition as a living being. My body extricates itself as being alive, from that border. If dung signifies the other side of the border, the place where I am not and which permits me to be, the corpse, the most sickening of wastes, is a border that has encroached upon everything. It is no longer I who expel, "I" is expelled (Kristeva, 1982, pp. 3-4).

Inspired by the biblical source of Leviticus, Kristeva sees the process of becoming abject – expressed in the context of religion – as a 'rite of defilement', which leads to exclusion (1982, p. 17). Indeed, Leviticus outlines multiple ways that defilement can occur, as well as the corresponding ramifications (Bible, 2016).⁹ This thesis views the process of film censorship in a similar way. The film censorship process culminates in certain images being identified as having transgressed the system's borders. They are deemed abject and duly jettisoned; although it is only with reference to these images that the system can truly know its bounds. The censorship/defilement process strips these images of their worth both actually in the form of their future earnings and figuratively in the form of their merit as a cultural item. The abject image is then excluded, relegated to life beyond the community's walls. However, as is the nature of the abject, their ties can never be fully broken. Indeed, advances in technology now mean these images regularly seep back into the community's consciousness; none more frequently than at the behest of the pirate.¹⁰ Gilding what was once akin to gold, the pirate bestows these abject images with a new illicit worth. While the concept of alchemy has been construed by some as 'a metaphor for redemption' (Janacek, 2011, p. 53), the work of the pirate is by no means a cleansing or purification ritual. These images remain abject.

⁹ Page numbers have not been cited for the biblical references throughout this thesis as online versions found on the *Bible Gateway* website were consulted. This website does not use page numbers.

¹⁰ Film piracy refers to the illegal replication of films for distribution. While this was once the domain of unlawfully copied VHS tapes, today it most commonly occurs online via the opportunity for illicit download (see, eg, Ford and Forbes, 2016).

Quarantine

By design, the Australian film classification and censorship process can be conceptualised as a system of quarantine. At its most basic, the quarantine model can also be traced back to Leviticus where God's word via Moses is recorded in chapter 13 verse 36: 'All the days wherein the plague shall be in him he shall be defiled; he is unclean. He shall dwell alone; outside the camp shall his habitation be' (Bible: 21st century King James version, 2016). Under this biblical model, it is the sick that are expelled but it is the healthy that are in isolation, safe within the confines of the city walls. Here, 'the plague' is a reference to leprosy (Bible: 21st century King James version, 2016, Leviticus ch. 13, v. 2), and the proscribed expulsion is indefinite; as long as it takes for the threat of infection to dissipate (Bible, 2016, Leviticus ch. 13). Uninfected citizens would have undoubtedly reaped the health benefits of this mandated segregation. However, as Douglas writes, 'it is a pity to treat [Moses] as an enlightened public health administrator rather than as a spiritual leader' (1984, p. 30). Indeed, Moses was not attempting to prevent the spread of leprosy per se but the ramifications from associating with those considered unclean. By making interaction with leprosy sufferers taboo, he was striving to stop God from abandoning His people (Gorman, 1997, pp. 11, 68).

Similar methods of expulsion were employed for their health benefits in fourteenth century Europe, during the Great Plague (Sehdev, 2002, p. 1072; Gensini et al., 2004, p. 258). However, in 1377, after three decades of ravaging illness, the Grand Council of the Republic of Ragusa – now the Croatian town of Dubrovnik – additionally ordered 30 days of isolation known as *trentino*, for anyone entering the region that had previously travelled through plague affected areas (Sehdev, 2002, p. 1072). No longer were measures reserved for those guaranteed to be infectious but those who merely offered the possibility as well. Under this proactive model, focus also shifts from isolating the healthy to confining the (potentially) sick, and it is now outsiders seeking to gain entry that are being targeted rather than those

already residing within. The period of time from this mandated detention was later lengthened to 40 days where it was labeled *quarantino* (Sehdev, 2002, p. 1072). If detainees remained asymptomatic throughout this time, they were then free to go.

The practice of *quarantino* – or quarantine – has long been instrumental in protecting Australia’s biosecurity. Indeed, uniform state legislation was in place sanctioning this even before the *Australian Constitution* was passed in 1900 (Department of Agriculture, Fisheries & Forestry, 2003, para. 5). Under section 4 of the *Quarantine Act 1908* (Cth), methods are now defined broadly. They can include examination, exclusion, detention, observation, segregation, isolation, regulation, and seizure, and can be applied to vessels, human beings, animals, plants and buildings. While not an exhaustive list, any one of these combinations can constitute an act of quarantine if it is done for ‘the prevention or control of the introduction, establishment or spread of disease or pests that will or could cause significant damage’ (*Quarantine Act 1908* (Cth) s 4 (1)(b)). The health of Australia is paramount.

While the target is ostensibly different, each of these quarantine methods can be witnessed in the film classification and censorship process. All films are required to be detained,¹¹ observed and examined prior to their classification, and the act of placing films into classification categories can itself be seen as an act of segregation. Films that are classified G, PG or M are then released unabated into the community. However, those classified MA15+, R18+ or X18+ are released and regulated via age and – in the case of the latter two – location restrictions. Indeed, further to the location restrictions placed on X18+ films, South Australian stores are also required to keep R18+ films in an area designated solely for their display (*Classification (Publications, Films and Computer Games) Act 1995* (SA), s 40A). Films that are refused classification formally remain in isolation indefinitely, denied commercial entry into the viewing public, while films and images that have circumvented the

¹¹ While detainment is perhaps conceptually aligned with physical bodies, these films are literally kept under lock and key.

classification/censorship system can be seized by police or customs officials when they are suspected of exceeding that which is legally permitted in Australia.¹²

Taboo

The classification/censorship system's operation can also be understood with reference to taboo; or that which is 'forbidden' (Macquarie Dictionary, 2015, definition of 'taboo').¹³ While some examples are more pervasive than others, taboos differ between times and cultures. They also differ between contexts within these times and cultures. With this in mind, the previous Leviticus example can now be interpreted as providing a historically and culturally specific example of taboo's operation within a religious setting. Taboo is a significant presence in all religions (Grotstein, 2010, p. 15). However, some argue it predates religion making it 'the first group conscience' (Grotstein, 2010, p. 5). While not intending to diminish taboo's religious significance, everyday usage of the term suggests an affinity with these social roots (see eg, Scott, 2016; Dairy News Australia, 2016). If one breaks a taboo they become taboo (Marshall, 2010, p. 66), and they will be socially punished (Stebbins, 2014, p. 893). In contrast, religious punishment formally stems from the relevant deity;¹⁴ although in practice this too has negative social implications, as to which the lepers in biblical times would undoubtedly attest.

In the context of Leviticus, taboo resulted in interaction with lepers being ostensibly forbidden (Bible, 2016, Leviticus ch. 13). However, taboo cannot simply be equated with prohibition (Stebbins, 2014, p. 893). Indeed, even in Leviticus, prohibition was not absolute as lepers were permitted to visit the priests – under strict conditions – so they could be

¹² As demonstrated by their submission for classification.

¹³ Page numbers have not been cited for the *Macquarie Dictionary* references throughout this thesis as the online version was consulted. This does not use page numbers.

¹⁴ This is demonstrated by the reasons behind Moses' advocated approach to lepers, as previously discussed.

pronounced clear of the 'dreaded skin disease' (Bible: Good News Translation, 2016, Leviticus ch. 13). Here, Stebbins' description of taboo is particularly elucidating. As Stebbins writes, that which is taboo 'is so powerful that it is dangerous unless treated the right way, or by the right person, under the right circumstances' (2014, p. 893). In this sense, the classification/censorship system can be seen as creating a taboo-like structure, as only the classifiers/censors are permitted to view the unclassified films, and this is only allowed to occur inside the confines of their workplace for the purpose of giving a classification. The unknown, and consequently unbordered, qualities of these films make them dangerous (Douglas, 1984, p. 95). It gives them their power (Douglas, 1984, p. 95).

Unsanctioned interaction with lepers was made taboo in Leviticus because these individuals were deemed to be "unclean" (Bible, 2016, Leviticus ch. 13). However, taboo has another dimension: it also applies to the sacred (Stebbins, 2014, p. 893). Indeed, both the sacred and the unclean demand similarly contained behaviour (Marshall, 2010, p. 66). Marshall illustrates this dichotomy well when he writes of 'the divine (things too holy and pure to touch) and the diabolical (things too evil and impure to touch)' (2010, p. 66). These are halves, which share the same mixed emotional responses: 'horror and ardor' (St Augustine quoted in Marshall, 2010, p. 65); 'terror and veneration' (Caillois quoted in Marshall, 2010, p. 65). They provoke fascination in a way that the ordinary cannot (Marshall, 2010, p. 65). Taboo's dual nature appears to be uncontested. However, the words used to label its halves vary. Indeed, Marshall even contends that the sacred itself possesses this binary structure (2010, p. 65). It is not simply one half of taboo; it is taboo, or at least boasts a 'close affinity' with it (Marshall, 2010, p. 65).

Using this binary structured sacred (the divine and diabolical), Marshall then distinguishes between the sacred and taboo with reference to operation, holding the latter to be an expression of the former (Marshall, 2010, p. 64). While notions of the sacred as both divine and diabolical may challenge some people's understandings, this distinction – when

combined with taboo as an operational reference – clearly promotes more precise and informative analysis. Indeed, returning once more to Leviticus, leprosy can now be seen as sacred (diabolical), and unsanctioned interaction with it taboo, as determined by time, location, identity, status, and action. In the case of the film classification/censorship system, it is both unclassified films and effectively banned films that the system attempts to construct as sacred (diabolical), and as such, worthy of a taboo response. Its failure here, however, is well known. Indeed, when it comes to film censorship in the modern age, not only is it unsuccessful in stopping people from interacting with these films, it is renowned for having the opposite effect, inciting more people to watch than otherwise would (Vnuk, 2003, p. 212). Some filmmakers and distributors blatantly use this to their advantage, which as Freshwater observes, ‘presents a healthy challenge to the moralising discourse which often surrounds discussion of censorship’ (2004, p. 237). The situation is never reducible to the simple dichotomy ‘censorship bad, free speech good’ (Freshwater, 2004, p. 237).

Apparatus

In its entirety, this thesis provides an account of the workings of the Australian classification and censorship system the likes of which have not been done before. However, to achieve this, the primary focus of Chapters Three to Five and much of Chapter Six will not be the classification/censorship system per se but filmic image response, and apparatus in line with that conceptualised by Foucault. As Rabinow and Rose have observed, ‘Foucault uses the word apparatus to mean a device oriented to produce something’ (2003, p. 10). Foucault himself describes this device as:

a thoroughly heterogeneous ensemble consisting of discourses, institutions, architectural forms, regulatory decisions, laws, administrative measures, scientific statements, philosophical, moral and philanthropic propositions – in short, the said

as much as the unsaid. The apparatus itself is the system of relations that can be established between these elements (1980, p. 194).

Foucault has studied the production of sexuality – among other things – via these means: an apparatus of sexuality (Foucault, 1990). Drawing on Foucault's framework, this thesis now proposes an apparatus of filmic image response with the intention of analysing 'the nature of the connection that can exist between these heterogeneous elements' as they pertain to images that challenge the classification/censorship system's borders (Foucault, 1980, p. 194). Like sexuality, responses to these images are 'always in a state of becoming' (Kuhn, 1988, p. 6).¹⁵

As Kuhn notes, an apparatus focus with its emphasis on relationships and productivity is preferable to one simply of institutional repression as it allows many more stories to be told (1988, p. 4). Indeed, it was Kuhn (1988) who first examined institutional film censorship in this way, focussing on Britain's 1909-1925 system, and others have since drawn upon this scholarship in various international jurisdictions (see eg, Grieveson, 2004; Biltereyst and Vande Winkel, 2013). Framing the apparatus as one of filmic image response, however, then opens the scope of inquiry even further. This renders censorship one of many responses that can be analysed, allowing their interrelatedness to be revealed. Indeed, response, here, can present itself as thought, emotion or action, and can be elicited via individuals viewing the images firsthand, or hearing or reading about them. This focus also means there are apparatus elements worthy of dual consideration, due to their role in both the formal film classification/censorship process and filmic image response outside of this institutional framework.

Such revelation would not be possible if this thesis employed the fixed focusses and methodologies traditionally advocated by film censorship researchers before Kuhn

¹⁵ Kuhn uses this phrase when describing apparatus operation.

(Biltreyst, 2008). Indeed, the historically narrow focus of this area can itself be seen as resulting in suppression, potentially exposing it to allegations it too is censorial. However, such extension risks criticism from individuals arguing it dilutes the strength of the censorship label (Freshwater, 2004, p. 242). At its widest, a censorship definition can include all that comes to be suppressed and all that combines to make it so (Curry Jansen, 1988, p. 221). As a study on the operation of the film classification/censorship system, however, this thesis reserves the censorship label for films that have been suppressed by the state via the X18+ or RC classifications, or classification exemption refusal. This is not to deny there are other factors that influence whether a film is released in Australia. There are also other factors that compel people to stop themselves from viewing a film; an act which itself can be understood as self-censorship. This, however, is where the apparatus of filmic image response comes to the fore, as it is deftly able to accommodate analysis of all these factors without definitional constraint. As the term “filmic image response” implies, this thesis is largely concerned with filmic images that have already been made. However, both film censorship and other suppressive forces have the power to influence future image creation (Freshwater, 2004, p. 226). While this must be remembered, image creation falls largely outside this thesis’ scope.

In providing an overview of the evolution of Australia’s classification/censorship system from 1970 to the present, Chapter One sets the scene, identifying many of the most tangible apparatus elements that are present within the system itself. This timeframe was selected because it encompasses the respective introductions of many of the current system’s hallmarks. Indeed, Chapter One will also situate these introductions within the social and political climate of the day, as well as the practical and legal realities with which they were faced. This, however, is not merely an illustrative exercise but vital for the ensuing chapters’ accuracy. Just as it would be erroneous to attribute to Moses the health benefits of his quarantine model (Douglas, 1984, p. 30), so too would it be incorrect to afford undue significance to developments that – for example – arose purely for practical reasons.

Chapter Two explores how disgust and anger have been incorporated into the classification legislation before investigating the complex operation of these respective emotions. With this in mind, Chapter Three then examines how the current classification/censorship legislation is interpreted. This means it scrutinises the relationship between the laws and the resulting decisions in the context of films seeking an R18+ classification. While primarily an example of how the system is itself 'active', this can also be seen as an example of how the system is 'acted upon' by the classifiers/censors that are tasked with making these decisions (Kuhn, 1988, p. 6). As permitted by the legislation, inquiry extends to certain scientific statements, and philosophical and moral propositions, regarding the emotions of disgust and anger. These are apparatus elements via their relevance to the classification/censorship system and in their own right (Foucault, 1980, p. 194). This extended inquiry permits the revelation that the classification/censorship system is often far more lenient and reasoned than it first appears.

Chapter Four investigates external participation in the classification/censorship process so it too will scrutinise the connection between the laws and the decisions, as well as certain administrative measures. This provides clear examples of the classification/censorship system being 'acted upon' (Kuhn, 1988, p. 6). As will be seen, however, some participants circumvent the formal system when acting. This situation opens up channels of inquiry regarding the discourses that are being presented to the community about challenging filmic images, and the ensuing struggles concerning knowledge and truth; that which lies at the heart of the apparatus of filmic image response. The thesis' border creation focus also permits a uniquely balanced view of participants. This is distinct from works focussing purely on film censorship where the actions of the Religious Right or wowsers must inevitably take centre stage (see eg, Kampmark, 2007).¹⁶

¹⁶ The *Macquarie Dictionary* defines a "wowsers" as 'a prudish teetotaller' and 'a killjoy' (2015).

By exploring community perceptions linked to the images the classification/censorship system considers most problematic, Chapter Five will scrutinise the operation of this knowledge, as communicated by the classification/censorship system. This provides an example of how the system influences Australian society; influence here being a direct result of the system's action, which – in turn – is shaped by those who act on the system itself (Kuhn, 1988, p. 6). Chapter Five's inquiry, however, will also reveal there is other knowledge in the community that is similarly influential, which is only gestured to in Chapter Four: that espoused by proponents of the media effects tradition. These are individuals who allege onscreen violence causes real life violence (Barker and Petley, 2001a). The operation of these dual knowledge streams will, therefore, be explored individually and in concert, revealing their deep-seated connectedness: the effects of the apparatus of filmic image response in practice. These effects, as well as the apparatus of filmic image response itself, will take centre stage in Chapter Six's proposal of a system of ethical response. This will be based on Foucault's conception of an aesthetics of existence (Foucault, 1994, p. 207). Here, it is not only knowledge and truth but awareness of the mechanisms that form them, which makes ethical choice possible (Foucault, 1987, p. 27).

As this overview of the chapters and their connectedness reveals, focussing on an apparatus of filmic image response permits examination in multiple domains. By exploring the operation of the classification/censorship system itself, Chapters One, Three and Four are firmly grounded in the institutional domain with lines of inquiry reaching into other areas. However, by extending analysis to disgust and anger, two additional spheres of filmic image response are identified: the core and the moral.¹⁷ The legal, the core, and the moral are undeniably separate and distinct spheres of filmic image response. Yet, they are also inherently intertwined by virtue of disgust and outrage's incorporation into the current

¹⁷ In disgust literature, core disgust and moral disgust are commonly used terms. As will be explored in Chapter Two, the former stems from elicitors with links to poison and infection, while the latter comes from norm transgression. These categories can also be extended to anger elicitation.

classification/censorship legislation. The effects of this will be explored in Chapters Three and Four. The responses emanating from these spheres come from a variety of sources, which include individuals acting in an array of capacities, as well as formal and informal groups. Consequently, it is not only the responses that will be examined here but the characteristics of the responders as well.

Unlike the institutional focus of the preceding chapters, Chapter Five is firmly grounded in the social domain. This chapter also examines the core and the moral spheres of filmic image response. However, it further considers a fourth sphere: the protective, which pertains to concerns regarding harm brought into play by the media effects tradition. As Chapter Five will show, the core, the moral, and the protective spheres are all both separate and intertwined in the social domain. It will also demonstrate how the protective sphere enters into the institutional domain even though harm based conclusions are not formally sanctioned by the state in the film censorship process. With this in mind, Chapter Six will then draw on – and pertain to – each of the domains and spheres of response that have been identified. These response spheres are all grounded in the traditional notion of film censorship as an act of ‘no saying’ (Kuhn, 1988, p. 2). This means that arguments emanating from them can only typically be used by those arguing for stricter film censorship; they cannot be readily used by those seeking a film’s release. However, these are not the only spheres of response operational in Australia, and of these additional spheres, not all boast this negative focus. While this will be discussed in Chapter Four, analysis of these additional spheres falls largely outside this thesis’ scope.

As Foucault observes, every connection between apparatus elements indicates a power relation, and power – being fluid – is something that is best analysed retrospectively (Kuhn, 1988, p. 6). Consistent with this, Chapters One and Three to Five will each feature discrete case studies comprising of: historic events (Chapter One); certain classification/censorship decisions (Chapter Three); instances when participants have accessed or circumvented the

classification/censorship system (Chapter Four); and individual responses to certain filmic images (Chapter Five). This inquiry will help elucidate the classification/censorship system Australia has today. However, the findings in Chapters Three to Five – which are informed by Chapters One and Two – will also have future application due to the relative predictability of the current film censorship landscape. In proposing a system of ethical response, Chapter Six will be future focussed.

In summary, this thesis advances a new and dynamic model for analysing film censorship in Australia: an apparatus of filmic image response. It also proffers a uniquely informative way of analysing film censorship and upper level classification:¹⁸ as an act of boundary creation. As permitted by this framework, this thesis then reveals – for the first time – knowledge that the system, and others, are communicating regarding how community members should respond to the filmic images that challenge the classification/censorship system's borders and the people who associate with them. It also demonstrates how this revelation should be used by those seeking to resist – and indeed abolish – the censorship arm of the classification/censorship system. With the benefit of this awareness, it then advances a model of ethical filmic image response in line with Foucault's concept of an aesthetics of existence (Foucault, 1994, p. 207). Before concluding, this thesis will also critique the operation of the censorship arm of the classification/censorship system, providing overwhelming evidence the emotions that legally underpin the system's boundary creation also play a significant part in making it redundant.

Methodology and resources

This thesis will be informed through extensive and diverse literature based research. Indeed, data will be gathered from a wide range of academic works, government publications, and

¹⁸ Upper level classifications are those pertaining to adult viewing: R18+, X18+ and RC.

legislation – both historic and current. Popular materials such as newspapers, magazines, and websites, will also be consulted, as will three additional key sources: comments left after online news articles, Classification and Classification Review Board reports, and the films themselves that have proven relevant to analysis. The online comments form the basis for Chapter Five's inquiry. Consequently, their procurement will be discussed in situ. The reports and films, however, are relevant to multiple chapters. Therefore, their acquisition will be outlined here.

Classification and Classification Review Board reports

The Classification and Classification Review Board reports are written by the Classification Board and Classification Review Board respectively each time they classify a film. While convention has evolved over time – just like writing methods – the reports typically resemble legal judgments, identifying the relevant law before discussion ensues with reference to the most contentious images so that a supported conclusion can be reached. Minority and majority views are also both presented when relevant. First produced in 1970, these reports provide unique time capsule snapshots of the Classification and Classification Review Boards' operation as discrete and singular entities in their own right. Indeed, they are the only pieces of evidence documenting the thought processes that culminate in the classification of specific films and filmic images. Consequently, this data could not be alternatively sourced

Classification and Classification Review Board reports are publicly available. However, while Classification Review Board reports from 2000 onwards can be downloaded from the Australian Classification website, all others can only be accessed upon request. Through concerted negotiation with Australian Classification – the statutory body tasked with classifying and censoring films, publications and computer games in Australia – access was

gained to the reports for 108 films, 353 reports in total.¹⁹ No one has previously requested access to such a large quantity. Since 2000, Australian Classification has created and stored the Classification and Classification Review Board reports electronically, meaning the more recent ones could easily be located and delivered via email by staff. However, prior to 2000, only hardcopy reports were generated. Therefore, Australian Classification employees were required to physically locate the older reports, scan and email them, before returning the files back to their original locations: an onerous task indeed. Due to the immense space required to store these over 73,900 reports,²⁰ some of them are also kept in an off-premises location. While the names of Classification Review Board members tasked with classifying a specific film are publicly available, those of Classification Board members are not, with the intention of protecting them from 'undue pressure' (Commonwealth of Australia, 2002, p. 192). This meant their names had to be blacked out prior to emailing.

In order to be formally requested, each individual report had to be identified by name, date, and reference number using the database on the Australian Classification website. This database lists all the films that have been classified since 1970. This includes in excess of 1747 classified R18+, 5546 classified X18+, and 4118 classified RC.²¹ Selection was, therefore, narrowed by first identifying the main types of images that appeared to have been denied an R18+ classification – or classification exemption – since 2000, in light of the current classification/censorship legislation: extreme violence, actual sex, sexual perversion, sexual violence, and minors depicted in sexual situations. The broad genres of these films were also identified: horror, drama, and thriller. Using the Australian Classification database to identify film titles, reports were then requested for:

¹⁹ This includes 18 Classification Review Board reports that are accessible on the Australian Classification website. There are more reports than films because many of the films have been submitted for classification multiple times.

²⁰ As calculated using the Australian Classification database.

²¹ As calculated using the Australian Classification database.

- films from these genres that had been refused classification between 1970 and 2013, and feature one or more of the images listed above (extreme violence, actual sex, sexual perversion, sexual violence, and minors depicted in sexual situations);
- a selection of films from other genres that had been refused classification between 1970 and 2013, and feature one or more of the images listed above; and
- films mentioned in the Australian Classification annual reports – and those of its predecessor, the Office of Film and Literature Classification – which blatantly feature one or more of the images listed above, regardless of their classification.

Where the database showed these films had been classified on multiple occasions, the report for each classification was requested. This database does not include films seeking classification exemption. Such films are also denied reports, making this the most obfuscated film censorship area of all. The reports were requested in 2013. However, since then, four additional reports have been obtained for particularly pertinent films submitted to the Classification Board in 2015. Three of these films were refused classification for their depictions of actual graffiti writing. As far as can be ascertained, this has only occurred once before under the current legislation (Office of Film and Literature Classification, 2005-2006, p. 44).²² Consequently, this thesis will also situate images of graffiti writing within the classification/censorship process and the apparatus of filmic image response, just as it will the other identified images. However, due to their relative scarcity, images of graffiti writing will receive less attention than the other image categories.

Selecting reports without seeing them presented a challenge, and as anticipated, some inevitably provided more insight than others. Indeed, some of the older reports that were requested for films with multiple database entries can perhaps be better understood as classification documents, containing little more than a box ticked on a form in accordance

²² Here – and throughout this thesis – “the current legislation” refers to that which has been created under the National Classification Scheme; that which has come into force from 1 January 1996 onwards.

with the requirements of the day. A small number of the requested reports had also been lost. Despite this, the selection process, combined with the large number of reports requested, ensured that a suitably broad collection of useful reports was received. Even the comparatively sparse classification documents provided a unique historical insight, which was invaluable for Chapter One. Therefore, they were not a waste of – or wasted – resources.

The Classification and Classification Review Board reports identify the most contentious images and to do this they must describe them. This is frequently done with precise detail, especially in the more recent reports. Indeed, the modern Classification Review Board reports are the most detailed and explicit of all perhaps due to the review process formally flagging the films as contested, and in anticipation of public scrutiny. When it comes to films classified RC, these descriptions are of the very images that the system is seeking to suppress. Consequently, the public availability of these reports – especially those which can be downloaded at will – presents a suite of curious dichotomies: the written word vs the image, the imagined vs the visual, the permitted vs the prohibited. Indeed, in this limited context, the reports and the corresponding films can be seen as essentially communicating the same thing using different methods; the former is permitted, the latter prohibited. These are themes that will be revisited throughout this thesis.

Films

Where possible, the relevant films were sourced in person from Australian stores, libraries and cinemas. This is of threefold importance. Firstly, it ensures the films' creators received proper remuneration. It also permits a wider ambit of disgust and anger responses to be experienced firsthand than simply watching the films online. The reasons for this will become evident throughout this thesis, as will its value. Finally, these locations (typically) only offer

films that bear the classification given to them by the Classification or Classification Review Board, as legally required. This means they are exact replicas of the films discussed in the reports; the very discussion that has – in many cases – created their relevance. This is in contrast to films that are relevant because of their anomalous entry to – or exit from – the classification/censorship system. Stores, libraries and cinemas commonly offer the most recent versions of films that have been classified. Yet, some films have been submitted to the Classification Board on multiple occasions with a different version used each time. Versions may only differ by seconds.²³ However, as the reports show, this can have immense consequences; it can mean the difference between release and prohibition. Every effort has been made to source the correct film versions needed for truly firsthand analysis. While older versions are typically no longer in circulation, second hand outlets have been duly scouted. Difficulty increases, however, when films can only be obtained online, as is the case with those refused classification and classification exemption. In these spaces, there is nothing to tether individual versions to their Australian classification journeys. Their specificities truly are unknown.

Illustrations

Illustrations indicative of the case study films have – at pertinent times – been embedded in the text; still representations of the moving images in question. Comprising largely of promotional posters and DVD cover art, they have been added to complement and strengthen the written descriptions of the films themselves, while providing a tangible reminder of their presence within society. Standing in for the *entire* films both here and in the community, they aide the reader in appreciating more deeply the rich textuality of the filmic products being assessed.

²³ Here, *The Human Centipede II: Full Sequence* (2011) provides apt example. This will be discussed further in Chapter Three.

Chapter One

Evolution

In 1970, Australian filmmaker Aggy Read declared that 'the only fate befitting the Commonwealth Censorship Board would be for its Imperial Arcade escalator shaft to be poured full of concrete' (*The Naked Bunyip*, 1970).²⁴ Succinctly capturing the nation's unrest with this one sentence, Read denounced the Australian regime as one of the most repressive in the world. His views were then featured in the Australian sexploitation film *The Naked Bunyip* (1970), sent forth for the world to hear.²⁵ *The Naked Bunyip*, however, was not without its own controversies. Filmed as a light-hearted pseudo-documentary investigating Australia's views on sex, this film was immediately denounced by the Commonwealth censors who demanded over 30 cuts be made before it could be publicly exhibited.²⁶ Yet, while removal was demanded of images featuring the pubic hair of two models, those showing the pubic hair of a woman giving birth were permitted (Murray, 2006). Spurred by this inconsistency and the rejection of his appeal against the decision, *The Naked Bunyip's* creator, John B. Murray, arranged a screening of the film in its original – and intended – form for media representatives (Murray, 2006). Here, entry was by invitation only, thus circumventing censorship restrictions. In a bid to 'stimulate a general discussion on sex and censorship', the problematic scenes were illuminated with lamps (Murray, 2006, p. 1).

For *The Naked Bunyip's* public release, producers decided not to cut the film as requested, electing instead to remove the problematic images by covering them with a bunyip picture,

²⁴ At this time, the members of the Commonwealth Censorship Board worked out of the lower ground floor of Sydney's Imperial Arcade meaning their entry – and exit – was via this escalator.

²⁵ Read made the above statement in an interview, which was then featured in *The Naked Bunyip*. Sexploitation films are typically low budget and feature copious scenes of nudity and sex, which are billed as the main attraction. This is evidenced by the films themselves.

²⁶ Cuts are also referred to as modifications.

and the offending audio – namely bawdy sexual references – with a siren (*The Naked Bunyip*, 1970). Don Chipp, however, was quietly furious at this public derision (Murray, 2006). As Federal Minister for Customs and Excise, film censorship – at this time – was his responsibility. Yet, Chipp had already noticed that film censorship had become a popular topic for discussion, with media debates, public meetings and protests steadily increasing (Commonwealth of Australia, 1970, p. 2381). On 11 June 1970 – approximately five months prior to *The Naked Bunyip's* public release – Chipp had even delivered an impassioned speech in the House of Representatives on the future of film and literature censorship in Australia. Perceiving censorship as a 'necessary evil', Chipp put forth his vision for the future: a clearly articulated, principled, and transparent censorship regime, the likes of which Australia had never experienced (Commonwealth of Australia, 1970, p. 2382). Lively political debate followed, broadly and deeply canvassing the motivations for censorship, the appropriate limits of government intervention, and the best way to achieve desired outcomes. Discussion was spirited and arguments flowed freely, unconstrained by party lines.

Film censorship prior to 1970

At the time of Chipp's speech, film censorship was governed by a convoluted mix of Federal, state and territory laws. While the *Australian Constitution* empowers the Commonwealth Parliament to legislate, it only permits it to do so in specific areas. This does not include film censorship. Under section 51(1), however, the Commonwealth is permitted to make laws regulating 'trade and commerce',²⁷ and this power was used to establish the *Customs Act 1901* (Cth), which then facilitated the creation of the *Customs (Cinematograph Films) Regulations* (Cth) in 1917 (Legal and Constitutional Affairs References Committee, 2011,

²⁷ In full this reads 'The Parliament shall, subject to this Constitution, have the power to make laws for the peace, order, and good government of the Commonwealth with respect to: trade and commerce with other countries, and among the States' (*Australian Constitution* s 51(1)).

para. 2.5).²⁸ The majority of films were after all originating from overseas at this time, as they do today.

Prior to 1917, films had been haphazardly censored by the states. However, with these new regulations, the first Federal Film Censorship Board was swiftly established. This featured three members, one of whom was the Chief Censor. Under regulation 9, the Board was required to register all imported films for public exhibition unless – in their opinion – the film was ‘blasphemous, indecent or obscene’; was ‘injurious to morality’; was likely ‘to encourage or incite to crime’; ‘was likely to be offensive to [Australia’s allies]’; or was ‘undesirable in the public interest’ (*Customs (Cinematograph Films) Regulations (Cth)*). Films fitting one or more of these descriptions were refused registration, and as such, their importation was prohibited. The Film Censorship Board did not cut problematic films without distributor approval to render them acceptable for registration. It did, however, order cuts as a precursor to registration when appropriate (Cinema Papers, 1974a, p. 103). Distributors were also free to cut and resubmit their films of their own volition.

The *Customs Act 1901 (Cth)* also facilitated the creation of the *Customs (Prohibited Imports) Regulations (Cth)*. Here, regulation 4A prohibited the importation of films depicting child pornography, and bestiality, as well as those featuring ‘detailed and gratuitous’ violence, including cruelty and sexual violence. Films promoting or inciting terrorism or drug use were also prohibited (*Customs (Prohibited Imports) Regulations (Cth) reg 4A*). The Film Censorship Board was additionally required to consider these criteria when deciding a film’s registration status. However, regulation 4A expressly excluded registered films from its operation, meaning it was not intended to be used to challenge the Board’s conclusions (*Customs (Prohibited Imports) Regulations (Cth)*).

²⁸ The cinematograph is an early type of film projector, which greatly contributed to the medium’s accessibility and popularity. It had been introduced into Australia 21 years earlier (Bertrand, 1978, p. 3).

Once a film's importation was permitted, its exhibition was still subject to the individual laws of each state and territory. This additional legislative hurdle meant some films were haphazardly banned or cut further throughout the country. As Australian made films were not imported, the regulation of those where interstate 'trade and commerce' was not involved fell outside the Commonwealth's jurisdiction (*Australian Constitution* s 51(1)), formally making them only of the states' concern. However, at this time the Australian film industry was predominantly dormant, meaning those concerned with film censorship had little cause to contemplate this legal nuance (Murray, 2006, p. 1). Therefore, Australian films were censored in much the same way as imported films, as evidenced by *The Naked Bunyip's* treatment (Murray, 2006, p. 1). This is but one example of the tension between legalities and practicalities, which can be seen throughout Australian film censorship's rich history.

Prior to Chipp's speech, the Film Censorship Board had already begun interpreting the Customs Regulations with a view to upholding community standards. This accorded with the High Court's discussion in *Crowe v Graham* (1968). Here, Windeyer J contended that the current test for obscenity – whether the material is likely to 'deprave and corrupt' susceptible individuals who may access it – was unsuitable, favouring instead the community standards approach (*Crowe v Graham*, 1968, para. 9). This shift in interpretation meant that even though the text of the Federal film censorship laws had not changed, its application had. No longer were these decisions made with a view to preventing harm but rather offence.²⁹ This approach is still used today in the control of adult viewing. In hindsight, a film censorship system based on community standards was a shrewd advancement. This interpretational shift – at least initially – did not alter people's beliefs or concerns regarding certain images and whether they should be exhibited. It did, however, make these beliefs and concerns central to how films were censored, regardless of their validity.

²⁹ This is not to be confused with discussion in Chapter Five. The harm about which proponents of the media effects message warn specifically relates to violent images: that onscreen violence leads to real life violence.

While not at first, debate soon commenced over whether the system – via its classification and censorship decisions – actively shapes these community standards or benignly upholds them. In 1974, Australian distributor Antony I. Ginnane observed that Film Censorship Board decisions were ‘ahead of and leading community standards’ (Cinema Papers, 1974b, p. 43). However, Chief Censor Janet Strickland later declared the Board was ‘not leading the community forward or holding it back’ (Chief censor defends festival decision: films slipped through in past years, 1982, p. 3). This was again asserted in 2003, when the chair of the Classification Review Board Maureen Shelley denied such discretion, stating members merely apply – through the legislation – that which the community has set for them (Jones, 2003). Indeed, implying the decision is essentially out of their hands by virtue of them simply doing their job is another way individuals involved in film censorship are able to distance themselves from the censorship act (Dalton and Schubert, 2011, p. 49).³⁰ This thesis asserts the classification/censorship system has the power to influence the thoughts and actions of individuals, and as such, the community. This is a view with which journalist Frank Moorhouse wholeheartedly agrees. According to Moorhouse, the classification and censorship process is ‘developing a fear of the explicit’ (2009, p. 1). It is through this, he argues, that ‘[w]e are creating the crime of the curious citizen’ (Moorhouse, 2009, p. 1).³¹

³⁰ As discussed in the Introduction and Methodology chapter, the dual structure of the classification/censorship system – where the Commonwealth classifies films, and the states and territories enforce its decisions – also permits the individuals involved to distance themselves from the censorship act.

³¹ Moorhouse argues this occurs regarding all the classifications, not just the R18+, X18+ and RC categories.

Film classification, a national uniform system, and other procedural changes

While some states had already been moving towards a unified system in 1949 (Rado, 1969), it was Chipp's drive and persistence that brought this to fruition in 1971. Indeed, each Australian state and territory has a Censorship Minister – as does the Commonwealth – and at this time, they agreed in principle to establish a national uniform system (Australian Bureau of Statistics, 1971, p. 676), taking the recommendation back to their respective Parliaments for consideration. Due to the Commonwealth's lack of express censorship powers, unanimous agreement between the states and territories – and legislation reflecting this – was necessary. Agreement allowing the Film Censorship Board to act on their behalf was essentially guaranteed from the territories, as the Commonwealth was – at this time – tasked with their legislating. This only ceased on 1 July 1978 for the Northern Territory, and 6 December 1988 for the Australian Capital Territory. By the mid-1970s, however, the states had also acquiesced, although they did not simultaneously legislate to this effect (Australian censorship history, 2013). Therefore, while the censorship system progressed as if the legislation was in place, its absence meant that enforcement was a grey area, undoubtedly helping to shape the culture of non-enforcement Australia has today.

True uniformity was also hampered by additional pieces of state and territory legislation inadvertently impacting censorship decisions. Indeed, the Films Board of Review confirmed this in 1982, declaring it '[did] not consider that a decision applicable to all States should be adjusted to meet the legal requirements of individual States alone, when it is the Board's considered judgement that the material is not offensive' (p. 3). Legislative idiosyncrasies were, however, clearly considered, particularly when children were involved. Indeed, in the above instance the Films Board of Review considered Victorian, South Australian and Tasmania's child pornography laws, before concluding only Tasmania's were of relevance

and releasing the film anyway (Films Board of Review, 1982). In 1979, however, the 'States' legislation on child pornography' was specifically cited as the reason for rejecting the sexploitation films *Schoolgirls' Report* (1970) and *Schoolgirls' Report – Why Parents Lose Their Sleep* (1971), both of which are pseudo-documentaries exploring teenage sexual behaviour (Film Censorship Board, 1979b, p. 1; see also, Film Censorship Board, 1979a, p. 1). Clearly, individual state views still had the potential to influence national content.

Under the national uniform system, the Film Censorship Board continued to register imported films. However, it also began to classify them on behalf of the states and territories. Prior to this, the Film Censorship Board had of their own volition, been classifying registered films: G (For General Exhibition), A (Not Suitable for Children), SOA (For Adults Only), or Film Festival status (see, Australian Department of Customs and Excise, 1970-1973). These were recommendations intended to aid theatre owners and – in turn – consumers.³² Under the national uniform system, the G classification remained, with the addition of NRC (Not Recommended for Children), and M (For Mature Audiences) (Film Censorship Board, 1981, p. 5). The NRC category was later changed to PG (Parental Guidance Recommended) in order to reflect the advisory role of parents, and in 1993, the MA15+ classification was added after the M category, legally restricting access to individuals 15 years and older when outside the control of a parent or adult guardian (Office of Film and Literature Classification, 1999-2000, p. 92).

In 1971, the Censorship Ministers also recommended the introduction of the R (Restricted) classification – now labelled R18+ – to their respective Parliaments. In the House of Representatives, however, concerns were raised regarding the potential non-enforcement of entry restrictions, citing as evidence the lax approach to laws prohibiting underage drinking (Commonwealth of Australia, 1971b, pp. 1-2). There were also concerns the R classification could be used to attract rather than restrict children, as some unscrupulous cinema

³² This is because they were not legally binding.

operators had been doing with the SOA rating. Curiously, these operators defended their behaviour using what can only be described as a win/win situation for them: assuring that tickets were still being sold at the full adult price, regardless of patron age (Commonwealth of Australia, 1971a, p. 2). Despite these – and other – concerns, the R classification had been included in all the relevant state and territory legislation by November 1971 (Hope and Dickerson, 2012, p. 1).

Heralded by Chief Censor Richard Prowse as ‘the biggest single advancement in Australian film censorship’ (Cinema Papers, 1974a, p. 102), the R classification extended the original SOA classification, legally prohibiting the entry of individuals aged between two and 18 years. The creation of this legally restricted classification – the first of its kind – was only possible under state and territory law because enforcement matters fell outside the Commonwealth’s jurisdiction, as they do today. The R classification meant that more extreme adult content could now be permitted for adult viewing with the knowledge that minors would not see it. Indeed, the protection of children has always been a driving force behind Australian film censorship, fuelled at this time – and earlier – by media reports of children mimicking criminal depictions (see eg, *The boy criminal*, 1912; *Censorship of picture shows*, 1911; *The censor speaks*, 1974a). Children under the age of two, however, were permitted entry into R rated films until 1 January 1996, so as not to impede parents’ attendance (Australian Law Reform Commission, 1991, para. 5.9).

In between the 1970-1971 parliamentary debates on film censorship, Chipp instigated a number of other procedural changes in line with his vision for the future. This included launching the *Film Censorship Bulletin*, which listed – for the first time – all the films submitted for scrutiny as well as the corresponding outcomes. Designed to increase transparency, this was published monthly in the *Commonwealth of Australia Gazette*, and is now presented as a database on the Australian Classification website. Known first as the Office of Film and Literature Classification (OFLC), Australian Classification was established

in 1988 to house and support the Film Censorship Board, and later the Classification Board (Office of Film and Literature Classification, 1988-1989, p. 3). The Films Board of Review was only brought within its ambit in 1996; the same year its name was changed to the Classification Review Board (Office of Film and Literature Classification, 1995-1996, p. 5).

Chipp also instigated creation of the Cinematograph Films Board of Review, which commenced operation in January 1971, under regulation 35 of the *Customs (Cinematograph Films) Regulations* (Cth). This Board heard appeals from applicants seeking to challenge Film Censorship Board decisions. Prior to this, challenges had been resolved by one person, either the Appeal Censor or by Chipp himself as Minister for Customs and Excise (Rado, 1969). Today, under section 42 of the *Classification (Publications, Films and Computer Games) Act 1995* (Cth), the Censorship Minister, the film's publisher, and the original applicant can all apply for review, as can individuals or organisations with close – legally defined – ties to the contentious depictions. This process is interactive as participants are permitted to deliver oral and/or written evidence to support their case. While Classification Review Board decisions can be disputed on points of law – via judicial review – in the Federal Court, they cannot be challenged on merit (*FamilyVoice Australia v Members of the Classification Review Board*, 2011, para. 46).³³

The operation of the current Classification Review Board will be explored further in Chapter Four. However, Rod Hay, producer of the Australian horror film *Night of Fear* (1972), has since reminisced about the time he and his colleagues appeared before the Films Board of Review in 1972 holding 'a four foot board ... [displaying] on it the prejudice that was now being made against Australian films' (*Night of Fear*, 1972).³⁴ This indicates that external participation was, at the very least, not unheard of from the beginning. *Night of Fear*, which

³³ This is also reflected in section 5 of the *Administrative Decisions (Judicial Review) Act 1977* (Cth) under which the cited action was brought. The classification and review processes will be examined more closely in the Chapter Four.

³⁴ As stated in the DVD commentary included with Umbrella Entertainment's 2004 dual release of *Night of Fear* and *Inn of the Damned* (1975).

tells the story of one woman's efforts to escape a deranged serial killer with an affinity for rats, was permitted an R rating on appeal. This is despite the Films Board of Review declaring they shared 'the Film Censorship Board's regret and distaste that such a well-photographed film, financed with government money and made with Australian Broadcasting Commission facilities relies exclusively for its effect upon sadistic sexuality' (Films Board of Review, 1972, p. 1). *Night of Fear* was then classified M in 2005, highlighting the difference that time can potentially make to this process.

Film censorship and additional suppression

In the early days, the Film Censorship Board censored films by refusing to register them, and later by refusing them classification. However, this was not the only action taking place with censorial effect. Indeed, some filmmakers pre-empted formal sanction and made two versions of their more extreme films, intending only the "soft" versions for more conservative countries (Cinema Papers, 1974a, p. 106). Distributors also cut their films post submission to gain not only a classification but the most profitable one. This fate befell many of the Kung Fu films in the 1970s; modified only so they could be exhibited to adults and minors alike (Cinema Papers, 1974b, p. 43). More recently, there have been examples of R and X rated versions of the same film being released simultaneously in Australia; a shrewd combination of both these tactics. The X classification's introduction will be discussed later in the chapter.

These suppressive acts are all documented. However, suppression also occurred in ways unseen, running parallel to that which was formally sanctioned. Some distributors pre-empted formal censorship – as they do today – cutting their films before submission (Murray, 1978, p. 92). Others showed Film Censorship Board members their scripts, discussing with them any potential censorship issues. This allowed problematic scenes to be modified before they were shot, saving both time and money. Particularly popular in the

1970s, Chief Censor Prowse declared his door 'always open' (Cinema Papers, 1974a, p. 103), as did his successor Janet Strickland in 1980 (Murray, 1980, p. 23). Nevertheless, this process was not infallible, as Antony I. Ginnane inevitably discovered. Indeed, his sexploitation film *Fantasm* (1976) – which explores 'the inner most mechanisms of the female mind', as they pertain to sexual fantasies (*Fantasm*, 1976) – was rejected even after this collaboration took place. The Film Censorship Board, however, maintains this was because its recommendations had been ignored (Film Censorship Board, 1976, p. 1).

Cinema owners – particularly in the 1970s – provided filmmakers and distributors with an additional hurdle, as they only selected films they thought would be popular with their clientele. While today's cinema sizes have lessened this impact, the role that both cinema and shop owners can play should not be underestimated. Indeed, all suppressive practices – regardless of their motivations – have the potential to impact the types of films created. Professional filmmaking is – after all – largely a business venture, even when boundary pushing desires are expressed. Regardless of the suppressive methods employed, self-censorship is always the last remaining hurdle to images being seen, and newspaper reports of walkouts are rife throughout the history of film in Australia (Murray, 1977b, p. 8; Chester, 2011; Dennis 2002). Indeed, filmgoers know their own limits and stringently police them. It is only those who object to the viewing habits of others that call for them to be restricted.

Some filmmakers and distributors challenged the formal censorship decisions through the Films Board of Review, as was their legal right (Cinema Papers, 1974a, p. 103). Of this, *Night of Fear's* Roy Hay and the *Naked Bunyip's* John B. Murray provide two examples. Unlike the latter, however, who was a self-described 'loose cannon' (Murray, 2006, p. 1), such individuals generally strove to maintain a cordial relationship with the censors. Indeed, in the 1970s it was asserted distributors were 'forced to bite their tongues at the whims and antics' of Board members, as they would vexatiously delay classification decisions so films had little advertising time prior to release (Murray, 1976, p. 105). Ginnane has even gone so

far as to describe them as ‘a nasty bunch of self-dealing, megalomaniacal monsters’ who ‘thought they were god’ (*Fantasm Penetrated*, 2004).³⁵ A more recent allegation of obdurate behaviour came from American filmmaker Tony Comstock after finding out his film *Ashley and Kisha: Finding the Right Fit* (2007) was refused classification exemption in 2007. As Comstock laments:

the OFLC’s David Emery told me that it doesn’t matter what kind of film I make; apparently my name is on some sort of OFLC secret list, and I’ll never get a legal screening of any of my films in your country. I know, it’s crazy. Doesn’t exactly fit with the picture that most people have of Australia, does it? (2009, p. 1).

Comstock’s films abound in images of actual sex. Yet, they are shot in a documentary style and feature real life couples, rendering them at odds with other forms of pornography.³⁶ Indeed, Comstock intends them for both private and public use (Comstock, 2006a). The space his films – and others like them – uneasily frequent within the Australian classification/censorship system will be explored further in Chapter Three.

Sex on film and the R classification

Two months prior to his landmark parliamentary speech, Chipp had presented examples of banned films and cut images to an invited group of approximately 300 politicians, journalists, and religious officials (Richards, 1974, pp. 110-111). This was done to garner influential support for the R classification’s introduction. According to Australian journalist Mike Richards – who witnessed the spectacle firsthand – the problematic material ‘was for the most part totally unobjectionable, even seen totally out of context’ (1974, p. 111). This

³⁵ *Fantasm Penetrated* is included as a DVD extra with Umbrella Entertainment’s 2004 dual release of *Fantasm* and *Fantasm Comes Again* (1977).

³⁶ While used here to denote works that heavily feature images of actual sex, Comstock himself deplores the pornography label.

included violence and 'so-called pornography' (Richards, 1974, p. 111). However, according to Richards, 'the whole exercise was itself a sham', suggesting that the censorship debate had been 'fundamentally misconceived as an argument about sexual titillation' (Richards, 1974, p. 111). Yet still today, the issue of sexual titillation readily comes to the fore in film censorship discussions. Indeed, even from a filmmaking perspective, Comstock declares 'arousal remains the last taboo' (Comstock, 2007, p. 1).

Upon adoption, the R classification permitted – for the first time – exhibition of soft core sex films, and these rapidly became popular in the 1970s (Murray, 1981, p. 39). Outside Melbourne's Star Theatre – for example – '[i]t was not unusual to have a queue of patrons waiting at the door when a new movie was released' (Doman, 2016, p. 1). Billed as 'Australia's first sex cinema', this theatre remains operational today, 'surviving on a mix of buck's shows and an older generation of patrons'; a flailing relic of the 1970s 'porno chic' era (Doman, 2016, p. 1). In Ginnane's experience, however, the censors of the 1970s 'didn't like sex, and once you got past a certain level of nudity, or a certain level of simulated sex ... you had to cut it' (Fantasm Penetrated, 2004). Indeed, pornography was effectively excluded from the R classification then as it is now.

At this time, the Film Censorship Board defined pornography as '[v]erbal or pictorial material that is devoted overwhelmingly to sexual activity in detail, with no bearing to theme and with no creative or artistic social merit' (Murray, 1978, p. 92). In practice, this meant all 'shots of actual intercourse' were prohibited (Murray, 1978, p. 92). The social ambit of the "pornography" label, however, is highly contested, fluid, and – above all – personal (Rea, 2001, p. 118). As America's Stewart J famously declared when discussing its definitional difficulties, 'I know it when I see it' (*Jacobellis v Ohio*, 1964, para. 14). This is undoubtedly why the word pornography is not used in any of today's classification/censorship legislation. Precision is further hampered by pornography's hard core/soft core distinction; the former being associated with explicit images of actual sex, while the latter aligns more closely with

the presentation of foreplay, simulation, and other R rated content. Indeed, the sex theatres of the 1970s were promoted as screening pornography, even though many only presented the soft core offerings that were lawfully available. Confusion is now furthered through the creation of soft core versions of well-known pornographic films, such as *Deep Throat* (1972) and *Debbie Does Dallas* (1978), although even in their hard core guises these titles are nowhere near as extreme as some of the more contemporary offerings.

Throughout the evolution of film classification and censorship in Australia, distinct waves of permissiveness and conservatism can clearly be seen. Prior to 1970, it had long been observed that some censors were 'more severe than others', highlighting the role individual sensibilities can play (Rado, 1969, p. 2). While the R classification then heralded a more lenient system, Chief Censor Prowse has since described his charges as 'fairly wary' of this addition (Cinema Papers, 1974a, p. 102).

You must remember that when the R certificate was brand new in Australia we had fought for many years for it, successive Ministers had fought for it. ... [As a result] I think we tended to err more on the side of strictness than liberality in the early days. We probably applied R's too liberally [to lesser content] in the early stages but after twelve months everything settled down (Cinema Papers, 1974a, p. 102).

Ginnane, however, takes a jaded view of this, declaring these individuals 'didn't like the R rating, it was imposed on them [by the governments], so they did everything they could to sabotage it' (Fantasm Penetrated, 2004). By 1974, the permissible levels of simulated sex and violence in R rated films had noticeably increased (Cinema Papers, 1974b, p. 43). Yet, by 1976, agreement had reportedly been reached at a State Chief Secretaries' meeting 'that censorship needed tightening up' (Murray, 1976, p. 105), and by 1979, some were even suggesting censorship was as strict as it had been in the late 1960s (Murray, 1979b, p. 334).

While some of these occurrences are anecdotally evidenced, others are reflected in legislative and administrative documents, as will be seen later in this chapter.

The role of context and precedence

As legislative interpretation shifted to upholding community standards in the late 1960s, the Film Censorship Board began placing greater emphasis on context in all its forms, including a film's likely and intended audience (Commonwealth of Australia, 1971a, p. 2). This consideration is now legally required under section 11(d) of the *Classification (Publications, Films and Computer Games) Act 1995* (Cth). The relevance of context was highlighted in Chipp's speech when he referred to Clor's (1969) book *Obscenity and public morality: censorship in a liberal society*, contending:

the essence of obscenity lies in making public that which is private, in trading on intimate physical processes and acts or on physical emotional states, thereby degrading the human dimension of life to a sub-human or merely physical level (Commonwealth of Australia, 1970, p. 2383).

Chipp continued, explaining:

televised scenes of the suffering of wounded soldiers, or televised interviews which seek to exploit the reactions of victims of emotional crises for public titillation are obscenities as gross as any sexual display. Such scenes are not regarded per se as obscene – only when shown out of context (Commonwealth of Australia, 1970, p. 2383).

In addition to the relevance of context, this importantly confirmed – at a pivotal time in the evolution of film censorship in Australia – that both violent and sexual images can potentially be problematic.

Context was – and is – considered in the broadest way possible. One facet of this is artistic merit, which is now required to be considered under section 11(b) of the *Classification (Publications, Films and Computer Games) Act 1995* (Cth). Indeed, prior to Chipp’s revolution it had been observed that censors could not ‘pay overmuch attention to considerations of artistic nature; more or less the same rules ... applied to a genuine work of art and a film in which elements of sex play or violence ... [were] introduced for purely box office reasons’ (Rado, 1969, p. 2). By 1974, however, Chief Censor Prowse confirmed the sway of artistic merit stating, ‘the Board must be influenced by the quality or integrity or merit of a film. Whether this is subjectively done or objectively done is another matter’ (Cinema Papers, 1974a, p. 103). He went on to confirm ‘that a film of merit and quality or integrity could carry a scene which a low-grade sexploitation just couldn’t, and would therefore be eliminated’ (Cinema Papers, 1974a, p. 103).

By 1974, the influential role context played meant that comedy could be exploited for leniency. Indeed, according to filmmaker Richard Franklin, ‘[t]reating something with humour enable[d] you to get away with just about anything, as long as it is the right sort of humour’ (Cinema Papers, 1974c, p. 248). However, context’s sway also meant the role of precedence was becoming increasingly muddled. As filmmaker John Lamond observed just four years later:

[y]ou can’t go to them and say “You left in a scene in this American film where an actress said ‘Go to hell’ and chopped off a man’s fingers. Does this mean if I have someone’s leg chopped off and a person screams ‘Go to hell’ it will get through?”

They won't say yes, they'll just use vague terms like 'You're taking it out of context'
(Murray and Beilby, 1978, p. 97).

Even so, Chief Censor Strickland later admitted that precedence inevitably had a role to play, declaring 'we have to classify according to precedents. If you are seeing a lot of films, reading a lot of books, or assessing any commodity in bulk ... you can't operate in isolation' (Murray, 1980, p. 22). Indeed, while filmmakers like Lamond had bemoaned the lack of stated policy regarding censorship considerations in the late 1970s (Murray and Beilby, 1978, p. 97), by 1980 the Film Censorship Board had begun referring to an evolving set of guidelines when making their decisions (Office of Film and Literature Classification, 1999-2000, p. 92). These were maintained by the Film Censorship Board in close consultation with the Censorship Ministers. Designed to promote decision making consistency within the sparse legislative framework (Office of Film and Literature Classification, 1988-1989, p. 4), this internal working document was – at this time – neither legally binding nor publicly available. As will be seen later in this chapter, these guidelines allowed the Censorship Ministers and Film Censorship Board to manipulate classification outcomes en masse without altering legislation, circumventing the need for each Censorship Minister to obtain their own Parliament's consent, which was time consuming and not guaranteed. This further highlights the incredible elasticity of the Australian film classification/censorship system.

While the ambit of precedence is still limited by considerations of context, precedence has frequently been referenced in discussions regarding permissible images of actual sex since 2000, following the Australian release of Catherine Breillat's controversial film *Romance* (1999; see eg, Refused-Classification.com, 2016h; Classification Board, 2004a, p. 4). This film tells the story of Maria who, after growing tired of her sexually uninterested boyfriend, sets off to find fulfilment. It also features explicit – albeit brief – images of masturbation and fellatio, both of which are considered to be actual sex for the purposes of film classification and censorship. Explicit images of vaginal and anal intercourse are similarly regarded.

Romance was initially refused classification because of this inclusion (Classification Board, 2000b, p. 6). However, it was classified R18+ on review just two weeks later; the first film of its kind to be so classified. Since then, numerous films featuring limited images of actual sex have been classified R18+, although this occurrence remains exceptional. Indeed, the classification guidelines – in their current incarnation – still profess the ‘general rule’ to be ‘simulation, yes – the real thing, no’ (*Guidelines for the Classification of Films 2012*, p. 13).

State censorship and the national uniform system

The establishment of the national uniform system was intended to render the individual state and territory censorship regimes obsolete, reducing consumer confusion, and easing the physical and financial burdens on distributors. Yet, not all of the states obliged. Indeed, South Australia and Western Australia both reserved the right to review, and potentially change, Commonwealth decisions. In South Australia, this was done by the six member Classification of Publications Board (Joint Select Committee, 1988a, p. 87). However, in Western Australia the Censorship Minister alone enjoyed this privilege, making the process highly political (Joint Select Committee, 1988a, p. 97). By 1974, Queensland had become disenchanted with the national uniform system, and established its own supplementary regime under the *Films Review Act 1974* (Qld). This included the Queensland Films Board of Review. Unlike South Australia and Western Australia who feared Commonwealth leniency, Queensland’s concerns lay with the Commonwealth’s community standards approach. As Des Draydon, chairperson of the Queensland Board, explained:

scientific evidence suggests that a film can have a harmful effect on society. The scientific work says it’s not just a case of offensiveness. See, everyone’s hung up on this offensiveness thing: “Too many tits and bums ... “You should be allowed to see people rooting ... “I don’t mind watching blood and gore on the screen or watching people being tortured.” People say I don’t mind watching it so what harm can it do ...

that's the wrong approach. To say it again, it's not a question of whether a person is offended by it, but whether it can cause harm (McClelland, 1977, p. 330).³⁷

The tension between harm and offence is still present in Australia today.³⁸

While the South Australian and Western Australian regimes both acted on submissions from external sources, the Queensland Board systematically re-examined all R and X rated films, holding them to the State's more stringent standards (Joint Select Committee, 1988a, p. 91). Some, however, have gone so far as to describe its operation as that of 'a kangaroo court wielding the threat of a ban as a big stick to prevent distributors and exhibitors opening contentious films in Queensland' (Murray, 1976, p. 105). Indeed, its censorial reach undoubtedly stretched further than the films it formally banned (Murray, 1976, p. 105). 'No exhibitor can afford to spend thousands of dollars launching a film only to find it banned after one or two days in release' (Murray, 1976, p. 105).

Today, South Australia is the only jurisdiction with an active classification/censorship system running concurrent to that of the Commonwealth. Referred to now as the South Australian Classification Council (SACC), this six member board is permitted to review any film's classification, substituting its own if desired. Established under the *Classification (Publications, Films and Computer Games) Act 1995 (SA)* (the SA Act), the SACC must act at the South Australian Censorship Minister's request, although it can also operate of its own volition. The Censorship Minister is also permitted to change a film's classification after seeking Council guidance (*Classification (Publications, Films and Computer Games) Act 1995 (SA)* s 16(2)(c)). While changes are rare, there are films today that are classified differently in South Australia, and even prohibited.³⁹ The SACC must – under section 8 of the

³⁷ Quotation marks and ellipses are as featured in the original publication.

³⁸ This can be seen especially in Chapter Five.

³⁹ The most recent prohibition being Michael Winterbottom's *9 Songs* (2004) in 2005, which is classified R18+ nationally but X18+ in South Australia.

SA Act – include experts in law, education, and child and adolescent psychology, as did the Classification of Publications Board before it (Joint Select Committee, 1988a, p. 87). Interestingly, however, the Howard Government steered the Commonwealth regime away from appointing such professionals in 1999, favouring instead “ordinary” Australians. This was done in response to allegations that Board members were not accurately representing the entire community (Marr, 1999a).

At the time of its creation, the national uniform system was seen as a particularly pertinent advancement due to the ease of interstate travel. Indeed, after the rise of the Queensland regime reports were rife of patrons specifically travelling interstate to view locally banned films (Murray, 1979a, p. 489). Today, similar arguments have been raised regarding the current system due to the ease of accessing censored films via the Internet (Colvin, 2003). Indeed, all films – or at least the vast majority – can now be downloaded or viewed online anytime. DVD and Blu-Ray copies can also be purchased online and delivered via the postal service. In 2003, however, the OFLC Director Des Clark denied this situation made a mockery of the classification system (Colvin, 2003).

I mean, people rob banks as well, and do all sorts of things that are illegal and there are appropriate punishments for that. But in general terms, people don't seek to break the law for gratuitous reasons (Colvin, 2003, p. 1).

Yet, outside of child pornography provisions, censorship breaches – and even instances of piracy – have traditionally been perceived as victimless crimes. In the case of piracy, this is evidenced by the advertisement informing consumers otherwise that is featured at the beginning of DVD and Blu-Ray discs produced both nationally and internationally. Indeed, John Jarratt – star of the Australian horror films *Wolf Creek* (2005) and *Wolf Creek 2* (2013) – has summarised its effects well referencing today's technology. 'We're not getting paid for our efforts. So you're getting my hard-earned effort for nothing if you illegally download'

(Judd, 2014, p. 1). Jarratt sees such actions as akin to ‘cancer’; ‘it’s going to kill the Australian film industry – there’s no doubt about that’ (Judd, 2014, p. 1).

Federal censorship policy

In his 1969 election speech, Gough Whitlam presented the ‘general principles’ that underpinned the Labour Party’s censorship policy (p. 1):

that adults be entitled to read, hear and view what they wish in private or public and that persons and those in their care be protected from exposure to unsolicited material offensive to them (Whitlam, 1969, p. 1).

While the Liberal Party initially presented strong opposition, this policy soon enjoyed bipartisan support after Labour came to power in December 1972 (Strickland, 1977, p. 207), as it still does today. Indeed, in 1988 it was enshrined in the classification guidelines as part of a newly inserted preamble (Office of Film and Literature Classification, 1988-1989, p. 18), and in 1996 it became part of the *National Classification Code*.⁴⁰

Originally, the policy’s wording – as quoted above – suggested film censorship may have been destined for abolition in its entirety.⁴¹ Indeed, many constituents had been yearning for this in the late sixties and early seventies – as some do today – although admittedly abolition means different things to different people. Even the staunchest anti-censorship advocates will typically denounce the permitted circulation of at least some types of images.⁴² As will be discussed later in the chapter, legislative abolition did not occur here, and this was a shrewd

⁴⁰ Located in the schedule to the *Classification (Publications, Films and Computer Games) Act 1995* (Cth).

⁴¹ Qualifications were later added to the declaration ‘that adults be entitled to read, hear and view what they wish’ (Whitlam, 1969, p. 1). Currently, the *National Classification Code (May 2005)* states that ‘[c]lassification decisions are to give effect, *as far as possible*,’ to this notion (clause 1(a)). Italics added.

⁴² This can be seen in Chapter Four.

decision, especially after the national uniform system was instigated in 1971. Indeed, formally abolishing film censorship at importation level and ceasing Commonwealth involvement would have had the opposite effect, returning Australia to 'the previous piece-meal situation' of state and territory regulation (Cinema Papers, 1974b, p. 43). In reality, however, legislative abolition was unnecessary for fracture to occur; the mere perception of laxity was enough, as shown – for example – by the creation of the Queensland Films Board of Review in 1974. Even today, this situation remains – albeit in a less consequential guise – due to the SACC's continued involvement.

Film festival provisions

In 1975, after concerted lobbying, Chief Censor Prowse permitted film festival organisers to ostensibly circumvent the censorship system by importing films subject to special conditions, as permitted by regulation 19 of the *Customs (Cinematograph Films) Regulations* (Cth). These conditions were that the films only be exhibited at the festival in question, that they only be exhibited up to two times, and that they be swiftly exported upon festival conclusion (Film Censorship Board, 1980, p. 18). In order to qualify, organisers were required to submit a written synopsis for each film to the Chief Censor (Film Censorship Board, 1980, p. 18). The images themselves were not scrutinised, although the option remained if clarification was needed. The Western Australian Government, however, quickly became disenchanted with this arrangement, reportedly pressuring Prowse into refusing a film destined for the Perth Film Festival (Murray, 1976, p. 105). Success was thwarted when this refusal was overturned on review. Therefore, when Festival organisers sought to screen Oshima's daring Japanese film *Empire of the Senses* (1976)⁴³ the following year, the Western Australian Government turned to the Festival itself, 'threaten[ing it] with red tape strangulation' (Murray, 1976, p. 105). *Empire of the Senses*, which explicitly documents the ill-fated sexual

⁴³ *Empire of the Senses* is also known as *In the Realm of the Senses*.

relationship of Sada Abe and Kichizo Ishida, was screened at both the 1977 Melbourne and Sydney Film Festivals without controversy (Murray, 1977a, p. 105). However, it was rejected upon submission for formal classification this same year, highlighting the difference the 1975 agreement made (Murray, 1977a, p. 105). Indeed, when Pier Paolo Pasolini's infamous film *Salò, or the 120 Days of Sodom* (1975) had been similarly submitted – and rejected – in 1976, the Films Board of Review expressly bemoaned it had not been sought for film festival screening 'where it could have been seen by audiences accustomed to seek deeper meanings behind a symbolic treatment of a difficult theme' (Films Board of Review, 1976, p. 1). Set in 1940s Italy, *Salò* brutally charts the demise of 18 teenagers who are held captive by four fascist leaders: a magistrate, a duke, a president, and a bishop. The Films Board of Review's statement here not only indicates that *Salò* would have been treated differently under the film festival provisions, it also glimpses the rationale behind them.

Controversy again ensued in 1982, when Chief Censor Strickland called in for viewing an unprecedented five films proposed for the Melbourne Film Festival (Murray, 1982, p. 204). This included the acclaimed Brazilian film *Pixote: Survival of the Weakest* (1981), which was rejected for featuring images of a minor in the presence of adults simulating a sex act (Film Censorship Board, 1982a, p. 1). Exploring the abuse of São Paulo's street kids by both criminals and corrupt police officials, the film's lawful screening was later permitted on review. However, Festival organisers still loudly condemned Strickland's actions, passionately arguing they were legally erroneous and would ruin Australia's international standing (Murray, 1982, p. 204).

Once again, debate raged, culminating in April 1983, with amendment of the *Customs (Cinematograph Films) Regulations* (Cth). Film Festivals now had to establish they were 'approved organisations' running 'approved events' in order to be eligible (Film Censorship Board, 1983, p. 12). Films that would clearly be refused registration, however, were still not permitted. While other legislative changes were later made, these broad requirements

remained until 11 September 2015, when the *Classification (Publications, Films and Computer Games) (Conditional Cultural Exemption Rules) Instrument 2015* (Cth) took effect with the intention of streamlining the classification/censorship process for film festivals (*Classification (Publications, Films and Computer Games) (Conditional Cultural Exemption Rules) Instrument 2015* (Cth): explanatory statement, p. 1). Indeed, film festivals are now tasked with self-regulation. The nuances of this – and the preceding requirements – will be explored further in Chapter Four.

Film festivals have continued to push cinematic boundaries – as is often their intention – and numerous films have since been prohibited from screening. One of the most sensational challenges came when the Sydney International Film Festival was prohibited from screening Larry Clark's drama *Ken Park* (2002) in 2003, which had previously been refused classification upon submission by individuals seeking its DVD distribution. *Ken Park* charts the troubled lives of four teenage friends in California – Shawn, Peaches, Claude, and Tate – after their friend shockingly commits suicide in the opening minutes. Here, the Classification Board objected to the film's images of teenaged minors participating in actual sex, although the actors themselves were adults (Classification Board, 2003b, p. 2). In a spectacular display of defiance, a group calling themselves Free Cinema attempted to hold an unlawful public screening in the Balmain Town Hall (Needham, 2003a). This was dramatically shut down by police as the film began, with Australian film critic – and Free Cinema member – Margaret Pomeranz then being escorted to the police station next door (Haynes, 2003). No charges were laid (Arlington, 2003).

Censorship controversies sparked by film festivals have long been used to gauge Australia's censorial climate (see eg, Murray, 1976, p. 105). Opportunity for this presented most recently in 2013, when Travis Matthew's drama *I Want Your Love* (2012) was prohibited from screening. Described as 'part meditation on gay identity, part love letter to San Francisco' (Valenti, 2013, p. 1), this film explores one man's decision to leave the city he has

called home for the last decade. Prohibition was due to the film's images of actual sex. However, the media specifically linked this with their homosexual nature (Wilkey, 2013; Hawker, 2013). This situation compelled Australian filmmaker Grant Scicluna to create an online petition to overturn the prohibition, which – at its close – contained 2,868 signatures (Scicluna, 2013). A solemn speech from American actor James Franco was also uploaded to *YouTube*, with Franco deploring the ban as 'short sighted' and 'hypocritical' as the sex scenes were being used to 'explore ... human behaviour' (Franco, 2013). 'I don't think we would be having this conversation if he had made a very violent film' (Franco, 2013). Here, Franco is indeed correct, as almost all forms of violence are permitted, as are all forms of simulated sex. This begins to demonstrate the dynamic and complex role reality plays in film classification and censorship. These acts of resistance increased both national and international awareness of film censorship in Australia, highlighting the influential – and global – role online media now plays. However, they also garnered increased publicity for the film festival that had proposed the screening and for the film itself, benefiting them both respectively.

The introduction of VHS tapes

The importation of VHS – or video – tapes for private use began gradually in the 1970s, and by the early 1980s numbers increased so rapidly there was concern for cinema's sustainability (Video matters: overview, 1987, p. 28). Their introduction, however, broadly coincided with Labour's 1972 victory and the formal induction of the party's censorship policy: 'that adults be entitled to read, hear and view what they wish' (Whitlam, 1969, p. 1). To this end, the Federal Attorney-General met with customs officials, where it was agreed extensive legislative changes would be necessary to make this policy law (Censorship policy document quoted in Joint Select Committee, 1988a, pp. 16-17). Ensuing policy documents also expressed awareness that 'almost all the States would be hostile to a policy which could

lead to the circulation of so-called hard core pornography and material dealing with hard drugs and extreme violence, anarchy and sedition' (Censorship policy document quoted in Joint Select Committee, 1988a, p. 17). Indeed, the Australian public was said to be 'notoriously conservative, whatever its political affiliations' (Censorship policy document quoted in Joint Select Committee, 1988a, p. 17). Consequently, in a clear attempt to manipulate community standards, officials concluded:

[t]he Government's policy might best be achieved by a strategy of hastening slowly – gradually broadening the standards of imported material so that public opinion can be developed to embrace the principles embodied in the policy (Censorship policy document quoted in Joint Select Committee, 1988a, p. 17).

To this end, customs officers received an administrative direction in June 1973, to focus solely on prohibiting child pornography, bestiality, and the most extreme violence under the *Customs (Prohibited Imports) Regulations (Cth)*, and to effectively ignore the *Customs (Cinematograph Films) Regulations (Cth)*, which was frequently used to prohibit hard core pornography (Joint Select Committee, 1988a, pp. 17-18). It has since been concluded, however, that customs did not consistently prohibit that which they were asked, and – whether formally sanctioned or not – this laxity continued into the early 1980s (Joint Select Committee, 1988a, pp. 18-19). Indeed, Labour's administrative direction, and the decisions that flowed from it, dramatically – and irrevocable – altered both Australia's filmic and censorship landscapes.

While legislative scrutiny only came later, the *Customs (Cinematograph Films) Regulations (Cth)* were formally applicable only to films for public exhibition; not videotapes for private use (Senate Select Committee on Video Material, 1985, p. 25). However, as the Film Censorship Board was well qualified to assess whether their content was lawful, it began to register any videotapes that were submitted to them, imposing the 'special condition' that

they not be publicly exhibited (Film Censorship Board, 1980, p. 5). Prior to September 1980, the Film Censorship Board also classified these videotapes (Film Censorship Board, 1980, p. 5). However, as time went on, it did not have the practical capacity to classify the large number of videotapes that were being imported, nor did it have the formal legal standing to do so as private use videotapes also fell outside the facilitating state and territory legislation. Despite this, the Film Censorship Board still viewed the videotapes it believed to contain either adult or unlawful content, duly imposing an R classification or refusal (Film Censorship Board, 1980, p. 5). This was done to guide consumers, and protect children and unwitting adults; a widely publicised concern at the time (Film Censorship Board, 1982b, p. 11). However, even this ceased in January 1983 when it was confirmed as falling outside the Film Censorship Board's jurisdiction (Film Censorship Board, 1982b, p. 11).

Videotape classification and the introduction of the X classification

In a presentation to the Motion Picture Exhibitors' Association of Queensland in 1982, Chief Censor Strickland announced the Film Censorship Board's opinion that legal and practical changes should be implemented to make videotape registration and classification mandatory (Film Censorship Board, 1982b, pp. 15-16). The Film Censorship Board's proposal included the addition of an X classification, permitting content it believed to be suitable for private use but unsuitable for public exhibition (Film Censorship Board, 1982b, pp. 15-16). Here, the X classification was conceived as coming after the R category on a scale of increasing intensity. However, it was not the first time a private use X classification had been suggested. Indeed, Senator Lionel Murphy had – for one – reportedly proposed this back in 1974 even before videotapes became popular (Cinema Papers, 1974b, p. 43). Strickland contended such advancement would increase control over videotapes featuring 'child pornography, bestiality, drug abuse, and acts of extreme violence cruelty or terrorism' (Film

Censorship Board, 1982b, p. 16). However, when this was debated in Parliament, Senator Brian Harradine – a well-known conservative – vehemently declared that control was the wrong approach: such films have ‘no place at all in Australia or anywhere else for that matter’ (Commonwealth of Australia, 1983, p. 1240). Yet, it was a fallacy that these images could now be eradicated. Indeed, the effects of the 1973 administrative direction combined with the vast number of videotapes being imported meant their circulation was now deeply entrenched.

The Censorship Ministers agreed with Strickland and the Film Censorship Board, deciding in July 1983, to take the recommendations back to their own respective Parliaments (Film Censorship Board, 1983, p. 12). The *Objectionable Publications Ordinance 1958* (ACT) was also amended by the Commonwealth to accommodate these changes, with the intention of it being modelled by the states (Film Censorship Board, 1983, p. 12). This became operational on 1 February 1984 (Film Censorship Board, 1983, p. 12). While initially voluntary, videotape classification was made compulsory four months later after an industry backlash (Video matters: overview, 1987, p. 29). By the end of 1985, the majority of the states had embraced the national uniform system, meaning the Film Censorship Board was now formally permitted to classify videotapes on their behalf, and the states could legally enforce this. Only Western Australia lagged, finally legislating to this effect three years later: in February 1988 (Joint Select Committee, 1988a, p. 96).

At this time, the X (Extra Point-of-Sale Controls) classification was also added to the *Objectionable Publications Ordinance 1983* (ACT). Here, “Point-of-Sale Controls” referred to the fact that unlike films intended for public exhibition, which were – at first instance – regulated under Commonwealth law upon importation, videotapes were solely regulated via classification. This was then enforced where the product was sold or hired (Australian Law Reform Commission, 1991, para. 1.6). Reflecting the Film Censorship Board’s original conception, the X (Extra Point-of-Sale Controls) classification permitted all material that

exceeded the R classification but was not extreme enough to warrant refusal. Like the R classification, it too was legally restricted to individuals over 18 years of age.

The January 1984 version of the guidelines confirms the X (Extra Point-of-Sale Controls) classification permitted images of explicit violence and 'advocatory' drug use (Joint Select Committee, 1988b, p. 736),⁴⁴ as well as:

[a]ll depictions of sexual acts involving adults (except those of an extreme sexually violent or cruel nature) including explicit penetration, masturbation, ejaculation, fellatio, cunnilingus, insertion of objects in orifices, urolangnia, necrophilia, coprophilia, sado-masochism, fetishism (Joint Select Committee, 1988b, p. 736).

Child pornography and depictions of bestiality, however, were expressly 'refused classification', as were 'detailed and gratuitous depictions of acts of extreme cruelty including extreme sexual violence', and material instructing in terrorism and drug use (Joint Select Committee, 1988b, p. 736). Indeed, this wording shows that by now the Censorship Ministers and the Film Censorship Board had begun to conceptualise banned films as falling into their own discrete category – as they do today – rather than simply exceeding that permitted in the R and X classifications. In practice, however, the latter conception still typically drove these refused classification – or RC – decisions, as evidenced by the Board's reports.

While Victoria initially permitted the X (Extra Point-of-Sale Controls) classification, this was soon repealed, reportedly reflecting its desire to follow the other states, none of whom had adopted this additional classification (Joint Select Committee, 1988a, p. 85). Indeed, some balked at the concept entirely, whereas others – such as South Australia – objected only to the extreme violence it permitted rather than the actual sex (Joint Select Committee, 1988a,

⁴⁴ This features a reproduction of the *Guidelines for Classification of Videotapes/Discs for Sale/Hire (January 1984)*.

p. 88). Explanation is inevitably multifaceted due to the divisive nature of film censorship and the potentially numerous individuals involved. However, here the Film Censorship Board attributed the X classification's national failure to the 'public controversy' that had ensued, some of which had been 'carefully orchestrated' by Religious Right campaigners (Film Censorship Board and Films Board of Review, 1986, p. 9). These individuals have long championed the virtues of censorship; loudly warning against film's perceived dangers. Their influence too has long been recognised, as demonstrated by Chipp inviting religious officials to attend his 1970 screening of prohibited films and images (Richards, 1974, p. 110). He knew he needed them on his side.

In Australia today, the Religious Right consists of a number of highly influential organisations. These include the Australian Christian Lobby, the Christian Democratic Party, the Australian Federation for the Family, and FamilyVoice Australia.⁴⁵ The Religious Right has a long history of targeted and successful campaigning against that which they perceive as deviant (Marr, 1999b, p. xiii). This means they have mechanisms already in place, allowing their charismatic leaders to swiftly prompt members into action when the perceived need arises. Anti-censorship campaigners, however, typically lack the collective uniformity, which makes the Religious Right so powerful, although the sex industry has – since the early 1990s – made a concerted effort to redress this (Eros Foundation, 2013). Organisations with a strong anti-censorship platform now include the Eros Association⁴⁶ and the Australian Sex Party. These have joined with film festivals and – more recently – an increasing number of distributors, as voices against film censorship.

In October 1984, the Censorship Ministers decided further restrictions on filmic violence were needed to represent community standards (Film Censorship Board, 1985, p. 14). This was duly reflected in the November 1984 guidelines where permissible violence was

⁴⁵ FamilyVoice Australia was formally known as Festival of Light Australia.

⁴⁶ The Eros Association was formally known as the Eros Foundation.

reduced in the M and R classifications, and the RC classification was widened (Joint Select Committee, 1988b, pp. 726-727).⁴⁷ Most noticeably, however, the X (Extra Point-of-Sale Controls) classification was abolished and replaced with the visually distinct ER (Extra-Restricted) classification, which permitted 'explicit depictions of sexual acts involving adults' but excluded 'depictions suggesting coercion or non-consent of any kind' (Joint Select Committee, 1988b, p. 727). This effectively meant that all violence beyond an R classification – especially sexual violence – was now prohibited. The classification guidelines were also now silent on sexual fetishes. Despite these changes, previously classified videotapes that were now at odds with the classification guidelines – most noticeably those rated X – were not reclassified unless they were voluntarily resubmitted (Film Censorship Board, 1985, p. 14). Indeed, reclassification itself was another legal grey area, and the vast numbers of videotapes in circulation meant this was impractical if not impossible. Such variations, however, only added to consumer confusion, further eroding their confidence in the classification/censorship system.

All of the Censorship Ministers – except those from Queensland and Tasmania – agreed to the introduction of the ER (Extra-Restricted) classification (Joint Select Committee, 1988a, p. 76). The State Parliaments, however, rejected this, and by December 1984 the ER (Extra-Restricted) classification had been replaced in the guidelines by the X (Extra-Restricted) classification (Joint Select Committee, 1988b, p. 724).⁴⁸ This permitted exactly the same depictions of non-violent actual sex as the ER category but by using the “X” symbol, which had already been included in the *Objectionable Publications Ordinance* 1983 (ACT), no legislative amendments were needed. This further highlights the guideline's elasticity. Indeed, the only feature visually distinguishing the amended X classification from the original in the guidelines was the “Extra-Restricted” label, which had been replaced by “Extra Point-

⁴⁷ This features a reproduction of the *Guidelines for Classification of Videotapes/Discs for Sale/Hire* (November 1984).

⁴⁸ This features a reproduction of the *Guidelines for Classification of Videotapes/Discs for Sale/Hire* (December 1984).

of-Sale Controls". Neither of these was legislatively enshrined. However, they were also not publicly advertised, meaning that despite practical changes being made to the X classification's boundaries, the stigma of its past remained.

From the beginning, there were calls to ban X rated films completely, making their sale, hire, creation and possession unlawful. This intensified in October 1984, when the Senate Select Committee on Video Material recommended a moratorium be placed on their trade (Senate Select Committee on Video Material, 1985, p. 19). Prohibition, however, did not eventuate due to the vast number of X rated videotapes already in circulation. Indeed, by now X rated videotapes had formed a large and very lucrative market, and video piracy was already rampant due to the ease of videotape duplication (Joint Select Committee, 1988a, p. 135). This meant prohibition would have merely fed this illegal industry. Mystique has always surrounded motion pictures, and this intensified with the introduction of sexually and violently extreme videotapes. Allegations were rife regarding mafia connections to the pornographic film industry, as well as the circulation of snuff films where actors were intentionally killed in production (Joint Select Committee, 1988a, p. 152; Alex, 1984, p. 6). This, combined with the linking of extreme content viewing to specific killings, then melded to afford extreme videotapes an almost mythical status. While such allegations were never conclusively proven, they cannot be conclusively disproven either, cementing themselves in the community's psyche.

In the 1970s, R rated soft core sex films were publicly exhibited in both reputable and more seedier cinemas; the former typically catering for the couples market, while the latter courted what has colloquially been referred to as the raincoat brigade (Nicholson, 1985). At this time, however, sexual depictions on film were firmly placed in the public domain, as was the presence of films intended to titillate. The widespread introduction of videotapes and home theatre technology in the 1980s, combined with shrewd promotional strategies targeting sex film consumers, meant that perceptions regarding sex on film began to shift. Indeed, some

have argued that sex films are solely responsible for the sustained success of the videotape industry (Harden, 1982, p. 249). At this time, soft core sex films became private use items. However, the introduction of the X classification in 1984 and the depictions of actual sex it permitted meant this conceptual shift was not merely social but legal as well. Indeed, films featuring actual sex were funnelled by this legislation straight into the private market, and the removal of violence from the X classification then cemented the sex act firmly there. Private films were no longer those featuring more extreme content than their publicly exhibited counterparts; they were those featuring actual sex. The removal of fetishist sex acts from the classification guidelines – and later their express exclusion from the X classification – then dramatically narrowed the sexual depictions deemed permissible for private viewing, conversely widening that which was constructed as deviant (Bennett, 2013, p. 90).

In the 1980s, a few of the seedier adult cinemas remained; some unlawfully exhibiting X rated, banned, and unclassified material (Film Censorship Board, 1980, p. 5). The presence of these cinemas, however, and the way they – and their patrons – were publicly discussed further construed the public viewing of titillating sex on film as shameful. Indeed, the words selected by Senator Gareth Evans when discussing the availability of pornography on videotape provide a prime example:

the men with gaberdine overcoats need not don them any more but can enjoy the material in question in the privacy of their lounge rooms. Whether that presents a satisfactory alternative to the joy that is otherwise derived from descending those scruffy stairs into dank basements in our various cities remains to be determined (Commonwealth of Australia, 1981, p. 74).

While still far from entering mainstream cinemas, community attitudes surrounding the public exhibition of sexually explicit films are again changing, as demonstrated by the *I Want Your Love* (2012) controversy in 2012. This is one of a growing number of films that feature

images of actual sex, while not being considered pornography per se. Interestingly, however, Perth's Rooftop Movies had proposed to screen an R rated version of the 1970s porn classic *Deep Throat* (1972) in December that same year. While legally permitted, this was cancelled after organisers received complaints, further highlighting film's divisive potential (McHugh, 2012). Indeed, Antony I. Ginnane summed up the situation well over 40 years ago. 'The idea is to find out the kind of audience you've got and what turns them on – sort of like running a brothel, I suppose' (Cinema Papers, 1974b, p .43).

Parliamentary committees and further reviews

Investigation into Australia's film classification and censorship system began on 10 May 1984, when a Senate Standing Committee on Regulations and Ordinances was established to provide legal – rather than policy – advice on the operation of the current Commonwealth and Australian Capital Territory legislation (Senate Standing Committee on Regulations and Ordinances, 1984, p. 3). Difficulty was noted, however, as the terms of reference required examination of – among other things – clauses pertaining to hard core pornography; a term which was not included in the targeted legislation (Senate Standing Committee on Regulations and Ordinances, 1984, p. 6). Committee members also disagreed markedly, spurring the uncharacteristic inclusion of a dissenting report (Senate Standing Committee on Regulations and Ordinances, 1984, p. 14). This prompted creation of the Senate Select Committee on Video Material in October 1984 (Senate Select Committee on Video Material, 1985, pp. 3-4), which was superseded by a Joint Select Committee on 19 March 1985. The terms of reference, however, remained the same for smooth transition, clustering around the current system's adequacy and effectiveness, compliance rates, the display of adult material, and people's access to prohibited material (Senate Select Committee on Video Material, 1985, pp. v-vii; Joint Select Committee, 1988a, pp. xix-xxi).

The Joint Select Committee on Video Material completed its report in April 1988, offering 29 recommendations. The Censorship Ministers endorsed a number of these, leading to identical classification symbols being used for both films and videotapes, the uniform display of these symbols with consumer advice warning of contentious images, and public education to capitalise on these user-friendly inclusions (Office of Film and Literature Classification, 1988-1989, p. 4). These advancements are still operational today.

The Joint Select Committee had also recommended the X (Extra-Restricted) classification be renamed Non-Violent Erotica, and permitted for both public exhibition and private use videotapes. Indeed, the ensuing 1988 classification guidelines list X (Non-Violent Erotica) as an additional classification for public exhibition films in anticipation of its adoption (Film Censorship Board and Films Board of Review, 1987, p. 4). The Censorship Ministers, however – fully aware of the states’ derision – rejected this development, and it was swiftly removed. The 1988 classification guidelines were also the first to expressly prohibit ‘offensive fetishes’ (Office of Film and Literature Classification, 1988-1989, p. 21).⁴⁹ Interestingly, however, cinema’s proposed X (Non-Violent Erotica) classification permitted ‘mild non-violent fetishes’, while the X (Extra-Restricted) classification intended for videotapes remained silent on the matter until it was similarly included the following year (Office of Film and Literature Classification, 1988-1989, p. 21). This truly was a system in turmoil.

The classification guidelines were again reviewed in June 1988 because of perceived community concerns regarding filmic violence. As a result, permissible levels of violence in the M and R classifications were reduced even further than they had been almost four years earlier (Office of Film and Literature Classification, 1989-1990, p. 5). Now, however, violence was even more prevalent in media discussion, fuelled by Melbourne’s Hoddle Street and

⁴⁹ This features the 1988 guidelines: the *Guidelines for the Classification of Films and Videotapes (1988)*.

Queen Street Massacres, which had both occurred the previous year (Office of Film and Literature Classification, 1989-1990, p. 5). Indeed, Tasmanian premier Robin Gray was particularly outspoken here declaring violent videotapes ‘the real culprits’ (Government prefers the banning of violent video-tapes, 1988, p. 10). The 1988 review, however, differed from previous ones in that the Films Board of Review was specifically consulted (Office of Film and Literature Classification, 1989-1990, p. 5). This meant that – for the first time – the Films Board of Review perceived itself as being bound by the classification guidelines. Indeed, prior to this it had strove simply to provide an alternate view in accordance with the relevant Acts and/or Regulations, which were distinctly less detailed (Office of Film and Literature Classification, 1988-1989, p. 36). While perhaps an overly simplistic statement, this essentially changed the Films Board of Review from a tribunal concerned with social (and legal) wrongs, to one focussed solely on legal and administrative errors when considering a decision’s merits.⁵⁰

Calls for tougher censorship and further reviewing of the classification guidelines were again made in 1996 (Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies, 1997). This was after the Port Arthur Massacre; an event which further fuelled the screen/violence debate (Turnbull, 2001, p. 117). Here, Martin Bryant shot and killed 35 people, and much was made of his videotape collection. This reportedly featured a number of violent horror films, including *A Nightmare on Elm Street* (1984) and *Child’s Play 2* (1990; Bans comeback, 1997). Connection was then spurred when Bryant’s former girlfriend spoke of his affinity with the latter ‘movie’s catchphrase “Don’t f--- with the Chuck”’ (Thomas, 1996, p. 1).⁵¹ In response, *Child Play 2*’s director John Lafia declared:

⁵⁰ This is not to be confused with discussion in Chapter Four. The Classification Review Board’s operation is still merits based, especially when compared to that of the Federal Court. However, this advancement clearly narrowed the permitted scope of its operation.

⁵¹ Hyphens are as featured in the original publication.

you could take my film and force a perfectly sane person to watch it 200 times in a row and, apart from wanting to kill me because they're bored out of their minds, they're not going to go out and do something terrible (Lafia quoted in Thomas, 1996, p. 1).

Yet despite this reassurance, concern had long lingered in the community's psyche. As Des Draydon – chairperson of the Queensland Films Board of Review – stated back in 1977, 'I have no doubt there is at least one person who is teetering on the balance of abnormality ... There is bound to be one' (McClelland, 1977, p. 330).⁵²

The Howard Government's promise to abolish the X classification

While 'offensive fetishes' had been prohibited since 1988 (Film Censorship Board and Films Board of Review, 1987, p. 4), the classification guidelines first defined the term 'fetish' in July 1996, labelling it as '[a]n object, an action, or a non-sexual part of the body which gives sexual gratification' (Office of Film and Literature Classification, 1997-1998, p. 86). Illustration was also given, namely '[a]n example of a mild [– and thus permissible –] fetish is rubber wear. Offensive fetishes include abhorrent phenomena such as coprophilia' (Office of Film and Literature Classification, 1997-1998, p. 86). In September 2000, the classification guidelines were then amended to feature – for the first time – a non-exhaustive list of fetishes prohibited from the X classification: 'body piercing, application of substances such as candle wax, "golden showers", bondage, spanking [and] fisting' (Commonwealth of Australia, 2000, p. 2430).⁵³ In practice, however, fetishes perceived as less severe than those listed were – and are – permitted, at least to a certain degree (Classification Review

⁵² Draydon went on to argue, however, that censorship should not occur to prevent the actions of only one person.

⁵³ This includes a copy of the *Guidelines for the Classification of Films and Videotapes (September 2000)*.

Board, 2000b, p. 4). Indeed, both this definition and list remains today. Interesting, the Australian Law Reform Commission – upon investigation – was unable to identify why these fetishes were identified over ‘others that are arguably more “revolting or abhorrent”’, highlighting the sometimes random nature of this process (2012, para. 11.78). Indeed, coprophilia – or sexual gratification via faeces and defecation – was now noticeably absent, despite its earlier inclusion.

These changes flowed from the Howard Government’s policy to abolish the X classification (Australian Law Reform Commission, 2012, para. 11.19). Indeed, in the late 1990s the Howard Government attempted to introduce the Non-Violent Erotica (NVE) classification to replace the X category – similar to that proposed in 1988 (Australian Law Reform Commission, 2012, para. 11.19). The NVE classification expressly rejected all fetishes, as well as violence no matter how minor and regardless of whether it was sexually based (*Classification (Publications, Films and Computer Games) Amendment Bill (No. 2) 1999* (Cth): explanatory memorandum, p. 6; Vnuk, 2003, p. 29). A Federal Bill was introduced to this end in 1999. However, due to its divisive nature, it was referred to a Senate Standing Committee on Legal and Constitutional Affairs in February 2000, which championed the Bill without amendment (Senate Standing Committee on Legal and Constitutional Affairs Legislation, 1999, p. viii). Attempts to introduce the NVE classification ultimately failed, as the state and territory governments remained divided (Jackson, 2001, p. 1). Yet, as had become the custom, the classification guidelines were rewritten to reflect the NVE classification’s characteristics, effectively delivering the changes without altering the symbol. Indeed, the X – now X18+ – symbol remains today, albeit in this highly restricted form.

The Australian Law Reform Commission and the National Classification Scheme

In May 1990, the Australian Law Reform Commission (ALRC) investigated whether the classification/censorship laws 'could be simplified and made more uniform and efficient' (Australian Law Reform Commission, 1991, para. 1.2). The ALRC, however, was expressly excluded from examining the classification criteria, as there was said to already be broad agreement regarding this, and the availability of X rated material, as consensus was said to be unattainable (1991, p. 17, para. 2.1). Completed in September 1991, the ALRC noted in their report that many submissions argued the classification guidelines were 'too vague with too many loopholes', suggesting their authors believe 'it is the subject matter of a film or publication that makes it offensive rather than the way the subject matter is treated' (Australian Law Reform Commission, 1991, para. 2.3). A similar argument was put forth by the Senate Legal and Constitutional Affairs Committee, which reviewed the censorship/classification system in 2011. As a solution, it recommended consideration of context and impact be removed from the guidelines (Legal and Constitutional Affairs References Committee, 2011, p. xiv). The Government rejected this, however, holding it 'crucial to the making of classification decisions' (Commonwealth Government, 2012, p. 4).

At this time, the classification/censorship system was still not truly uniform despite earlier efforts, which were predominately thwarted by the dynamics of the multi-jurisdictional legislative structure. To improve this, the ALRC recommended the states and territories delegate their classification and censorship powers to the Commonwealth, while retaining the power to solely enforce these decisions (1991, p. 8, para. 10). This would allow the states to continue to prohibit the sale and hire of X rated material if so desired. However, it would also mean that while each of the nine Censorship Ministers must concur on legislative

changes, there would only be one piece of (Federal) legislation to change. Referred to as the National Classification Scheme, this recommendation was adopted in November 1995 (Intergovernmental agreement on censorship, 1995), with the *Classification (Publications, Films and Computer Games) Act 1995* (Cth) commencing 1 January 2016. Remaining operational today, this Act also made consideration of the classification guidelines legally required for the first time (s 9), and permitted creation of the *National Classification Code* (s 5 (definition of 'Code'), 9) and the *Classification (Publications, Films and Computer Games) Regulations* (Cth) (s 23).⁵⁴ At this time, the Film Censorship Board was also renamed the Classification Board, as it was said to better reflect its role (Australian Law Reform Commission, 1991, para. 3.35). Indeed, none of the legislation today – Commonwealth, state or territory – features the word censorship, even though this clearly still occurs. Interestingly, however, the Censorship Ministers have retained their title; anomalistic residue of a different time (Williams, 1997).

In March 2011, the ARLC was again asked to review the classification system's operation, particularly as the Internet had by now become a prolific content delivery tool, permitting both filmic images – and moving images more generally – to be accessed anytime and anywhere, on multiple devices. This situation remains today. Indeed, no longer are filmic images confined to cinema screens as they were in the 1970s, or reliant on the cumbersome video and DVD technology of the 1980s, 1990s and earlier 2000s. In its final report delivered in March 2012, the ALRC made 57 recommendations, noting also there was growing community concern regarding the classification status of online films and consumer generated content (p. 22). Disquiet was additionally evident regarding the continuing jurisdictional inconsistency regarding enforcement matters (Australian Law Reform Commission, 2012, p. 23). These views are reminiscent of those put forward in the 1980s when videotape proliferation was reaching its peak. History has shown that modifications to

⁵⁴ The *Classification (Publications, Films and Computer Games) Regulations* (Cth) came into force at the same time as the *Classification (Publications, Films and Computer Games) Act 1995* (Cth).

the classification/censorship system are inherently risky, especially when the system's outer limits are impacted. However, despite this, change is gradually becoming evident; the September 2015 alterations to film festival classification exemption requirements being a prime example.

The ALRC's recommendations are all based on today's practical realities: it is physically impossible to classify every moving image; content is often produced and distributed outside of Australia's legal reach; online streaming and/or purchase often renders point of importation and point of sale intangible; and content – like the technology that delivers it – is constantly changing. There will never be total community agreement regarding the contentious aspects of film censorship. Indeed, there is unlikely to even be complete political agreement. However, the one constant that has enjoyed bipartisan support throughout the evolution of Australia's film classification and censorship system since the 1970s – even though its interpretation is highly contested – is the underlying principle that adults should be free to view what they want, and children should be protected.

Chapter Two

Emotion

Since the late 1960s, the Australian classification and censorship system – as it pertains to adults – has focussed on offence. Indeed, today the *National Classification Code (May 2005)* (the Code) requires that films be refused classification if they ‘offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified’ (clause 3(1)(a)).⁵⁵ This accords with sentiment expressed in *Crowe v Graham* (1968); the initial inspiration. While the word “offend” is closely aligned with feelings of disagreement and displeasure (Macquarie Dictionary, 2015, definition of ‘offend’),⁵⁶ here it appears to denote the transgressing of a threshold rather than the elicitation of a specific emotional state. The Classification Review Board, however, has since elaborated on this position explaining that such transgression is in itself offensive (2011b, p. 7).⁵⁷ The Code also prohibits the classification of films depicting children that would ‘likely cause offence to a reasonable adult’ (clause 3(1)(b)). Yet, despite this seemingly strict stance against offence, the classification/censorship system does not attempt to shield the nation’s eyes from all offensive images by ensnaring them in the RC classification. Indeed, the Code goes on to state that X18+ films are ‘likely to cause offence to a reasonable adult’

⁵⁵ In full this reads, films are to be refused classification if they ‘depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified’

⁵⁶ As stated in the *Guidelines for the Classification of Films 2012*, use of the *Macquarie Dictionary* is favoured by the classification/censorship system (p. 16).

⁵⁷ As the Classification Review Board writes here, “the term “offensive” is defined in the Guidelines as “material which causes outrage or extreme disgust”. The Review Board considers that the scenes discussed above would cause extreme disgust as, in the Review Board’s opinion, they contravene “the standards of morality, decency and propriety generally accepted by reasonable adults” (2011b, p. 7).

(clause 3(2)(a)),⁵⁸ and the *Guidelines for the Classification of Films 2012* (the Guidelines) also declares that R18+ films ‘may be offensive to sections of the adult community’ (p. 13).

It is pertinent to note here that words of offence are not legislatively used regarding any of the other classifications, all of which permit minors’ viewing. This is in line with clause 1(b) of the Code, which espouses the guiding principle that ‘minors should be protected from material likely to harm or disturb them’. Indeed, while the Australian classification and censorship system is clearly one of offence when it comes to adults, it remains one of harm regarding children.

The version of the classification guidelines that emerged with the National Classification Scheme in 1996 was the first to define offensive material, labelling it as that ‘which causes outrage or extreme disgust’ (Office of Film and Literature Classification, 1995-1996, p. 86).⁵⁹ This definition remains today (*Guidelines for the Classification of Films 2012*, p. 16). The inclusion of these emotions makes them integral to the creation of the classification/censorship system’s borders, which – in turn – renders understanding of their operation vital to elucidate the nuances of this process.⁶⁰ This operation will now be explored.

⁵⁸ In full this reads, films are to be classified X18+ if they ‘contain real depictions of actual sexual activity between consenting adults in which there is no violence, sexual violence, sexualised violence, coercion, sexually assaultive language, or fetishes or depictions which purposefully demean anyone involved in that activity for the enjoyment of viewers, in a way that is likely to cause offence to a reasonable adult’.

⁵⁹ This document features the 1996 guidelines: the *Guidelines for the Classification of Films and Videotapes (1996)*. Originally the definition went on to include the words ‘to most people’. These specific words were removed in 2000, although the sentiment remains.

⁶⁰ This knowledge then allows classificatory predictions to be made.

Disgust and extreme disgust

It is likely that – upon reflection – everyone can identify at least part of a film, which has caused them to experience disgust. Perhaps this was the scene from *Cannibal Holocaust* (1980) where the four filmmakers eat the sea turtle they have just slaughtered, frantically tugging at its glistening innards before greedily shovelling the tepid fare into their mouths. Maybe it was the scene from *The Life and Death of a Porno Gang* (2009) when Ceca – after recounting the story of his troubled life – bends down to fellate his faithful donkey, bringing the moist taut flesh of its erection to his lips. It might also have been the scene from *Hostel: Part II* (2007) when Lorna awakens to find herself hanging upside down – and naked – above the reclining figure of a beautiful stranger. Reaching for a sickle, this unknown – and similarly naked – woman slashes Lorna's flesh until her warm blood oozes down, covering the stranger in a slimy red sheen; her eyes, her mouth, her hair.

Disgust as a mode of judgement has been explored by Young (2005, p. 21) who argues it 'can be embodied in a variety of forms: for example through individual disapproval, negative media coverage, a lawsuit ..., or an attack on the artwork itself'. A number of these responses will be examined in Chapters Four and Five. As the above vignettes show, however, disgust itself can be elicited by a wide range of stimuli that have seemingly nothing – or at least very little – in common (Kelly, 2011, p. 27). Upon reading, hopefully some if not all of the vignettes will have evoked disgust in the reader, demonstrating that disgust stimuli need not be seen or experienced firsthand to elicit response (Kelly, 2011, p. 162). If this is not the case, they will have aptly demonstrated that not everyone is disgusted by the same thing (Kelly, 2011, p. 34). Disgust is an undeniably complex emotion.

While recollections and imaginings are sufficient, disgust can be elicited through all five of the senses: sight, hearing, taste, touch and smell (Miller, 1997, ch. 4). In the context of film,

sight and hearing are clearly the most relevant. However, Susan Miller has argued that out of the five, these typically evoke the weakest disgust reactions, as distance is permitted between the body and the elicitor, acting as mitigation (2004, pp. 7-9).⁶¹ Cinema – and other – screens not only permit distance but provide a tangible barrier between viewers and elicitors. Therefore, without discounting the role of recollection and imagination, it may be argued they provide further mitigation. Yet, the immense size of the cinema screen – and its imposing sound – magnifies disgust elicitors, while other more portable screens can be held close to the eyes and paused at will. Consequently, these mediums can also be seen as permitting viewers to engage with – and experience – disgust more intimately than would ever be possible in real life, especially where human suffering is involved.

Young's (2005) work also contributes here as she describes the act of recoiling – which is associated with touch – via encountering the disgusting through art. Indeed, Young (2005 p. 41) labels this occurrence as a facet of 'aesthetic vertigo'. Young is aware viewers do not physically "touch" the art in question, although perhaps touch is easier to orchestrate in some art galleries rather than a cinema. Nevertheless, Young (2005, p. 42) argues that:

near touching or simple sighting of the disgusting thing usually produces the same sensation (although it may be less intense). This adverts to the power of the imaginary: the shudder arises out of the imagined sensation of the touch which has not taken place.⁶²

As the infamous tagline for the 1972 horror film *Last House on the Left* declares, '[t]o avoid fainting, keep repeating, it's only a movie ... only a movie ... only a movie ... only a movie'.

⁶¹ The first names of Susan Miller and William Miller have been used in the text to clearly differentiate between the two authors.

⁶² While this speaks to the experience of viewing the disgusting on film, it must be acknowledged that Young was discussing *Piss Christ* by Andres Serrano. As Young (2005, p. 42.) notes, '[t]here is an important difference between a photograph of a crucifix in a vat of urine and a physically present vat of urine with immersed crucifix'; the latter aptly describing *Piss Christ*.

As a basic emotion, disgust is experienced the world over and this is marked by a number of distinct facial and physiological reactions (Kelly, 2011, p. 16; Tybur et al., 2009, p. 103). In addition to small decreases in body temperature and heart rate, people who are experiencing disgust instinctively display – in varying degrees – the facial expression known as “gape face” (Kelly, 2011, p. 16). Visually similar to retching, this includes ‘a nose wrinkle, extrusion of the tongue and expelling motion of the mouth, and wrinkled upper brow’ (Kelly, 2011, p. 16). Indeed, disgust co-opts many of the mechanisms used by the body to ingest and – if necessary – orally expel food, causing it to have a notably gustatorial feeling regardless of the elicitor’s origins (Kelly, 2011, p. 17; Chapman and Anderson, 2012, p. 63). William Miller describes these feelings as ‘the uneasiness, the panic, of varying intensity, that attends the awareness of being defiled’ (1997, p. 2). The disgust experience is also marked by a reflex-like compulsion to withdraw or separate oneself from that which is causing the disgust (Kelly, 2011, p. 16). As Kelly writes:

[t]he very presence and proximity of disgusting entities are upsetting; they tend to capture attention and are both memorable and difficult to ignore; they are perceived as unclean, somehow dirty, tainted, or impure; and disgusted people often seek to distance themselves from those entities, either by fleeing or by removing the entities from their immediate vicinity. In addition, such behaviour is often accompanied by a motivation to cleanse or purify oneself (2011, p. 18).

The inherent memorability of disgust elicitors means these feelings linger, and can be rekindled long after the elicitor and the subject have separated (Miller, 1997, p. 77). This – combined with the emotion’s pervasive nature – leads people to readily share their tales of disgust with others (Kelly, 2011, p. 23); an occurrence, which is clearly demonstrated in the online comments used in Chapter Five. As William Miller writes:

[L]ike all emotions, disgust is more than just a feeling. Emotions are feelings linked to ways of talking about those feelings, to social and cultural paradigms that make sense of those feelings by giving us a basis for knowledge when they are properly felt and properly displayed (1997, p. 8).

To this end, disgust has a broad English lexicon (Miller, 2004, p. 13). Indeed, the words 'revolting, repulsive, offensive, vile, gross, gruesome, sickening, nauseating, [and] putrid' can all signal its *experience*, and this is not an exhaustive list (Miller, 2004, p. 13). Disgust clearly repels (Miller, 1997, p. x). However, as William Miller has observed, 'it rarely does so without also capturing our attention. It imposes itself upon us. We find our eyes doing "double-takes" at the very things that disgust us' (1997, p. x; see also, Kelly, 2011, p. 18). Indeed, that which disgusts often has a paradoxically alluring quality, explaining – at least in part – why the disgusting is such a popular feature in film today. Yet, it is not simply disgust's power to fascinate that is operational here but its ability to incite rebellion as well. As William Miller writes, disgust places 'certain things off limits, thus inflaming the human instinct to breach barriers, desiring what we cannot or ought not have' (1997, p. 11). This makes disgust's work perpetually at risk of self-defeat.

Disgust is clearly elicited by diverse stimuli. Yet, when conceptualised as a protection mechanism, categorisation is made possible by looking past the discrete elicitor and focussing on the broad threat to which the body is responding. Drawing on Kelly's (2011) conceptualisation, these threats can be divided into three broad categories: poison, infection, and norm transgression.⁶³ Disgust as response to the threat of poison is thought to have precluded the other categories, evolving to prevent humans from ingesting that which would result in sickness or death (Kelly, 2011, p. 52). This response category focusses solely on that which enters the body via the mouth as a potential foodstuff (Kelly, 2011, p. 52). However, it is important to remember that disgust is more than 'mere distaste', as disgust

⁶³ Not all authors advocate the same threat categories (see eg, Tyber et al., 2009, p. 103; Rozin).

can be experienced without the elicitor even entering the mouth (Kelly, 2011, pg. 46; see also, Chapman and Anderson, 2012, p. 63). Furthermore, not everyone is disgusted by the same stimuli (Kelly, 2011, p. 31). For example, some individuals may experience an intense disgust reaction to the Vietnamese dish balut, where duck embryos – complete with small visible feathers and malleable bones – have been boiled and served in broth. Clearly, this reaction would not be elicited in those who choose to regularly eat this dish. Such subjectiveness is shared by many disgust elicitors regardless of the threat categories in which they fall. This means that the disgust emotion is shaped by both biology and culture (Rozin and Haidt, 2013, p. 367). It is at least partly taught.

Disgust as response to the threat of infection evolved after humans began eating meat, as this additional food source introduced a range of new diseases and parasites to which humans were susceptible (Kelly, 2011, p. 52). Many of the resultant infections were also transmittable from human to human, meaning it was not only the wellbeing of the consumer that was at stake but the entire community (Kelly, 2011, p. 54). This helps to explain gape face's patently conspicuous and unequivocal nature, as well as its frequent resistance to suppression (Kelly, 2011, p. 55). Indeed, the communication of disgust to others – whether verbally or via facial expression – clearly warns third parties of the elicitor's presence. Disgust itself, however, can also be seen as catching. Indeed, the gape face reaction of someone who is intensely disgusted can often be seen reflected in the faces of bystanders even when they are unaware of the original elicitor (Kelly, 2011, p. 27). The presence of this facial response can then trigger the body's other physiological disgust reactions causing the bystander to genuinely experience a disgust response rather than simply mimicking one; a further measure of individual and collective protection (Kelly, 2011, pp. 27-28).

As disgust evolved to respond to the threat of infection, elicitors grew to include visibly unhealthy individuals and corpses, as well as disease carrying animals such as cockroaches and mice (Kelly, 2011, p. 57). Disgust regarding biological substances such as blood, vomit,

and faeces also emerged most strongly here, as it did regarding sex in all its guises (Kelly, 2011, p. 57).⁶⁴ While disgust can be traced back to the threats of poison and infection, it is pertinent to note the threat in question need not be viable for disgust to be elicited (Kelly, 2011, pp. 19-20). This is particularly relevant in the context of filmic images, as while they have the capacity to depict that which is poisonous and infectious, the physical health of viewers is never actually threatened, and of this viewers are perpetually aware (Young 2005, p. 43). Such observations have led Kelly to describe disgust as having a ‘hair-trigger’; it does not take much to set it off (Kelly, 2011, p. 141).

Disgust has also evolved to respond to the threat of norm transgression even though this appears to have little – if anything – to do with the previous two categories (Chapman and Anderson, 2012, p. 64). This has led researchers to distinguish them using the labels core (threat of poison and infection) and moral (threat of norm transgression).⁶⁵ While the exact definition of a norm is contested (Kelly, 2011, p. 108), this thesis employs the definition used by Sripada and Stich, namely that ‘a norm is a rule or principle that specifies actions that are required, permissible, or forbidden independently of any legal or social institution’ (2006, p. 281). Such institutions, however, may simultaneously deal with the subject matter in question. Opinion is divided over whether all norm transgressions can elicit disgust, especially when defining a norm as broadly as this thesis does (Kelly, 2011, p. 119; Chapman and Anderson, 2012, p. 65).⁶⁶ Nevertheless, it is widely accepted that disgust is elicited by norm transgressions where the norm itself has ties to elicitors from one or both of the core disgust categories (Kelly, 2011, pp. 119-120; Chapman and Anderson, 2012, p. 65). These are the norms with which this thesis primarily deals.

⁶⁴ Some authors, however, argue sex warrants its own discrete category (see eg, Tybur et al. 2009, p. 103; Rozin and Haidt, 2013, p. 367).

⁶⁵ Not all authors use the core and moral labels in the same way. Furthermore, some authors categorise norms using labels such as “social”, “moral”, and “divinity” (see eg, Tybur et al., 2009; Miller, 1997).

⁶⁶ It must be remembered that disgust is not the only emotion assigned to police norm transgressions. Shame, guilt and embarrassment – for example – are also similarly tasked (Rozin et al., 1999, p. 574).

Both core and moral disgust strives to regulate behaviour (Chapman and Anderson, 2012). However, the sole category falling under the moral disgust rubric – norm transgression – is itself based on behaviour rather than the results of interacting with the elicitor, as it is for core disgust (Kelly, 2011, p. 119-120). Therefore, moral disgust is not merely reactive but proactive as well in the sense that it ultimately strives to prevent – rather than simply manage – its root cause in both private and public spaces (Kelly, 2011, p. 119-120). The operation of the disgust emotion shares a number of similarities with that of taboo.⁶⁷ However, nowhere is this more evident than when it comes to behaviour regulation. After all, in a social context, the word “taboo” essentially gestures to a vehemently held norm (Stebbins, 2014, p. 893). Like taboo (Marshall, 2010, p. 64), disgust can also be divided into focus (the “diabolical” elicitor) and action (how the elicitor can – and cannot – be addressed). Indeed, from this perspective, there is little difference between the disgust and taboo concepts. The taboo label, however, is undeniably emotive, suggesting disgust will be most intensely felt in situations socially deemed worthy of this moniker.

The disgust emotion endeavours to prevent norm transgression through both internal and external punishment (Kelly, 2011, pp. 119-120). This is particularly relevant for both viewers and potential viewers of disgusting filmic images. Internal punishment – or feeling disgusted with oneself – occurs when the disgust reaction is turned inward at even the thought of transgressing a norm (Kelly, 2011, pp. 119-120). Prevention potential is then heightened with fear of external punishment should other individuals become aware of the transgression if it occurred (Kelly, 2011, p. 109). Indeed, not only will these individuals be disgusted by the transgressive behaviour – experiencing the relevant physical reactions – they will also feel disgust towards the actor (Kelly, 2011, pp. 119-120). This is because disgust elicitors contaminate all with which they come into contact (Kelly, 2011, p. 19). Those who interact with the disgusting become disgusting (Kelly, 2011, p. 19). In circumstances of norm transgression, however, this means others will not only want to distance themselves from the

⁶⁷ The operation of taboo was outlined in the Introduction and Methodology chapter.

actor because he or she is disgusting, but also because they themselves do not want to be made disgusting and face the resultant punishment (Kelly, 2011, p. 19). Disgust is indeed a crafty mechanism of social control (Russell and Giner-Sorolla, 2013, p. 329).

In a moral context, disgust's influence is most obvious when all players subscribe to the norm in question; a pertinent consideration in a country as culturally diverse as Australia. Indeed, if an individual does not personally subscribe to the norm he or she will not be disgusted if others transgress it or by the thought of personal transgression. However, he or she may still be prevented from undertaking such transgression due to the fear of eliciting disgust in others – whether this be the social majority or individuals about whose opinion he or she cares (Kelly, 2011, p. 19). On occasions, individuals may even experience disgust simply because it is advocated by authority figures (Miller, 2004, p. 40). Susan Miller refers to this occurrence as 'borrowed' disgust (2004, p. 40). In conjunction, she also proffers the terms 'partial' and 'full' disgust (Miller, 2004, p. 39). Here, the former is used when only some facets of a disgust response are present; a hallmark of its borrowed guise (Miller, 2004, pp. 39-40).

As implied by the Guidelines (p. 16), all types of disgust can be experienced in degrees ranging from minor to extreme (Kelly, 2011, p. 47). However, when disgust is elicited by the transgression of a norm that has ties to a core disgust elicitor, the disgust reaction is potentially twofold in intensity resulting from both the physical body and the social body being threatened. Many of the elicitors that cause the most powerful disgust reactions – those clustering around sex, death and food consumption – are also concerns for many religions (Rozin et al., 1999, p. 575). For individuals who subscribe to these belief systems, disgust can then be experienced in threefold intensity as the soul is also threatened (Rozin et al., 1999, p. 575). Yet, people need not subscribe to an established religion to experience spirituality, making them similarly vulnerable. Indeed, some authors couch this area in terms of the sacred rather than religion, opening it up to all objects, places and people that

individuals or communities have afforded this status (Royzman et al., 2014, p. 893).⁶⁸ Consequently, everyone has the potential to experience disgust of the highest intensity.

Disgust is instrumental in constructing social hierarchy. This is another relevant factor for viewers and potential viewers of disgust eliciting filmic images. Indeed, people routinely look upon disgusting individuals as hierarchically lower than themselves, while individuals who feel self-disgust perceive themselves as lower than others (Rozin and Haidt, 2013, p. 368). This provides additional incentive to not elicit disgust in others, as benefit flows more freely to those of higher standing (Pizarro et al., 2011, p. 268). Categorisation for hierarchical purposes, however, is not limited to whether an individual elicits disgust in others. It is also determined by how he or she reacts to disgust elicitors, although the two lines of inquiry can easily become intertwined due to disgust's contaminating nature. As William Miller has observed, people typically perceive those who interact with the disgusting as distinct, falling into one of three categories: 'protohuman like children, subhuman like the mad, or suprahuman like saints' (1997, p. 11).⁶⁹ William Miller also notes that if disgust is merely elicited elsewhere, individuals are then considered 'either as foreign or primitive and thus vaguely exotic, or as barbaric and disgusting' (1997, pp. 11-12). Such categorisation is instrumental to social hierarchy formation via the disgust emotion. Yet, it can also be seen as creating the ultimate social dichotomy: 'them vs us' (Miller, 1997, p. 3).

Threat based analysis positions disgust as protecting the physical body both directly and via community preservation (Kelly, 2011). However, from a psychological perspective, disgust – in all its forms – can also be seen as creating and maintaining order. This view is favoured by Susan Miller (2004) whose work is informed by that of Douglas (1984). Here, Douglas examined people's desire to eliminate dirt, which she defines as any 'matter out of place'

⁶⁸ Use of the "sacred" label here is distinct to its use in the context of taboo. Here, it only refers to that which is revered. Examples which have been afforded this status include flags, battlefields and cemeteries (Royzman et al., 2014, p. 893).

⁶⁹ While examples abound for the first two categories, health care professionals provide apt illustration for the third.

(1984, p. 36). For Miller, it is this order transgressing “dirt” that elicits disgust (Miller, 2004, pp. 20-21), presenting an alternative method for elicitor identification and explanation, on which this thesis will draw. Susan Miller sees humanity’s desire for order – expressed through disgust rejection – extended to the self (Miller, 2004, pp. 14-15). Here, the self can refer to the individual or the collective depending on the situation (Miller, 2004, p. 14). As Miller writes, disgust inherently ‘speaks to the sense of identity’ (2004, p. 14).

It declares what I am willing to accept as me and mine and what I want to assert is outside and alien, what I will embrace with delight and what smells bad to me – whether literally, when held to the nose, or figuratively, when proffered to the spirit. By specifying what I will not accept as related to me, disgust indicates my values but also my anxiety lest some contact leaves me contaminated or diminished, brought from high to low, rolled in the mud and muck of experience (Miller, 2004, p. 14).

It is this ‘mud and muck’ that film is so adept at exploring (Miller, 2004, p. 14). However, Susan Miller’s perspective also applies to the choices made by filmic image viewers and the classification/censorship system more generally; respective examples of its individual and collective application.

Examining disgust via threat response categorisation – and as a mechanism for protecting the self – allows the disgust emotion to be seen as an inbuilt quarantine system that is tasked with both individual and community protection. It does, after all, strive to segregate these entities from that which has the potential to cause them detriment. However, parallels are also clearly evident between disgust and Kristeva’s (1982) construction of the abject. Indeed, both the abject and the disgusting are seen as crucial to self-identification (Miller, 2004, p. 14; Kutzbach and Mueller, 2007, pp. 8-9). There are also times when that which is abject and that which is disgusting overlaps. This is especially true regarding elicitors in

Kelly's (2011) infection category such as bodily waste, rotting flesh, and corpses;⁷⁰ although the abject speaks to boundary transgression rather than infection, aligning it more closely with Susan Miller's (2004) conceptualisation. The status of semen, however, is notably divergent. While this is a well-known disgust elicitor, it is not considered to be abject by Kristeva despite its ability to be seen as boundary transgressing (Kristeva, 1982, p. 71). This has been attributed to Kristeva's preoccupation with the mother (Grosz, 1994, p. 207); a focus to which disgust pays no heed.

Anger and outrage

The second emotion sanctioned by the Guidelines as eliciting offence is outrage (p. 16). Like disgust, views on outrage vary, and universal definition remains elusive. Salerno and Peter-Hagene, however, note that '[t]he term outrage conjures emotional reactions grounded in anger' (2013, p. 2069). While Averill sees outrage as distinct from 'anger proper', he too perceives it as falling under anger's 'general rubric' (1982, p. 70). In the context of disgust, the Guidelines establish a threshold: disgust is permitted, extreme disgust is not (p. 16). This implies outrage is to be considered in the same way. Indeed, such grading is what lies at the heart of the classification/censorship system. Outrage is an undeniably intense emotion. This thesis, therefore, defines outrage as an extreme form of anger. Under this conceptualisation, anger is then permissible, while outrage warrants classification refusal in the requisite circumstances. Salerno and Peter-Hagene support the linking of outrage and anger by noting that in a clinical setting, 'moral outrage[, which they were specifically studying,] is often operationalized – sometimes exclusively – with measures of anger' (2013, p. 2069). As this suggests, both outrage and anger – like disgust – can be elicited by moral transgressions (Salerno and Peter-Hagene, 2013, p. 2069; Russell and Giner-Sorolla, 2013, p. 328). However, the Guideline's reference to outrage – rather than moral outrage –

⁷⁰ As observed by Creed (1993, p. 10).

indicates that elicitation outside of a moral context is also anticipated (p. 16). To this end, anger can additionally be categorised as personal and empathic⁷¹ (Batson et al., 2007, p. 1273); a further endorsement of its analysis here.

Like disgust, anger is a basic emotion (Russell and Giner-Sorolla, 2013, p. 329). This means anger too is experienced the world over and has a distinct corresponding facial expression, allowing it to be communicated both non-verbally and verbally (Russell and Giner-Sorolla, 2013, p. 329). The core/moral distinction employed by disgust researchers is also useful when analysing anger. From this perspective, personal and empathic anger can be understood as core anger. This has been ‘shaped by the need to navigate many of the complexities of everyday negotiations over fairness, rights and harms’ (Rozin and Haidt, 2013, p. 368). Indeed, anger is typically ‘tied to situations and relationships’ rather than objects, allowing its elicitors to be examined according to the circumstances conducive to elicitation (Russell and Giner-Sorolla, 2013, p. 339). As the above reference to ‘fairness, rights and harms’ implies (Rozin and Haidt, 2013, p. 368), there is a direct correlation between entitlement and core anger: the more people believe they – or others – are entitled to, the more opportunities they have to experience personal and empathic anger respectively. Extent is unique to the individual, dependant on their own preconceptions rather than legal or scholarly definition. However, culture is inevitably influential, and here the ambit of these concepts has burgeoned. As Shweder et al. write:

[w]e have extended the idea of “rights” to different domains such as education and health care. We have extended the class of “rights” holders to include children and animals. ... We wish to be protected from every imaginable harm, protected from secondary cigarette smoke, protected from psychologically offensive work

⁷¹ This is also sometimes referred to as empathetic anger.

environments. We have [also] enlarged the idea of harm to include such all-embracing notions as “harassment”, “abuse”, and “exploitation” (1997, p. 142).⁷²

These are developments that increase core anger’s propensity. However, the fact that they do also gestures to the relationship between anger levels and situational context: the greater the perceived injustice, the greater the anger (Russell and Giner-Sorolla, 2013, p. 340).

Moral anger – like moral disgust – is elicited in response to norm transgression (Batson et al., 2007, p. 1273). This means there is potential for situational overlap. Indeed, anger is said to frequently be elicited simultaneously with disgust, and some even argue they ‘each exacerbate the effect of the other’ (Salerno and Peter-Hagene, 2013, p. 2070). When it comes to moral anger, the norm transgressed may itself be linked to fairness, rights or harms. Indeed, returning to Shweder et al.’s musings, exposure to secondary cigarette smoke can be seen as a harm and perhaps even a rights violation (core anger). However, in contemporary Australia, the very presence of this smoke in many public settings can also be seen as a norm violation (moral anger). As with simultaneous core and moral disgust, intensity here can be understood as twofold if both types have in fact been elicited. This can be established with reference to action. Indeed, unlike disgust which advocates retreat, anger urges positive action, even if this does not always eventuate (Batson et al., 2007, p. 1273). As Batson et al. writes:

- (a) Moral [anger]⁷³ should direct action toward re-establishing and reaffirming the violated moral standard;
- (b) Personal anger should direct action toward retaliation and promoting one’s interests; and

⁷² While Shweder et. al. were describing developments in the United States of America, this similarly speaks to Australian culture.

⁷³ This word has been changed from outrage to anger so that this quotation accords with the anger/outrage distinction employed by this thesis. It is not intended to change its meaning. For Batson et al., the distinction between outrage and anger is simply the moral element.

(c) Empathic anger should direct action toward retaliation and promoting the interests of the cared-for other (2007, p. 1273).⁷⁴

Batson et al.'s (2007) work skilfully outlines the difference between core and moral anger. However, it also gestures to the role anger plays in social control: anger directed towards individuals as punishment and the fear of such elicitation as prevention (Rozin and Haidt, 2013, p. 368; Averill, 1982, p.124). Anger is, after all, often expressed via aggression: 'a response intended to inflict pain or discomfort upon another' (Averill, 1982, p. 30). Like disgust, anger can be direct 'inwardly or outwardly' (Averill, 1982, p. 91). It can also be displayed in a self-righteous fashion (Ekman, 2004, p. 46). However, unlike disgust, anger is not renowned for its contaminating power, although the risk of negative association is still potentially influential (Rozin et al., 1989, p. 367).

When circumstances are conducive to both anger and disgust, Royzman et al. advocate the use of a simple test to determine the correct – or at least predominate – emotion at play: does the situation evoke a 'desire to retaliate' (anger) or a 'desire to purge and to withdraw' (disgust)? (2014, p. 904). By incorporating the differences between core and moral disgust and anger, this test can then be augmented, asking whether the elicitor evokes a desire to:

- retaliate and promote one's own interests (core/personal anger);
- retaliate and promote another's interests (core/empathic anger);
- re-establish and reaffirm a transgressed norm (moral anger);
- purge and withdraw linked to poisoning via ingestion, or infection (core disgust); or
- purge and withdraw linked to a norm transgression (moral disgust)?

Illustration could be sourced from the plot of almost any film. However, consider – for example – the witnessing of another being hit in the face while out with friends.⁷⁵ Applying

⁷⁴ Lettering as featured in the original.

the augmented test, this would likely elicit a desire to retaliate in order to defend the injured party (core/empathic anger), even though a norm against such behaviour may potentially be argued. This changes, however, if the hit resulted in a bleeding and broken nose. In this situation, the test needs to be applied to the act itself as well as the results, revealing that while the former still elicits (core/empathetic) anger, the latter is now likely to provoke (core) disgust: one situation, two emotion eliciting sources.

Consider now if the example included the ages and sexes of the victim and offender, their relationship, the reason for the hit, the weapon used, and the location in which it occurred. While such context can potentially be used to further identify norms, it also has the ability to increase anger levels. Indeed, the very presence of fracture and blood introduced earlier provides example of this as it suggests a greater level of inflicted harm. However, the inverse is also true. If the bleeding broken nose accidentally resulted from an elbow to the face during a rule abiding football match between consenting adults, anger would likely be scant or non-existent. Furthermore, if the hit was attributed to protecting the safety of another, the direction of the anger may well shift. Worthy elicitation is indeed dependent on reliable information. In contrast, both core and moral disgust typically pay little heed to context, save for its ability to establish norm transgression in the case of moral elicitation (Russell and Giner-Sorolla, 2013, p. 328; Chapman and Anderson, 2012, p. 71). Indeed, core disgust does not care how the blood was spilled, just that it was. Therefore, such knowledge would have little effect on disgust levels here. This analysis aptly captures the process which will be used in Chapter Three to assist examination of how the classification/censorship establishes its borders via censorship; how it distinguishes between the films it classifies R18+ and those it considers X18+ or RC.

⁷⁵ This example fleshes out the scant scenario of '[h]itting someone in the nose without reason' posed by Russell and Giner-Sorolla (2013, p. 337).

Chapter Three

Interpretation

The *Guidelines for the Classification of Films 2012* (the Guidelines) flag images of crime, violence, sex, and drug use as having the potential – in certain circumstances – to warrant classification refusal (p. 15). They also gesture to the specifics of these circumstances, as well as delineate them with threshold words such as ‘gratuitous’, ‘exploitative’, and ‘detailed’ (p. 15). In the case of sex and violence, images which exceed these thresholds are then refused classification under clause 3(1)(a) or 3(1)(b) of the *National Classification Code (May 2005)* (the Code).⁷⁶ This result comes from twofold interpretation: the law, and the film/image⁷⁷ itself. Upon reading, however, it is likely that multiple films come to mind with a seemingly incongruous R18+ classification. For example, many R18+ films abound in images of violence that could easily be construed as gratuitous. Indeed, the notion of film – as an all-encompassing conclusive category – reduced to a finite set of written words makes the classification/censorship process seem deceptively simple. After all, this one set of words must be applied to every film that is classified in Australia. In 2016 alone, this totalled 3556.⁷⁸ No matter how detailed the legislation is, a judgment call is always required.

⁷⁶ As detailed in Chapter Two, clause 3(1)(a) requires that films be refused classification if they ‘depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified’. Films are refused classification under clause 3(1)(b) when they ‘describe or depict in a way that is likely to cause offence to a reasonable adult, a person who is, or appears to be, a child under 18 (whether the person is engaged in sexual activity or not)’. Clause 3(1)(c) of the Code is also potentially available, stating films will be refused classification when they ‘promote, incite or instruct in matters of crime or violence’. This clause does not have an offence focus. As far as can be ascertained, however, it has never been used in the context of film. Therefore, it falls outside of this chapter’s scope.

⁷⁷ Here, these words must inevitably be used in tandem. While it is the films in their entirety that are classified and censored, it is the featured images that dictate this. These images, however, must be assessed within their submitted context: the film itself.

⁷⁸ As calculated using the Australian Classification database. This also includes television shows that are distributed on DVD and Blu-Ray.

Under clause 3(1)(a) and 3(1)(b) of the Code, films are refused classification because they are considered unacceptably offensive. Offensive material is described by the Guidelines as that ‘which causes outrage or extreme disgust’ (p. 16). This project received 353 Classification and Classification Review Board reports from Australian Classification: 132 compiled under the current legislation and 221 under historic legislation where the definition of offensive material was likely operational – at least to a certain extent – but not codified. Out of all the reports received, however, only two referenced outrage and/or extreme disgust.⁷⁹ This is despite elicitation being crucial today to the making of classificatory decisions in the context of films intended for adult viewing, especially those that challenge the classification/censorship system’s borders; the very foundation for report selection. The reports that referenced outrage and extreme disgust were the 2011 Classification Review Board report for *The Human Centipede II: Full Sequence* (2011) and the 1998 Classification Review Board report for *Salò, or the 120 Days of Sodom* (1975). Here, the former confirmed material that contravenes clause 3(1)(a) Code is itself offensive (Classification Review Board, 2011b, p. 7),⁸⁰ while in the latter the minority argued (unsuccessfully) against *Salò*’s classification refusal, declaring ‘that whilst the material would cause outrage or extreme disgust to many people, it would not do so “to most” people who elect to see it’ (Classification Review Board, 1998, p. 9).⁸¹ Both reports provide unparalleled glimpses into the operation of the classification/censorship process itself. However, neither addresses how or why the images in question (both sex and violence) elicit outrage or extreme disgust, or how this influenced the classificatory outcome. Academic literature is similarly silent on the role these emotions play in film classification/censorship. This chapter will now fill the void.

⁷⁹ None referenced disgust or anger.

⁸⁰ This was explored in Chapter Two.

⁸¹ This argument gestures to the classification guidelines’ original wording where offensive material was defined as that ‘which causes outrage or extreme disgust *to many people*’ (*Guidelines for the Classification of Films and Videotapes* (1996)). Italics added. Such thinking, however, is still relevant today due to the declaration in the *Guidelines for the Classification of Films* 2012 that R18+ ‘films may be offensive to sections of the community’ (p. 13).

To do this, this chapter will first outline the classification/censorship process in more detail, as dictated by the classification legislation and witnessed in action via the Classification and Classification Review Board reports. It will then examine how the emotions of outrage and extreme disgust influence the classificatory judgment calls that are made for films seeking an R18+ classification whose images of sex or violence challenge the classification/censorship system's borders. Drawing on Chapter Two, examination will extend to the lesser forms of these emotions: anger and disgust. Analysis here will be grouped into four image categories: violence, sex, children and sexual violence.⁸² While the latter two categories stem from the former as flagged by the Guidelines, their distinction here is vital for nuanced research. The treatment of similarly positioned images of crime – specifically graffiti writing – will also be briefly analysed for completeness. However, as these images are rare, boasting a total of four classification refusals – one in 2006, and three in 2015 – examination will be comparatively brief, occurring as part of the final section. As far as can be ascertained, no films have been refused classification under the current legislation for images of drug use. Therefore, their analysis falls outside this chapter's scope.

Judgement call examination will also take place with reference to Classification and Classification Review Board reports dating from 1983 to 2015.⁸³ As established in Chapter One, this large timeframe is permitted because the classificatory considerations pertinent to analysis here have largely remained unchanged throughout this time even though the system as a whole has experienced significant upheaval. Data will be gleaned from the historic reports. However, despite the aforementioned consistency, some of the earlier decisions do not accord with today's conclusions. Therefore, only post 1995 outcomes will be relied upon: those reached under the current legislation. While many labels have changed over the years, this chapter will only use the most recent classification markings to

⁸² Note this is a refined version of the image categories used to identify the Classification and Review Board reports selected from Australian Classification. Alteration occurred after reading the reports themselves.

⁸³ This was determined by the relevance of their content.

promote consistency. The names “Classification Board” and “Classification Review Board” will also be similarly referenced, as will the term “refused classification” even though some of the older case-study films were technically rejected under the historic Federal legislation. When relevant, this chapter will list the classification submission dates and results for each of the case study films as recorded in the Australian Classification database. This is the official record. However, report scrutiny indicates the database is incomplete for a number of films. Therefore, when relevant, readers will be alerted to discrepancies.

The classification/censorship process

The images flagged by the Guidelines as potentially warranting classification refusal originate from the six classifiable elements also listed in this document: themes, violence,⁸⁴ sex, language, drug use, and nudity (p. 8). These are the categories against which all films are judged. Indeed, the first step in the classification/censorship process is to apply the Impact Test to them. Under the Impact Test, the Guidelines present a formalist approach to interpreting film, demanding classifiers scrutinise how filmmakers have manipulated production techniques in ways that increases impact, and as such, offence in the context of films for adult viewing. The effect of different production techniques is the area in which the Guidelines’ text is most detailed. As page seven of this document states:

Impact may be higher where a scene:

- contains greater detail, including the use of close-ups and slow motion
- uses accentuation techniques, such as lighting, perspective and resolution
- uses special effects, such as lighting and sound, resolution, colour, size of image, characterisation and tone
- is prolonged

⁸⁴ Images of crime warranting classification refusal are housed under the element of violence.

- is repeated frequently
- is realistic, rather than stylised
- encourages interactivity⁸⁵

The potential for both individual and cumulative effect is also flagged (*Guidelines for the Classification of Films 2012*, p. 6).

The Guidelines permit films with very mild impact in the G classification, mild impact in PG, moderate impact in M, strong impact in MA15+, high impact in R18+, and very high impact in RC (p. 6). This implies that very high impact films must inherently accord with either clause 3(1)(a) or 3(1)(b) of the Code and be considered unacceptably offensive. The X18+ classification is noticeably absent from this list, positioning it as a discrete standalone category, rather than part of the classification hierarchy.⁸⁶ Classification here is triggered by the image type rather than impact: explicit images of actual sex.

Impact is not tantamount to offence as it is also designed to assess harm when lesser classifications are in play. However, the two concepts are invariably connected, and the hierarchical nature of the Impact Test and the classifications themselves demand that both impact and offence be assessed vertically. Images that elicit the most impact and offence are at the top warranting classification refusal, while those that elicit less are downgraded to the R18+ category or the X18+ category in the case of offence only, depending on the images in question. Unlike impact, however, offence must also be assessed horizontally to determine the number and demographic of those likely to be offended. Indeed, the Guidelines permit R18+ films to 'be offensive to sections of the adult community' (p. 13). This indicates a film must be sufficiently offensive to more than mere sections to secure

⁸⁵ Formatting as featured in the Guidelines.

⁸⁶ Please note, however, that section 7(2) of the *Classification (Publications, Films and Computer Games) Act 1995* (Cth) still describes them as being in 'ascending order'.

classification refusal, as argued – in essence – by the 1998 Classification Review Board minority regarding *Salò* (p. 9). The outcomes of these two modes of assessment frequently coincide: the higher the levels of potential offence the greater the number of people likely to be offended. However, as will be seen, this is not always the case.

Once an impact assessment has been made, the Boards must then analyse the context of that which has been flagged by the classifiable elements to ascertain whether inclusion and presentation ‘is justified by the story-line or themes’ (*Guidelines for the Classification of Films 2012*, p. 6). When it comes to images – as opposed to themes and language – certain depictions can also be extrapolated from the Guidelines as warranting closer consideration.⁸⁷ Here, images of children and sexual violence provide apt example. Following this, the Boards must determine whether any of the additional considerations mandated by section 11 of the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)* (the Act) mitigate any of the conclusions already reached. These considerations are the film’s ‘artistic or educational merit’, its ‘general character’, and its intended audience (*Classification (Publications, Films and Computer Games) Act 1995 (Cth)* s 11). Section 11 also impresses the importance of considering ‘the standards of morality, decency and propriety generally accepted by reasonable adults’ (*Classification (Publications, Films and Computer Games) Act 1995 (Cth)*). Finally, clause 1 of the Code must be considered before a conclusion is reached. While typically not determinative when it comes to R18+/RC distinction, serving instead to reinforce views already reached, this enshrines the principles:

- a) adults should be able to read, hear, see and play what they want;
- b) minors should be protected from material likely to harm or disturb them;
- c) everyone should be protected from exposure to unsolicited material that they find offensive;

⁸⁷ Only the image types that have proven relevant to this chapter’s inquiry via Board report scrutiny will be discussed here, although this is the majority of them.

- d) the need to take account of community concerns about:
 - i. depictions that condone or incite violence, particularly sexual violence; and
 - ii. the portrayal of persons in a demeaning manner.⁸⁸

These are the steps, which lead to all classification and censorship decisions. This chapter will now examine in more detail how they pertain to the classification/censorship of challenging images of violence, sex, children, and sexual violence in the context of disgust/extreme disgust and anger/outrage elicitation. In so doing, it will also illustrate some of the practical realities of the classification/censorship system's operation, and highlight not only the potentially fickle nature of interpretation for the purposes of film classification/censorship but the immense balancing act that is required as well.

Violence

The Guidelines flagging of violent images as warranting classification refusal in certain circumstances is expanded by clause 3(1)(a) of the Code. This states refusal is warranted when these images 'offend against the standards of morality, decency and propriety general accepted by reasonable adults' (*National Classification Code (May 2005)*, clause 3(1)(a)). Collectively, these standards are often referred to as community standards (Sparrow, 2012, p. 17; Australian Law Reform Commission, 2011, paras 4.17-4.20). The *Macquarie Dictionary* defines "morality" as 'conformity to the rules of right conduct'; decency as 'conformity to the recognised standards of propriety, good taste, [and] modesty', and propriety as 'conformity to established standards of behaviour or manners' (2015).⁸⁹ Indeed, each of these concepts revolves around the operation of norms, indicating the relevance of norm scrutiny. The Guidelines also state – as a content threshold marker – that refusal is required when violent images are '[g]ratuitous, exploitative or offensive ... with a very high

⁸⁸ Formatting as featured in the Code.

⁸⁹ While these words originate from the Code rather than the Guidelines, page 16 of the Guidelines advocates the use of 'the latest edition of The Macquarie Dictionary'.

degree of impact or which are excessively frequent, prolonged or detailed' (p. 15). This indicates such depictions would inherently contravene clause 3(1)(a) of the Code. Consequently, there are two lines of legitimate inquiry here: is the image itself offensive (core disgust and anger), and is the image offensive because it transgresses one or more norms held by the community (moral disgust and anger)?

Violent images can elicit disgust on a core level when they are combined with images of blood, gore and death. Considering disgust's contaminating power, this can also be directed at the characters that interact with these core elicitors, especially when interaction is considered inappropriate, further signalling norm transgression and moral disgust elicitation. After all, everything is potentially relevant for classification/censorship purposes: that which comes before, during and after the event. Scrutinising the act now rather than the result, violence can also potentially evoke moral disgust if its execution transgresses a norm, especially if this norm has links to a core elicitor. Core anger too can be elicited by violent images, especially when they are crafted in a way that compels viewers to empathise with the victim. After all, violence is often perceived as causing harm to others and infringing on their rights, whether this is the primary victim or those connected throughout the wider community. Like disgust, elicitation can then extend to the moral domain if norm transgression is involved. Anger's direction, however – and indeed elicitation itself – is dependent on the surrounding circumstances, making them vital for classification purposes. As will be seen, this – and other – operational differences between disgust and anger mean some classificatory considerations lend themselves to ascertaining the former, while others are more conducive to assessing the latter.

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Turning now to the Impact Test, *The Human Centipede II: Full Sequence* (2011) provides apt example regarding how production techniques can be used to increase the impact of – and offence elicited by – violent images. This sadistic horror film revolves around the life of a mentally challenged man who, after becoming obsessed with the preceding film – *The Human Centipede: First Sequence* (2009) – attempts to make a 12 person centipede, attaching his victims mouth to anus with devastating results. Indeed, *Entertainment Weekly* went so far as to declare it ‘would have the Marquis de Sade gagging into his popcorn (Gleiberman, 2011, p. 1). Renowned for his interest in perversity, the Marquis de Sade authored the 18th century book on which the film *Salò* is based: *The 120 Days of Sodom, or, The Romance of the School for Libertinage* (de Sade, 1962). *The Human Centipede II* was classified R18+ in May 2011. However, upon review, the Classification Review Board noted that:

[t]he violence was detailed, prolonged and repeated frequently. ... Individual scenes which featured very high impact violence include the violent murder of Martin's mother by bashing in her skull revealing massed brain gore (37.00-38.00); a man's teeth being smashed with a hammer over the course of a minute with gurgling and choking noises, copious amounts of blood and the teeth being removed violently by hand (53.50-54.50); ... and the crushing death of a newborn baby by its mother with the accelerator pedal (77.34). These scenes were filmed in close up, were detailed and their individual, as well as the cumulative, impact was very high (2011b, p. 4)

The relevant production techniques are identified here with the words: detailed, prolonged, repeated frequently, and close up. Some of these also mirror the Guideline's RC threshold

words for violent images, illustrating how the legislation not only instructs classifiers/censors but provides them with a vocabulary to use that is both legally correct and unifying. As the above excerpt suggests, *The Human Centipede II* abounds in violent images, which embody the production techniques weighted towards classification refusal. However, the skull smashing scene referenced in the Classification Review Board report provides apt example of them in action. Here, Martin was depicted viciously hitting his mother ten times with a crowbar (rather than a hammer). The final time it became lodged in her decimated skull and he had to wriggle it – and the skull pieces – in order to remove it. The attack lasts for approximately one minute before he drags her to the dinner table. At times, the back of her mangled skull comprises almost half the screen as he struggles to move her. Sitting at the table, viewers are again privy to her decimated skull – this time from the front. Light can be seen filtering through the contorted mess, while blood trickles down her intact torso.

The Classification Review Board upgraded *The Human Centipede II's* classification to RC in December 2011, deeming its impact to be very high (Classification Review Board, 2011b, p. 9). This is despite the film already having been lawfully screened numerous times (Refused-Classification.com, 2016j). Interestingly, the Classification Board had previously considered the baby crushing scene to be of no more than high impact (Classification Board, 2011b, p. 3). It did not even mention the skull or teeth smashing scenes in its report, further highlighting the subjective nature of image interpretation. *The Human Centipede II* was again classified R18+ by the Classification Board in December 2011 after the modification of three scenes by 30 seconds in total – none of which were the aforementioned scenes (Monster Pictures, 2011a). Indeed, modifications were not made to any of the film's violent images that did not feature a sexual component (Monster Pictures, 2011a). This occurrence will be revisited later in the chapter.

Even though the mere thought of a core disgust elicitor has the power to create a disgust reaction, what the viewer sees clearly has immense capacity to influence disgust levels.

Showing an image that is detailed, prolonged, repeated frequently, and/or close up are all techniques used to corral viewers into focussing on the image. It forces them to scrutinise it, to digest its intricacies, and ultimately fight against disgust's withdrawal urge. While this can increase disgust levels, it can also increase feelings of anger should they already be present, as the viewer cannot help but notice – and dwell – on the severity of the harm caused. The production techniques of image size, perspective, resolution and lighting can also be used individually – or in combination – to achieve similar ends. Indeed, when a large, brightly lit image is vividly presented front and centre, the filmmaker provides nothing to shield viewers, leaving this up to the reflexes of each individual. Such scenes can be contrasted with what has been referred to in Board reports as 'discreet' visuals or treatment (see eg, Classification Board 1982, p. 1; Classification Board, 1985, p. 2). Here, the potentially problematic image is featured in the background or is obscured in some way. The occurrence may even take place off screen altogether. Such discreetness is typically enough to render any image permissible for adult viewing.

While certain colours can be used to elicit specific emotions (Wei et al., 2004, p. 831), colour manipulation is another production technique that can be employed to draw the viewer's eye to an image and influence impact.

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However, as director Quentin Tarantino found upon creating his martial arts action films *Kill Bill: Volume 1* (2003) and *Kill Bill: Volume 2* (2004), the manipulation and placement of colour also has immense ability to facilitate – and hinder – the conveyance of meaning.

The *Kill Bill* films – classified R18+ and MA15+ respectively – follow the journey of The Bride as she seeks revenge on those who slaughtered the people closest to her: those gathered to celebrate her wedding day. These films were predominately distributed featuring a range of both colour, and black and white

images (Not quite Hollywood: the wild untold story of Ozploitation!, 2008, Disc 2). Tarantino, however, has since divulged that full colour versions were also made to screen solely in Japan and Hong Kong 'cos they can handle it – other people can't' (Not quite Hollywood: the wild untold story of Ozploitation!, 2008, Disc 2).

I could show that in Japan and they will see it for what it is: the colour red. ... If I had gone to colour [for the other markets] then all anyone would have ever talked about is just: it's so bloody, it's so bloody, it's so bloody! ... It's something they just can't [move past]. They wouldn't be able to see the movie for the blood (Not quite Hollywood: the wild untold story of Ozploitation!, 2008, Disc 2).

From this perspective, the filmmaker's intended meaning would clearly have been lost in other regions through the use of additional colour. The role of meaning will be revisited later under the guise of context consideration where it is predominately relevant. However, when assessing impact and offence, the use of additional colour here would have also drawn the viewer's eye to the blood. Therefore, not only would core disgust (and perhaps core anger) levels have been raised by the elicitor's dominance, it could not have been argued that such presentation was necessary to facilitate the storyline because it provided hindrance rather than benefit.

The notion of colour as distraction has been echoed by *The Human Centipede II's* director Tom Six, who has similarly created a colour version of his otherwise black and white film. This, however, remains unreleased. As Six explains, 'it is truly unwatchable! It really ruins the whole story; it's too much' (Six quoted in Schembri, 2011, p. 1). While this suggests the original version's lack of colour would bolster its classification chances, the Classification Review Board instead found 'the use of black and white film fails to minimise the impact, in fact creating a sense of gritty realism' (Classification Review Board, 2011b, p. 4). Ordinarily it may seem like the use of colour to replicate that seen by the naked eye, would make any

image appear more realistic. After all, for classification purposes realism refers to visual verisimilitude, being contrasted with stylisation in the Guidelines (p. 7). When it comes to *The Human Centipede II*, however, much of the film is set in an undercover parking lot and an abandoned warehouse. It is dank and dark, and rain can be seen teeming down outside. Indeed, both the weather and the victims' predicament are bleak, meaning the black and white hues that pervade viewers' senses do not visually appear out of place. While not vital for elicitation, core disgust potential is clearly increased when elicitors appear lifelike rather than manifestly fake. However, so too is potential for core/empathetic anger: the greater the link to reality, the stronger the desire to retaliate and promote the wronged character's interests.

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When it comes to production techniques and realism, another interrelated theme is time. While this is typically of little consequence to films that strive to look inept, the passing of time can make even the most cutting edge production look primitive, rendering what was once considered visually realistic no longer so. This was clearly a determining factor in the R18+ classification of the Chinese language horror film *Laboratory of the Devil* (1992) in August 2004. Indeed, the Classification Board specifically stated that:

[w]hile the impact of the violence remains high, the age and poor quality of the film creates a distance between the modern viewer and the film's violence such that it can be accommodated at the R classification. Since the film was refused classification [in August 1992] ... there have been significant advantages in special effects and other production techniques which reduces the impact of this film and its scenes of violence (ie. foam rubber and unrealistic bodies used)' (2004c, p. 3).

Set in 1945, *Laboratory of the Devil* documents the liberation of a secret Japanese military base established to conduct barbaric medical experiments on its captives. One of these involved freezing a woman's arms with liquid nitrogen before deep bloodless cuts were made to them and they were thrust into warm water. The captors then viciously – and explicitly – ripped the curling flesh from her bones to the tune of the victim's frenzied screams. This is just one example where the use of foam rubber can be seen, clearly lessening disgust potential. However, the fact that it does also highlights that while time has the capacity to alter community standards and influence the entire system, it is only extreme violent images – such as the ones described above – that can otherwise reap its mitigating effects. After all, these are the only images flagged by the Guidelines as potentially warranting classification refusal that consistently require special effects to produce.

While the Guidelines are silent on the role of production values (as opposed to production techniques) it is often argued the presence of sophistication is a mitigating factor that can – as part of context consideration – turn a borderline RC classification into one of R18+. This will be discussed later in the chapter under the guise of artistic merit. However, as the Board reports reveal, unsophisticated production values are similarly influential. In the context of violence, this can be seen regarding the comedy horror

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film *Father's Day* (2011), which was first refused classification in October 2012, despite being screened seven months earlier as part of Sydney's A Night of Horror International Film Festival (Refused-Classification.com, 2016e). A cut version was again refused classification in February 2013, while a further cut version was classified R18+ that same month. Described as '[e]xotic, erotic and just plain psychotic' (Monster Pictures, 2016, p. 1), *Father's Day* charts the journey of the eye patch wearing Ahab who sets out – with three others – to find and inflict 'revenge on the man who brutally raped and murdered his father':

the notorious Fuchman (Classification Board, 2013, p. 1).⁹⁰

While the first Classification Board report is silent on the matter, the second specifically states the film's violent images – as opposed to those of sexual violence – 'are mitigated by relatively unsophisticated production values' (Classification Board, 2013a, p. 2; see also, Classification Board, 2012).⁹¹ This is reiterated in the third report (Classification Board, 2013, p. 2), indicating that unsophisticated production values were enough to allow the potentially problematic violent scenes to be deemed acceptable for adult viewing. These scenes include vivid images of body dismemberment: limbs severed by a hacksaw, internal organs ripped from their hosts, and a satisfied killer greedily licking his fingers. The Board reports do not specify what is meant by unsophisticated production values, and the Guidelines are similarly silent. However, *Father's Day* has been described in positive reviews as 'quasi-

⁹⁰ Pronounced Fuck-man.

⁹¹ Here, the Classification Board refused the film classification for its images of sexual violence.

grindhouse',⁹² and 'schlocky and camp ridden' (Monster Pictures, 2016, p. 1). Its Australian distributor even proudly describes it as 'the ultimate bad-taste B-movie' (Monster Pictures, 2016, p. 1). Such films reside squarely under the banner of low art (Mills, 2001, p. 137). This means assertions of unsophisticated production values are likely to be a comment on the film's presentation – as they were regarding *Father's Day* – rather than a slight directed towards the filmmaker's expertise. Indeed, there are numerous genres where unsophisticated production values are a celebrated hallmark.

Moving now to image justification via context consideration; this can only be done with reference to the film's narrative. This has the power to influence anger elicitation even without image inclusion. Indeed, when observing narrative at its most basic, anger stemming from violent images can be reduced when the offender's actions appear justifiable; when the victim is portrayed as culpable; or when it seems like no real harm was actually caused. Similarly, anger can be heightened when the offender's motivations are unsavoury; the victim appears vulnerable; or there is no satisfactory resolution. The sway of narrative for classification purposes, however, is perhaps best demonstrated by the classification refusal

of all films submitted with the *Troma Intelligence Test*.⁹³ This DVD extra was included in a number of Troma Entertainment productions seeking classification in late 2000. This test requires viewers to answer multiple choice questions. Typically, correct answers are rewarded with semi-

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⁹² In essence, a grindhouse is a cinema, which exhibits only exploitation films. Consequently, a grindhouse film is another name for an exploitation film (Cline and Weiner, 2010). For more detailed and nuanced discussion see Church (2011).

⁹³ The *Troma Intelligence Test* can still, however, be found as part of Jigsaw Entertainment's Australian release of *Bloodsucking Freaks* (1976).

naked images of women, while incorrect answers are punished with scenes of patently unrealistic violence. Here, there is minimal blood, and the acting is intentionally inept; both factors supporting an R18+ classification. Indeed, many of the images themselves had been taken from films already boasting this classification (Refused-Classification.com, 2016k). However, despite this, classification refusal ensued solely because the violent images were presented 'in a context unsupported by any narrative' (Classification Board, 2000c, p. 2), making this example the very embodiment of the Guidelines' warning that material may fall into different classification categories depending on the outcome of context consideration (p. 6).⁹⁴

The violent *Troma Intelligence Test* images, which the Classification Board found most problematic, were those featuring children. This component will be explored later in the chapter. However, focussing solely on the violence, without narrative viewers are unable to know why the killings were taking place, how the characters felt, or what the repercussions were. Therefore, they are free to insert their own interpretation be it anger eliciting or not. This interpretation may also include norm transgression – especially considering the involvement of children – paving the way for both moral anger and disgust. This is in addition to the core disgust, which may already have been elicited given the presence of blood, albeit patently unrealistic. Yet, these images are not presented as part of a story per se but part of a frivolous game. This is their context. Therefore, any meaning given to these images by viewers would likely be associated with flippancy and untempered enjoyment. Indeed, it is unlikely the images would elicit any anger or (unwanted) disgust in those viewing them outside of the classification/censorship process. After all, the game must be sought out to be played, and the images themselves are predictable Troma Entertainment fare: outlandish B-

⁹⁴ Today, the Guidelines' warning that '[i]mpact may be higher where a scene ... encourages interactivity' is also relevant (p. 7). This was formally added in 2012. For more discussion on film (DVD) technology, interactivity, and impact assessment see Walker (2013). Indeed, as Walker argues, the ability to simply select scenes on a DVD can be seen as a form of interactivity even though such interpretation is not reflected in the classification legislation (2013, p. 341).

grade productions that personify low art. No doubt its players would be eagerly anticipating them.

Until now, analysis of disgust and anger has focussed firmly inward, looking towards elicitation potential upon viewing. However, focus can now be seen turning outward, as these images – in a real world setting – are more likely to elicit disgust and anger in detractors even with only mere knowledge of their existence. Indeed, as firsthand viewing is not required, this also presents – for the first time – a situation where elicitation can be based on false information and erroneous assumptions. While core disgust is possible here, when it comes to the violent *Troma Intelligence Test* images, moral elicitation of both disgust and anger is more likely with individuals perceiving the presentation of these images (which also feature children) as norm transgressing, at least in their opinion. Indeed, the Classification Board was even of the opinion the violent images were included as *rewards* rather than punishment, rendering their placement even more offensive (Classification Board, 2000a, p. 2).⁹⁵ The analysis of emotion elicited by images in non-viewers is particularly relevant here. However, capacity for non-viewer response is of course not limited

to the *Troma Intelligence Test* images. Indeed, all filmic images slated with the potential to elicit offence in viewers are susceptible to third party offence elicitation, perhaps even more so due to these individuals' reliance on secondary sources and imagination.

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Parallels can be drawn between the violent images in the *Troma Intelligence Test* and those included in the exploitation splatter film *Bloodsucking Freaks* (1976), which was also distributed by Troma Entertainment. This

⁹⁵ This may have been because the *Troma Intelligence Test* opens with the warning: 'If you choose the wrong answer ... you'll get your *just* reward'. Italics added.

film revolves around Master Sadu and his Theatre of the Macabre where audiences come to marvel at his staged tortures. Unbeknownst to them, however, the tortures are real. In the case of *Bloodsucking Freaks*, the violent images are presented as part of a story-telling film and have consistently been deemed permissible for adult viewing; its first R18+ classification being in March 1983 and its last in May 2005.⁹⁶ Nevertheless, both works revel in their intentionally unsophisticated production values and techniques. Their blood is unrealistic, their acting intentionally inept, and they both present their violent images with light-heartedness and humour. Indeed, the 1983 Classification Board even declared the violence featured in *Bloodsucking Freaks* to be 'risable rather than offensive' (Classification Board, 1983a, p. 1).

Humour alone does little to prevent or quell disgust elicitation in viewers. However, considering anger's operation, it would be difficult for viewers to experience this emotion if they are laughing along with Sadu at his actions. As with the *Troma Intelligence Test* images, such deliberation reflects the Guidelines' declaration that assessment 'requires considering the purpose and tone of a sequence' (p. 6). It also illustrates humour's vast potential to mitigate anger and ward off classification refusal, especially when other mitigating factors are present. Yet, a minority of the 1983 Classification Board believed the 'comic element' in *Bloodsucking Freaks* 'exacerbated its offensiveness' rather than alleviated it (Classification Board, 1983a, p. 1). Indeed, humour is not a failsafe inclusion; not everyone may appreciate the joke (Heller-Nicholas and Brandum, 2014).

Genre assessment is another way that context is considered for classification purposes. Here, genre can be understood as a system of categorisation, which is frequently used by the film industry and consumers alike (Macquarie Dictionary, 2015, definition of 'genre'). Indeed, this thesis even references it regarding many of the case study films to augment

⁹⁶ It was, however, classified RC in November 2000 due the inclusion of the *Troma Intelligence Test* as a DVD extra.

readers' knowledge of their content. After all, genre categories espouse both similarities and differences, typically focussing on setting (western), themes (romance) or intended effects (horror) (Carroll, 1990, p. 14). However, as Neale writes:

[g]enres do not consist only of films: they consist also, and equally, of specific systems of expectation and hypothesis which spectators bring with them to the cinema, and which interact with films themselves during the course of the viewing process (1990, p. 46).

From this perspective, genre consideration can also be linked with clause 1(c) of the Code, which declares 'everyone should be protected from exposure to unsolicited material that they find offensive'. Indeed, those who are aware of a film's genre broadly know what to expect upon watching. Genre consideration was clearly influential in securing an R18+ classification

for the violent teen slasher film *The Slumber Party Massacre* (1982). As its name suggests, this film features a slumber party, complete with semi-naked high school girls. It also depicts a gore-filled massacre curtesy of the recently escaped serial killer Russ Thorn, whose weapon of choice is an oversized power drill. While *The Slumber Party Massacre* was refused classification in November 1982, it was classified R18+ the following month. This status was confirmed in 1985 where the Classification Board noted:

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the discreet treatment of the frequent violence – most killings take place off screen – and strict adherence to the convention of the genre, render[s] the occasional explicit

sequence (blade and drill protruding from bodies, severed hand and stump of wrist)
predictable and even expected (1985, p. 2).⁹⁷

Here, impact assessment was also influential, as signalled by the words 'discreet treatment' (Classification Board, 1985, p. 2). However, classification was clearly aided by the predictability afforded by genre adherence. Indeed, it is nonsensical to think that a bloody drill-induced death scene would be permitted – for example – in a film that is for all other intents and purposes from the romance genre. This provides another example how violent – and other – images can be permitted classification in some contexts and not others. As genre is essentially an organisational structure, gross deviations can be seen as 'matter out of place' (Douglas, 1984, p. 36), evoking the disgust emotion. However, such an occurrence would also undoubtedly elicit core/personal anger in unwitting viewers, illustrating – for the first time – the potential for this type of elicitation. After all, the rights and harm in question are not pertaining to fictional characters as they have been in other examples but the viewers themselves.

So far, all of the case study films have been fictional. Of this viewers would have been aware and consequently approached them as such. Van Ooijen refers to this as viewing them with a 'fictive stance': no matter how realistic the images are, the audience still knows they are staged (2011, p. 2). While a fictive stance has the potential to lower disgust levels stemming from violent imagery by distinguishing them from reality (McCauley, 1998, p. 144), when it comes to anger, there is arguably no better way to mitigate – or even dispel – elicitation stemming from a violent act than to remember it never actually occurred in the first place; no harm was caused, no rights were violated. Fictive stance, however, is challenged when an otherwise fictitious film is presented as being based on fact; a tactic, which has long been

⁹⁷ While this film's final classification was made prior to the current legislation, its permitted release accords with more recent decisions.

used by filmmakers and promoters alike to increase a film's appeal. For some, this is limited to text on advertising posters or DVD covers, while for others this is included in the film itself.

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The horror classic *The Texas Chainsaw Massacre* (1974) – for example – opens with solemn text labelling the ‘tragedy’ viewers are about to see as ‘one of the most bizarre crimes in the annals of American history’ (The Texas Chainsaw Massacre, 1974). This has the ability to increase anger levels, as elicitation potentially stems not only from seeing the young characters mercilessly butchered by the notorious chainsaw-wielding Leatherface but from believing it actually happened.

Some of these claims are more believable than others. Typically, however, the film's fictitious nature shines through, with any claims to the contrary being easily – and gleefully – refuted by audiences and non-viewers alike. Of this, *The Texas Chainsaw Massacre* also provides apt example (Siouty, 2015; The Texas Chainsaw Massacre, 2016). While this film was refused classification upon submission in June 1975, it has repeatedly been classified R18+ since 1984.⁹⁸ Today especially, it is hard to imagine such claims alone could ever raise offence levels to unacceptable heights. After all, even when they cannot be completely refuted filmgoers know they are seeing – at most – a character and a recreation; the actors themselves are not being harmed. It is not a bona fide snuff film. Sensationally, however, this was not the case in 1980's Italy where upon the release of Ruggero Deodato's notorious

⁹⁸ More specifically *The Texas Chainsaw Massacre* was refused classification in June 1975, December 1975, and July 1981. It was classified R18+ in February 1984, January 1984, January 1991, December 2006, and July 2007.

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horror film *Cannibal Holocaust* (1980) officials erroneously thought the actors had been killed for the purpose of filming (In the jungle: the making of *Cannibal Holocaust*, 2003).⁹⁹ This ultra-violent film is premised on would-be rescuers finding the lost footage of a missing film crew; footage that has captured unthinkable acts of depravity committed by those missing and the indigenous population. Advertised as an authentic find, the film crew actors were contractually required to abstain from public life

for a year after the film's release (In the jungle: the making of *Cannibal Holocaust*, 2003). Indeed, this charade was so convincing, as were the film's technical effects, that Deodato was threatened with life in prison until he presented the actors – alive and well – for public viewing (In the jungle: the making of *Cannibal Holocaust*, 2003).

While not specifically featuring the crew members' demise, one of the images, which undoubtedly contributed to *Cannibal Holocaust's* perceived authenticity, was that featured on the pictured DVD cover art: an indigenous woman impaled on a wooden stake – mouth to anus – her face tilted skyward as trails of blood streak down the length of her naked body. According to Deodato, however, the woman was actually sitting on a bicycle seat with a metal rod behind, while a piece of timber was perched in her open mouth (In the jungle: the making of *Cannibal Holocaust*, 2003). Any images leading to the crew members' deaths would clearly have elicited core and moral disgust and anger in those who thought the actors had been killed at the filmmaker's behest, perhaps even reaching the level of outrage. After all, elicitation was clearly grounded in reality, thus void of the mitigating effects of fiction. By

⁹⁹ This is included as a DVD extra on disc two of Siren Visual Entertainment's 2006 release of *Cannibal Holocaust*.

the time *Cannibal Holocaust* was submitted for Australian classification in May 1983, the actors had been confirmed as unharmed, dispelling this elicitation avenue. However, *Cannibal Holocaust* was still refused classification until it was awarded an R18+ in October 2005; its first submission under the current legislation.¹⁰⁰

Cannibal Holocaust's Italian release is a testament to the power of viewing stance, albeit rare in the consequences it posed for the film's creator. On a lesser scale, however, the effects of viewing stance can also be seen in the reception of mondo films otherwise known as shockumentaries, which emerged in the early 1960s (Goodall, 2006, p.8). Crafted in the style of documentaries, these films offer viewers salacious material marketed and presented strictly as fact. In reality, however, they are typically a blend of fact and fiction regarding both their assertions and the alleged origins of the images they present (Weiner, 2007, p. 1101). This means not everyone views these films with the same stance, fictive or otherwise. Indeed, filmgoers might be unsure whether the images are real or not, continually looking for visual cues as to their authenticity, or they might resolutely approach the film with one viewing stance only to have it changed part way through.

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One of the more well-known collections of mondo films is the six volume *Faces of Death* series (1978; 1981; 1985; 1990; 1995; 1996). Volumes I to III follow the musings of the authoritative – albeit fictional – pathologist Dr Frances B. Gröss, endorsed in the opening credits as both the 'creative consultant and narrator' (*Faces of Death*, 1978; *Faces of Death*

¹⁰⁰ *Cannibal Holocaust* was also refused classification in September 1983.

II, 1981). He informs viewers they will be witnessing the results of his national and international pursuit to understand death. Volumes IV to VI then turn to Gröss' brother Dr Louis Flellis, after Gröss himself met an untimely end. Volumes I and II were originally submitted for – and refused – classification in November 1983.¹⁰¹ While Volume I was later classified R18+ in March 2007, Volume II was again refused classification in December that same year, as was Volumes III and IV. Volumes V and VI appear to never have been submitted for classification in Australia perhaps due to the preceding volumes' lack of success.

In 1983, one of the pivotal issues for the Classification Board was whether or not Volumes I and II were in fact bona fide documentaries. Here, the Classification Board concluded that the original was not, as it 'abounds in explicit[,] relished and gratuitous scenes of cruelty and violence to humans and animals, some of which appear to be deliberately set up for the camera' (1983b, p. 2). Because of this, it 'lacks credibility' (Classification Board, 1983b, p. 2).

Similar sentiment was expressed regarding Volume II (Classification Board, 1983c). However, in 2007 the Classification Board elaborated on its position honing in on the film's images of real violence. Here, it singled out the use of juxtaposition, citing as a problematic example 'the juxtaposition of the dead victims of a landslide with yodelling music' (Classification Board, 2007b, p. 3); the implication being it is impermissible to make light of these images in such a way. As this shows, there is a clear tension within the classification/censorship system between the presentation of images of real life suffering

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¹⁰¹ This is according to the Australian Classification database. The 1983 Classification Board report regarding Volume I, however, states it had previously been submitted and refused classification on 9 December 1980 and an appeal regarding the rejection had been dismissed on 21 January 1981 (1983b, p. 2).

and death for educational purposes and for entertainment; the former being privileged over the latter. Educational merit is after all one of the mitigating considerations included in section 11 of the Act, although the Classification Board did not specifically reference it here.

The 2007 Classification Board acknowledged that many of the images of real death in *Faces of Death II* – like those of the landslide victims – had been sourced from news footage and the like, meaning they had already gained public exposure (2007b, p. 3). While rules regarding film classification/censorship and news broadcasting differ, this again shows the importance of context and purpose in the classification/censorship process. When these images are included in a news broadcast the audience is privy to at least some of the facts surrounding the event. The images are also afforded a level of reverence and respect based on the credible and serious nature of the news setting. This can be seen as akin to the setting of a bona fide documentary, such as that observable in the 1981 production *Executions*. This film explores the merits of executions be they sanctioned by religion, culture, or the state. As its tagline declares, '[t]his film should shock because truth hurts' (*Executions*, 1995). *Executions* features images of 'actual executions, both historic and recent' (Classification Board, 2006, p. 2), and was classified R18+ in August 1995 and May 2006.

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Comparable to segments of *Faces of Death*, *Executions* includes 'stills, archival, amateur and TV news footage, filmed in colour and black & white, ranging from close-ups to long shots, and varying considerably in clarity and quality of production' (Classification Board,

1995, p. 1). Unlike *Faces of Death*, however, the Classification Board did not dispute its altruistic motives, finding:

a balanced documentary context was established through factual narration and statistical information. The subject was not sensationalised nor presented in a gratuitous manner (1998, p. 2).¹⁰²

In other words, this film proved R18+ worthy because it was intended to teach rather than titillate. This presents a situation where ‘the representation of a particular death is somehow *more socially important* than the death of the individual who suffers it’ (Sobchack, 2004, p. 196).¹⁰³ These sentiments, however, did not extend to *Executions II* (1997), which has been described by some as ‘a cheap cash in on the original’ (Refused-Classification.com, 2016d, p. 1). This film was refused classification in May 1998, showing – as did the previous *Faces of Death* examples – that all submissions are classified on their merits; sequels are afforded no leniency.

While death was once considered ‘a social and public event’, especially when classed as “natural” (Sobchack, 2004, p. 181), ‘[t]he more society was liberated from the Victorian constraints concerning sex, the more it rejected things having to do with death’ (Aries quoted in Sobchack, 2004, p. 182). Upon exploring filmic images of death, this observation has led Sobchack (2004, p. 191) to argue:

vision must visibly respond in some way to the fact that it has broken a visual taboo and looked at death. It must justify its cultural transgression as not only responsive but also responsible and must make the justification itself visible.

¹⁰² Here, the 1998 Classification Board was comparing *Executions* with *Executions II* in its report for the latter.

¹⁰³ Italics as featured in the original publication.

To this end, the classification/censorship system here can also be seen as striving to ensure this occurs.

By the time the first of *Faces of Death* film had been submitted for classification in 2007, the images of real violence that the 1983 Classification Board thought had been 'set up for the camera' had long been debunked as staged (Classification Board, 1983b, p. 2). This means that while the *Faces of Death* name remains shrouded in controversy and mystique, viewers are now able to approach its images with a more merited viewing stance, ultimately reducing the potential for disgust and anger elicitation. Influence of this for classification purposes was then strengthened by the inclusion of a DVD extra featuring a reiterative interview with the film's director (Classification Board, 2007a, p. 2). As the Classification Board writes:

[t]he interview shifts the context of the film and explains how some of the scenes were staged and simulated. The tone of the interview is satirical and presented heavily with irony, implying to the viewer not to take the film literally or seriously (2007a, p. 3).

Its treatment, however, was still clearly thought to be more serious than that of *Faces of Death II* given this film's classification refusal nine months later was linked with impermissible frivolity. As the *Faces of Death* example shows, DVD extras have the potential to influence the classification/censorship of the films with which they are paired, although this example can be contrasted with the *Troma Intelligence Test*. Its inclusion would have led to the classification refusal of any film given it was considered unacceptably offensive in its own right. Clearly, not all viewers will watch the interview as well as the *Faces of Death* film. However, its provision ensures viewers have all the information needed to become aware – if they are not already – of the film's largely fictitious nature. In this way, the Classification Board can be seen as striving to control the stance with which viewers approach the film, ensuring – as best it can – that it is one the classification/censorship system condones.

This chapter has shown that violent images have the potential to evoke intense disgust and anger. However, as far as can be ascertained, no films have been refused classification for fictitious violence – in the absence of images of sexual violence or children – since the current legislation came into force on 1 January 1996. Indeed, *The Human Centipede II* and *Father's Day* feature the former, while the *Troma Intelligence Test* includes the latter.¹⁰⁴ This is despite the rise of the torture porn genre, which is widely touted as featuring the most extreme and realistic violent images of all time (Gartside, 2013, p. 81). Distinct from pornography featuring torture, these films are renowned for 'explor[ing] the delicacy and resilience of the human body through depictions of sadism, brutality, torture, mutilation, and death' (Dalton and Schubert, 2011, p. 63). They also feature 'copious amounts of graphic blood and gore', which is patently realistic (Dalton and Schubert, 2011, p. 63). Indeed, aside

from them being clearly fiction, it is difficult to imagine how the impact of the violent images featured in these films could be made any higher.

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One such film is *Hostel* (2005); the production for which the torture porn label is said to have been created (Edelstein, 2006). This film charts the downfall of three young backpackers after they are enticed into staying at a secluded Slovakian hostel with 'the promise that the women are as desperate as they are gorgeous'

¹⁰⁴ Please note this assessment includes all the films that have been refused classification under the current legislation, not just those selected as case studies. While it is true that the Classification Review Board declared *The Human Centipede II* warranted classification refusal for its images of both sexual and non-sexual violence (2011b, p. 9), this film was later classified R18+ after it had been modified slightly. According to its distributor Monster Pictures, however, its images of violence remained unchanged (2011a).

(*Hostel*, 2005).¹⁰⁵ Unbeknown to them, however, the hostel is a front for a more sinister business, which sells the lives of its guests to the highest bidder. One of *Hostel's* violent scenes involves a backpacker being impaled numerous times with a power drill at the hands of a Dutch businessman. Here, the incredibly realistic wounds are shown in extreme close up as the drill bit is convincingly slid in and out. The blood runs freely – but not excessively – down onto the floor, and the victim's agonising screams can be heard echoing down the hall. When the drill is discarded it is covered with pieces of the victim's moist flesh, a stark pink against the gloomy backdrop. This can be contrasted with the slaughter-by-drill scenes in *The Slumber Party Massacre*. While still featuring much blood, *The Slumber Party Massacre* is comparatively lacking in verisimilitude (consistent with its 34 years of age), and does not share *Hostel's* gore focus or intensity (consistent with its genre). In comparison, it is undeniably tame.

Under the current legislation, the only films that have been refused classification for violent images alone are *Executions II* and *Faces of Death II-IV*. Each of these films is now in excess of 25 years old, and their depictions of blood and gore are predominantly far less explicit than those routinely featured in torture porn. For classification purposes, however, there is only one meaningful difference; at least some of their images of death are real. The Guidelines flag images of real violence as warranting particular scrutiny (p. 15). It also states these images need only be of high impact to warrant classification refusal (*Guidelines for the Classification of Films 2012*, p. 15). This goes against the Impact Test, which normally permits high impact films R18+ classification (*Guidelines for the Classification of Films 2012*, p. 6). Indeed, these images are clearly special. The real violence and death permitted in *Executions* and *Faces of Death* has been discussed in detail. When it comes to the former, the images are presented with a view to educate rather than entertain, while in the case of the latter, the Classification Board was satisfied the film treats them with sufficient gravity.¹⁰⁶

¹⁰⁵ This is stated on the DVD cover released by Screen Gems.

¹⁰⁶ When compared to the images in *Faces of Death II*.

The sway of these considerations for classification purposes, however, can only fully be understood with reference to that which is absent from the Classification and Classification Review Board reports: disgust and anger.

These emotions have already been discussed at length; first in Chapter Two where they were introduced, and now here where their operation has been applied to filmic examples amidst the classification/censorship framework. From this it is clear that images of real violence featuring blood, gore or death have the potential to elicit immense core disgust. It is similarly evident they have the potential to elicit immense core/empathetic anger when the surrounding circumstances are conducive. This includes when the victim appears to have had their rights violated by having the event filmed and distributed. Both core disgust and core anger is heightened here because it is anchored in the real world rather than fiction. However, images of real violence also have the potential to elicit moral disgust and anger when norm transgression is involved, and it is here that the line between R18+ and classification refusal is drawn.

When it comes to death in Australia, there are many norms that govern interaction with decedents. This includes the old – but enduring – saying, ‘you should never speak ill of the dead’ (Watson, 2002, p. 50).¹⁰⁷ Showing respect for decedents – who are obviously unable to proffer defence – is what lies at the heart of this statement (Watson, 2002, p. 50), and finding pleasure in his or her misadventure and death, and exploiting it for entertainment purposes – as *Executions II* and *Faces of Death II-IV* do – is clearly disrespectful. This norm can never be transgressed when death is simulated as there is no actual decedent, explaining why fictitious violence – in the absence of other challenging images – is never refused classification. This norm is also not violated when images of real death are used for a respectful purpose such as education and genuine news reporting, which is why bona fide documentaries featuring real death are permitted for adult viewing. Any of the violent images

¹⁰⁷ The saying is not attributed to this author but he notes its prevalence.

discussed in this chapter may elicit disgust and anger to the level of extreme disgust and outrage in some viewers. However, it is the transgression of this norm, which elevates offence elicitation to levels considered unacceptable for classification. Indeed, elicitation here is considered sufficiently high because the transgression is grounded in reality rather than fiction, but it is also deemed sufficiently wide because the norm is deep-seated and broadly held throughout Australia. It is the combination of these two factors, which secures classification refusal here.

Animals

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Images of human death are clearly problematic for the classification/censorship system. However, there are many films, which feature images of dead animals without controversy. The terrified friends running through the abattoir full of hanging cattle carcasses in the 2003 remake of *The Texas Chainsaw Massacre* is but one example. Here, of course, the images are – for many – more closely aligned with nourishment rather than suffering, decreasing offence potential. The horror film *Seed* (2007), however, features real – albeit clearly historic – footage of people abusing animals: hitting them, cutting them, stomping on them and ultimately killing them. These images are projected in black and white, and while all but a few lack blood and gore, the multiple tortures are displayed in increasingly detailed close up shots until viewers are forced to look into the last animal's terrified eyes. This footage was supplied to the filmmakers by the animal rights group PETA,¹⁰⁸ and viewers are made aware of this – as well as its authenticity

¹⁰⁸ People for the Ethical Treatment of Animals

– via a written warning at the start of the film. *Seed* tells the story of the malevolent serial killer Max Seed, who after being buried alive seeks revenge on those responsible, plus a few extra for good measure. This film opens with Max, enthralled by the above brutalities playing on his television set. However, despite this less than reverent treatment of real life brutality, the Classification Board classified *Seed* R18+ in October 2007.

Faces of Death also repurposes comparable images of animal cruelty. However, taking this one step further, six animals were specifically slaughtered onscreen for the purpose of filming *Cannibal Holocaust*. One of these was a leatherback sea turtle. Here, two men dragged the animal from the river before crudely severing its head with a machete, its stumpy legs kicking frantically. Shown in extreme close up, the men then savagely dislodge its shell before plunging their hands into its exposed innards. These images are real. Yet, despite being refused classification three times in 1983, the 2005 Classification Board – which classified the film R18+ – was the only one that discussed animal cruelty. Its report states – by way of mitigation – that the animals were ‘killed in order to provide sustenance’ for the characters (Classification Board, 2005a, p. 2). This is despite the death being real and the characters fictional. Deodato, however, has since declared the slayed turtle was promptly given to locals to eat, further blurring the lines between reality and fiction (*Cannibal Holocaust*, 1980).¹⁰⁹

Core disgust and anger can undoubtedly be elicited by violence against animals, and this can be analysed in much the same way as violence against humans. In the case of *Cannibal Holocaust*, moral elicitation potential – and that of core/empathetic anger – is clearly heightened with knowledge that the animals were killed purely for filming. Using the example of a rabbit, Sobchack (2004, p. 194) writes:

¹⁰⁹ This was stated in the DVD commentary included on disc one of Siren Visual Entertainment’s 2006 release of *Cannibal Holocaust*.

we know that it is easier to kill a rabbit than to teach it to play dead. We also know it is easier to teach a man to play dead (that is, to act) than to kill him. What is meant by *easier* in the ethical context of our culture and the economic context of cinema is “faster,” “cheaper,” and “less morally problematic”.¹¹⁰

Indeed, from pets to food and sport, the status of animals is far more diverse in Australia than it is for humans. Therefore, while perhaps it may be possible to establish a norm in the most extreme cases, when it comes to moral elicitation, the window is narrow for identifying a sufficiently widespread norm governing responses to them. Returning to the example of *Cannibal Holocaust*, this means that even though the offence elicited may be sufficiently intense for some, there is nothing to tie its elicitation to enough people to justify classification refusal.

Sex

As discussed in the Chapter Two, sex is a well-established core disgust elicitor regardless of whether this is attributed to its boundary transgressing nature or its potential for transmitting infection. Indeed, not only does the sex act frequently involve interaction with bodily fluids – some of which may be expelled – many of its guises also revolve around bodily penetration. When sex occurs between fully consenting adults it does not have the potential to elicit anger per se, as no harm is caused and no rights are violated. However, anger can still be elicited if these occur to third parties as a result.

When it comes to the R18+ classification, images of simulated sex are permitted without legislative restriction. This is only tempered by the Guidelines’ warning that closer scrutiny is

¹¹⁰ Italics as featured in the original publication.

required when images of violence or fetishes are added (p. 15).¹¹¹ Images of ‘actual sexual activity’, however, are prohibited, albeit with limited exception; the Guidelines declaring ‘[t]he general rule is “simulation, yes – the real thing, no”’ (p. 13). Indeed, it is these images – which include masturbation and oral sex, as well as vaginal and anal penetration – that challenge the R18+ classification’s boundaries. After all, intensity potential is high for any disgust or anger elicited by them given their link to reality. When these images fall outside the R18+ classification’s borders, however, they are typically classified X18+ rather than RC. It is here where the vast majority of images of actual sex reside, aligning conceptually with pornography. It is only when images of actual sex are combined with images of violence or fetishes in a way considered unacceptable for adult viewing that classification refusal ensues (*Guidelines for the Classification of Films 2012*, p. 14). The quarantine of pornography via the X18+ classification is of utmost importance to the classification/censorship system. Indeed, classifiers/censors are not permitted to eliminate the R18+/X18+ distinction with their decisions (*Adultshop.com Ltd v Members of the Classification Review Board*, 2007, para. 124). From a disgust perspective, this ongoing separation means the former escapes being sullied by the latter’s sordid reputation; a boon for both viewers and distributors of R18+ films.

The classification/censorship system’s acceptance of simulated sex for adult viewing can clearly be seen in the classification of hentai films; a type of Japanese anime best described as erotic animation (Ortega-Brena, 2009, p. 17). These films are typically dominated by images of explicit sex acts, meaning they conceptually accord with the X18+ classification.

¹¹¹ While ‘incest fantasies or other fantasies which are offensive or abhorrent’ are also flagged by the Guidelines here (p. 15), they fall outside the scope of this thesis as the Classification and Classification Review Board reports lacked meaningful discussion regarding them. Due to the nature of report selection, however, this suggests they have not been influential in shaping the current licit image boundaries. The 2004 Classification Board report classifying *Fantasm* (1976) R18+ was the only one that mentioned incest. Here, it simply described the pertinent scene – which features a mother and her son in a bath naked – as one of two that has ‘strong themes and visuals but which can be accommodated at a lower classification’ (Classification Board, 2004b, p. 2). The other scene being referenced here depicted rape.

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However, they are routinely classified R18+ because no matter how sexually explicit the animated images are – by definition – they can never depict actual sex. This was tested in July 2008 when four such R18+ films were submitted for classification review: *T & A Teacher* (2004), *Holy Virgins* (2001), *Bondage Mansion* (2001), and *Classes in Seduction* (2004). Here, the Classification Review Board declared all but one worthy of an R18+ classification, as '[t]he animation and the anime genre remarkably diminish both the impact and the realism of ... the sexual activity' (2008a, p. 5).¹¹² When it came to *Bondage Mansion*, this extended to the images of fetishes with which it abounds (Classification Review Board, 2008a, p. 5). As its name suggests, this film is set in a mansion fitted for bondage, its contraptions as elaborate as the backdrop is bare; the perfect location for a sexual competition. Out of the four films, *Holy Virgins* was the only one to be refused classification. It will be revisited later in the chapter, along with *T & A Teacher* and *Classes in Seduction*, as they all also feature challenging images of children; the reason *Holy Virgins* was refused classification (Classification Review Board, 2008c, p. 5). Indeed, animation does not provide blanket immunity against classification refusal in all contexts.

Unlike its take on violence, the Guidelines do not use the word offensive as a threshold marker regarding images of actual sex. Perhaps this is tacit acknowledgment that sex – as a core disgust elicitor – always has the power to offend, while violence does not. This omission, however, means that when it comes to classification refusal here, the only formally

¹¹² The Classification Review Board reports for the other films contain similar comments (see, Classification Review Board, 2008b, p. 4; Classification Review Board, 2008c, p. 5; Classification Review Board, 2008e, p. 4).

sanctioned line of inquiry pertains to moral elicitation: does the image 'offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified'? (*National Classification Code (May 2005)*, clause 3(1)(a)). Turning now to the X18+ classification, clause 3(2)(a) of the Code describes it as permitting 'real depictions of actual sexual activity [without violence, coercion or fetishes] ... for the enjoyment of viewers, in a way that is likely to cause offence to a reasonable adult'.¹¹³ This was scrutinised in *Adultshop.com Ltd v Members of the Classification Review Board* where it was held that offence determination does not require 'a mechanistic majoritarian approach' but rather 'calls for a judgment about the reaction of a reasonable adult in a diverse Australian society' (2007, para. 170).¹¹⁴ Therefore, analysis of offence elicitation – and broad community views – is also relevant for X18+ determination.

Like real death, there are many norms governing actual sex in Australian society. In the context of film, however, one of the most relevant is that sex should be a private act. More specifically, it should not occur in a public place, and other people should not be watching. Both of these norms are – in a sense – transgressed when actual sex on film is permitted classification. Indeed, in the case of R18+ films, classifiers clearly favour the production techniques already discussed in the context of violence, which limit what is seen of the sex act, ultimately restricting transgression. This is illustrated by some of the older pornographic films that have two versions classified: one for both the R18+ and X18+ markets. These

¹¹³ In full this reads, 'real depictions of actual sexual activity between consenting adults in which there is no violence, sexual violence, sexualised violence, coercion, sexually assaultive language, or fetishes or depictions which purposefully demean anyone involved in that activity for the enjoyment of viewers, in a way that is likely to cause offence to a reasonable adult'.

¹¹⁴ *Adultshop.com* appealed the outcome of this case. However, it was again unsuccessful (*Adultshop.Com Ltd v Members of the Classification Review Board*, 2008).

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include *Deep Throat* (1972), *The Devil in Miss Jones* (1973) and *Debbie Does Dallas* (1978) to name a few. Here, the R18+ versions have had their most explicit images removed. As this shows, it is not what the actors are doing – or even what the audience knows they are doing – that is influential for classification purposes but what is shown on screen.

The films listed above are considered classics of the 1970s 'porno-chic' era (Corliss, 2005, p. 1). However, today – over 35 years since their respective releases – their uncut forms are still prohibited distribution in all Australian states via the X18+ classification. Indeed, when it comes to images of actual sex, the passing of time is largely irrelevant as all it does is render them quaint. No amount of time can make the images themselves any less real. The passing of time does, however, lead to norm evolution. Looking again to images of simulated sex, many of the scenes that are now routinely depicted in R18+ films would once have been considered too risqué for classification. It was, after all, the perceptual shifting of community standards, which spurred Chipp to instigate the classification/censorship system's 1970 overhaul. It is also undoubtedly what spurred the Classification Review Board into permitting images of actual sex R18+ for the first time in 2000, and the Classification Board then following suit. Indeed, when it comes to images of actual sex, time is more likely to influence classification decisions en masse than individual verdicts.

The norms condemning sex in public are comparable in their deep-seated and widespread nature, to the one prohibiting decedents disrespect. Nevertheless, the X18+ classification today exists solely to provide adults with explicit images of actual sex to view. In addition to pornography, these films are also colloquially referred to as dirty movies. The term "dirty"

can refer to that which is as 'morally unclean' or 'indecent' (Macquarie Dictionary, 2015, definition of 'dirty'). However, from the perspective of 'dirt as matter out of place' (Douglas, 1984, p. 36), the use of this label can also be seen as a comment on disgust elicitation. Indeed, by bringing sex out from the private, displacement is clearly occurring.

Between 1996 and 2016, 14774 films were classified X18+.¹¹⁵ While the political acceptance of this classification is far from absolute, the images it features are undeniably popular with viewers. These films can lawfully be sold and hired in the Australian territories.¹¹⁶ However, their public exhibition is nationally prohibited.¹¹⁷ Indeed, they are in the unusual position of making a private act public in the privacy of consumers' homes. This can be seen as reducing transgression of the privacy norms surrounding sex. It also limits knowledge regarding individual transgressions and people can only condemn that of which they are aware. R18+ films featuring actual sex, which are sold or hired, are similarly placed. However, such films are also permitted public exhibition, as are those afforded classification exemption for film festival screening. Here, they transgress the privacy norms with full force. Yet, given the potential for images of actual sex to titillate, they are at risk of violating norms denouncing sexual arousal in public as well. Indeed, the fact that titillating soft-core sex films are no longer publicly exhibited despite their R18+ classification supports the presence – and influence – of this additional group of norms today.

¹¹⁵ As calculated using the Australian Classification database.

¹¹⁶ This can, however, only occur in a 'restricted publications area' as so deemed by the sections 104 and 61 of the *Classification (Publications, Films and Computer Games) Enforcement Act* (NT), and the *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995* (ACT) respectively.

¹¹⁷ The *Classification (Publications, Films and Computer Games) Enforcement Act* (NT) and *Classification (Publications, Films and Computer Games) (Enforcement) Act 1995* (ACT) do, however, provide minor exceptions for restricted publications areas.

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In September 2006, Sydney's Queerdoc Film Festival sought to screen the hard core sex film *Damon and Hunter: Doing it Together* (2005). This film is one of a series created by American filmmaker Tony Comstock aptly titled *Real Life Real People Real Sex*. Featuring real life couples, these films abound in images of actual sex, which are interspersed with snippets of them discussing their life together. *Damon and Hunter* had previously been classified X18+ in May 2006, meaning film festival exhibition was prohibited. Of this, Queerdoc abided. The Melbourne Underground Film Festival (MUFF), however, was not dissuaded, hosting an unlawful screening on 11 July 2006. As Comstock reminisces in his blog, its popularity exceeded organisers' expectations (2006b).

Late arrivals struggled to pack themselves into the Glitch lounge as the crowd waited expectantly for doors to the theatre to open. Once they did, it quickly became clear that folding chairs in the aisle weren't going to provide enough seats. As the first screening started, hasty arrangements were made for another screening which started in a second theatre 15 minutes later (Comstock, 2006b, p. 1).

Perhaps patrons were enticed by the novelty – or the risqué nature – of the situation. After all, both the disgusting and the risqué are undeniably alluring. However, this could also signal that norms regarding sex are changing. Indeed, Comstock goes on to declare:

[i]t's my sincerest hope that last night, in that darkened theatre in Melbourne, people were getting turned on by Damon and Hunter. I hope jeans were getting stretched tight by hard cocks; I hope panties were being dampened by wet pussies (2006b, p. 1).

This instigated a brief online conversation with a fan.

Sabine: ... hard cocks and wet pussies? Well I can at least account for one lot, and have no doubt there were many more (2006, p. 1).

Tony: ... And I am, of course, delighted by the damp panties, most especially yours! (2006, p. 1).

Such open and honest candour regarding sexual arousal in public is rare, especially in a forum that is itself public. Indeed, even if sexual arousal norms are changing, this is a gradual process. The above discussion – and admission – clearly has the potential to elicit moral (and core) disgust, spurred by its vivid description. This in turn has the power to contaminate its participants, and all associated others. Apt example of this is evident in the way people speak about the raincoat brigade. This label alone conjures thoughts of men who are socially awkward, perverted and sleazy; the epitome of disgust elicitation on both core and moral levels. The raincoat brigade and a chic film festival crowd, however, project two very different personas. Indeed, the latter is conversely perceived as cultured, edgy and intellectual; everything that disgust is not. Perhaps these differing qualities are enough to render the above writers ‘vaguely exotic’ rather than disgusting, allowing them to escape any social detriment (Miller, 1997, p. 12).

Damon and Hunter is undeniably sexually titillating. However, it has also been widely praised for its educational merit. As Comstock writes:

Damon and Hunter is held in the Kinsey Library at the world renowned Kinsey Institute at the University of Indiana. It’s already being used by the Gay Men’s Health Crisis in New York, and by the San Francisco Sex Information Hotline. Just this week it’s been passed around by delegates at the 16th Annual World AIDS

Conference in Toronto Canada. Why? Because *Damon and Hunter* is singular in its [sic] compassionate, human, frank, and erotic depiction of gay love and gay sex (2006c, p. 1).

As *Damon and Hunter's* X18+ classification – and classification exemption refusal – shows, educational merit lacks influence when it comes to securing the lawful public exhibition of images of actual sex. This is despite it being able to secure an R18+ classification for images of real death. Such variability, however, is consistent with offence based assessment. While educational merit has the power to stop norm transgression when it comes to real death, it has no bearing on the relevant norms regarding actual sex. The extent of transgression remains unchanged.

Artistic merit, as image justification, is conversely weighted towards R18+ classification here, and Comstock has argued this is premised – for Australian classification purposes – on rejecting 'positive erotic context' (Comstock, 2008, p. 1).

Contextualized by ennui, cynicism, boredom, brutality, disenfranchisement, disconnection, or disaffection, and real sex is "art". But if sex makes people happy, then it's porn. And if it's porn it can't be shown in a theatre, a film festival, or sold in a DVD shop (Comstock, 2008, p. 1).

Results may often reflect this. However, it is not the whole story. While the 2004 drama *Mysterious Skin* does not feature images of actual sex, its report illustrates the ambit of artistic merit well for classification purposes. As the Classification Review Board writes:

[t]he film's artistic merit stems from the tight and restrained direction, the evocative use of music and imagery, strong character development and dialogue, as well as the fine acting and the film's emotional impact and integrity (2005b, pp. 11-12)

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Indeed, for classification purposes, artistic merit is synonymous with seamless effects, superior acting, and serious exploration: everything that unsophisticated production values are not. Artistic merit was instrumental in spurring the Classification Review Board to permit images of actual sex, namely masturbation and fellatio, an R18+ classification for the first time, in January 2000. Here, it superseded the classification refusal of the French art house film *Romance* (1999), finding the film was:

- a) of serious intent and considered by many to have artistic merit
- b) not exploitative or gratuitous
- c) generally a thought provoking discourse on the role and experience of a woman in a couple relationship from a radical feminist perspective and that it contains few popular entertainment values
- d) likely to appeal to a relatively sophisticated section of the public with some familiarity with the issues it raises (Classification Review Board, 2000a, pp.5-6).¹¹⁸

Each of the Classification Review Board's points speaks to artistic merit. However, b) also confirms the images of actual sex are justified by context, and c) and d) indicate the Board was further swayed by the belief that audience numbers would be minimal. This limits the transgression of privacy norms. Yet, c) and d) also indicate it was not merely a small audience the Classification Review Board was anticipating but a certain type of patron (sophisticated) attending for a specific purpose (intellectual stimulation). Indeed, they did not

¹¹⁸ Lettering as featured in the report.

foresee anyone attending in the hope of becoming sexually aroused, further limiting the potential for norm transgression.

The Act's inclusion of artistic merit as mitigation is considered by some to promote elitism (Vnuk, 2003, pp. 214-215; Mills, 2001, p. 137; Patten quoted in Hawker, 2015). Indeed, the above reading of *Romance* suggests artistic merit – for classification purposes – is akin to high art (Mills, 2001, p. 119). This is also supported by the Act's further inclusion of the words 'if any' (s 11(b)).¹¹⁹ Clearly, legislators were anticipating times when artistic merit would be absent (Vnuk, 2003, p. 215). High art can be understood as art that is revered by high culture (Goodall, 1995, p. xiii). While the high art and high culture labels have both been described as 'popular terms rather than concepts', their continued use indicates 'that people still notice a relationship between culture and class' (Gans, 1999, p. 8). Their opposites then are low art and low culture (Mills, 2001, p. 137; see also Goodall, 1995).¹²⁰ Low art is often referred to as trash (Mills, 2001, p. 137); a word which itself ordinarily denotes undesirability, worthlessness, and disgust, especially when directed towards that which does not belong. While there is of course potential for overlap (Gans, 1999, pp. 8-9), unsophisticated people are broadly said to shun high art in favour of low art, although such viewing is also a factor that – in line with disgust's contaminating power – can paradoxically render them unsophisticated (Kelly, 2011, p. 19). These people are then also perceived as more likely to transgress at least some of the norms held dear to the sophisticated,¹²¹ even those privileged by the classification/classification system.

¹¹⁹ In full, this refers to 'the literary, artistic or educational merit (if any) of the publication, film or computer game'.

¹²⁰ Some also refer to low culture as popular culture (Gans, 1999, p. 8). Gans however, argues there are more than two cultures. He perceives low (or popular) culture as being more specific and nuanced than simply the opposite of high culture (Gans, 1999, p. 95).

¹²¹ As illustrated by Williams Miller's observations that people typically perceive those who interact with the disgusting as falling into one of three categories: 'protohuman like children, subhuman like the mad, or suprahuman like saints' (1997, p.11). The protohuman and subhuman categories embody unsophistication and norm breaking.

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Artistic merit was integral in permitting the R18+ classification of *Destricted* (2006) in April 2008. Featuring seven short films,¹²² this DVD includes some of the most explicit images of actual sex ever permitted national release. Here, talented and well respected filmmakers were invited to ‘explore the fine line where art and pornography intersect’ (Revolver Entertainment, n.d., p. 1). These short films each accord with the points raised by the Classification Review Board regarding *Romance*. They also do not feature a conventional narrative nor do they belong to any well-known genre, further distinguishing them as artistic fare. One of *Destricted’s* short films is Larry Clark’s *Impaled*. Shot as a documentary, this film explores the role of filmic pornography in the lives of both young male viewers and female porn stars. Here, one male is chosen to have actual sex – oral, anal and vaginal – with the porn star of his choice. The sometimes awkward results are then shown explicitly and unashamedly. Indeed, the encounter produces not only sperm but faeces as well, increasing the potential for core disgust. As the male participant uncomfortably states, ‘Yeah, I was a little grossed out by it ... but it was still a good experience’ (*Destricted*, 2006). The sex is voyeuristically shot, making viewers feel like they are standing in the room, and there is little – sometimes nothing – employed to shield viewers’ eyes. The sex is obviously consensual. However, its lack of passion is unmistakable; the man clearly ill-at-ease in front of the camera. All of these factors combine to make viewing cringeworthy rather than titillating.

¹²² There is also a version that features eight short films. However, this has not been submitted for classification in Australia.

Another of *Destricted's* inclusions is Matthew Barney's *Hoist*. This features a naked man strapped to the underside of a truck, rubbing his penis against the moving drive shaft, which he has carefully coated with his own semen. A flower is perched in his mouth, while what appears to be its bulb protrudes from his anus; a curiosity which appears nothing like a real life sexual encounter. While both *Hoist* and *Impaled* accord with the characteristics of artistic merit privileged by the classification/censorship system, their status as high art has understandably been questioned (Foundas, 2006; Bradshaw, 2006). Indeed, perhaps when it comes to images of actual sex, artistic merit can better be understood as embodying two categories: that which distils the sex act to its mere parts, distancing itself from sex norms altogether; and high art, which has the potential to justify images that are both real and realistically presented.

Bestiality

In 2012, both the Melbourne and Sydney Underground Film Festivals were permitted to screen the documentary *Donkey Love* (2012). Billed as '[f]unny, shocking and controversial', this film is said to document the 'unknown tradition of Colombians having sex and falling in love with donkeys' (Donkey Love, n.d., p. 1). To do this, however, it features images of actual bestiality. This means *Donkey Love* not only breaches Australia's privacy norms regarding sex, but those prohibiting the exploitation of animals by humans for sexual pleasure as well. These norms are arguably

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stronger than those pertaining to both privacy and sexual arousal. Indeed, if *Donkey Love* had been filmed in Australia, they would have been shooting a crime.

The Guidelines do not merely flag images of bestiality as warranting closer scrutiny. They are the only images it expressly prohibits without the use of threshold words (*Guidelines for the Classification of Films 2012*, p. 15).¹²³ Indeed, the fact *Donkey Love* was permitted classification exemption at all highlights the immense discretion afforded classifiers/censors. Nowhere else can legal error otherwise be so easily argued. While the sway of educational merit has already been dismissed, at least regarding overtly explicit and titillating images of actual sex, there is no way of knowing – in the absence of a written report – whether educational merit was at all influential in this documentary setting. However, production techniques are employed to shield viewers from the bestiality act, and humour is also present; the former providing privacy, while they both diminish sexual arousal potential in viewers who are thus inclined. These are the only norms relevant when permitting images of actual sex public exhibition and national release.

Love: an addendum

In September 2015, Gaspar Noé's romantic drama *Love* (2015) was classified R18+. This occurred after it was permitted film festival release in 3D; one of the first films sanctioned under the new system where film festivals themselves are responsible for evaluation. *Love* explores the passionate – but doomed – relationship between Murphy and Electra.

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¹²³ Here the Guidelines state, 'Films will be refused classification if they include or contain any of the following: ... Depictions of practices such as bestiality'.

It is also one of the most sexually explicit R18+ films to date. Indeed, its Australian distributor had even secured Noé's permission to have the film cut if needed, prior to submission (Hawker, 2015). *Love* features multiple images of oral and vaginal sex – as well as masturbation – that are clearly visible, sustained, and as realistic as they are real. As one cinemagoer declared, 'you will be checking your hair for spunk by end of the night' (Harrison, 2015, p. 1). Its images are also arguably titillating, with Noé himself professing the film was intended to 'give guys a hard-on and make girls cry' (Lyttelton, 2015, p. 1). Such presentation is ostensibly weighted against R18+ classification, as a minority of the Classification Board argued (Classification Board, 2015b, p. 3).¹²⁴ The majority, however, clearly disagreed. Indeed, they did not attempt to identify any minimising production techniques or construct an absence of titillation; both deemed pivotal in previous classification decisions. They were also silent regarding artistic merit, even though – as a French art house film made by a respected director – *Love* was clearly able to reap its mitigating benefits.

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When it came to *Love*'s images of actual sex, the only factor recorded as swaying the Classification Board's majority was context justification; its members deeming the images 'relevant' as 'part of a genuine exploration of sexuality, love and relationship issues' (Classification Board, 2015b, p. 2). Here, the decision to champion storyline consideration would undoubtedly have been celebrated by English filmmaker Michael Winterbottom. He was inspired to create *9 Songs* (2004) after

¹²⁴ The minority also argued that classification refusal was warranted because one of the characters participating in the actual sex professed to only be 16 years old.

reading 'Michel Houellebecq's sexually explicit novel *Platform*' (Accent Film Entertainment, 2009, p. 3).¹²⁵ 'It's a great book, full of explicit sex and again I was thinking, how come books can do this but film, which is far greater disposed to it, can't (Winterbottom quoted in Accent Film Entertainment, 2009, p. 3). A romantic drama, *9 Songs* tells the story of Matt and Lisa's ill-fated relationship, and predominately features concert scenes interspersed with sex scenes – some of them actual. This resulted in the film being classified X18+ by the Classification Board in November 2004. The Classification Review Board then classified it R18+ six months later, before the South Australian Classification Council reinstated its original classification, much to the ire of Winterbottom who declared the film 'isn't pornography' (Pomeranz, 2006, p. 1).

[I]f you watch a porn movie, you watch a bunch of porn movies, and then watch *9 Songs* – however you define pornography, *9 Songs* just doesn't look like the porn movies, doesn't sound like them. It just doesn't have the same effect as them (Pomeranz, 2006, p. 1).

This effectively echoes Justice Stewart's declaration in 1964, regarding pornography identification: 'I know it when I see it' (*Jacobellis v Ohio*, 1964, para. 14).

While only time will tell, perhaps storyline consideration is the future of R18+/X18+ distinction in Australia. After all, given their preoccupation with actual sex, X18+ films are often implied – in mainstream circles at least – as being incapable of featuring a meaningful narrative (Bennet, 2013;¹²⁶ see also, Brinkema, 2006). While inevitably perpetuating this stereotype, a storyline focus – with a mainstream bent – would allow the vast majority of films that feature images of actual sex and are made for public exhibition, an R18+ classification. It would even have the potential to permit the films from Tony Comstock's *Real*

¹²⁵ Italics added.

¹²⁶ While taken from a 1948 case, the title selected for this article – "*Just plain dirt and nothing else*"? – indicates this statement is just as representative of at least some people's views today.

Life Real People Real Sex series. After all, with their concerted participant interviews, these films are undeniably story focussed; the hard core images complementing that which is discussed. Ultimately, it would depend on how the classification/censorship system chooses to define a 'genuine exploration' (Classification Board, 2015b, p. 2); where it believes the licit image boundaries should go.

Children

Images of sex and violence are refused classification when they 'offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified' (*National Classification Code (May 2005)* clause 3(1)(a)). So too are images of children. However, clause 3(1)(b) of the Code also permits them classification refusal when they are considered 'likely to cause offence to a reasonable adult'. This wording is identical to that used in clause 3(2)(a) of the Code regarding images of actual sex and the X18+ classification. In this latter context, it was established that consideration of broad community views was needed (*Adultshop.com Ltd v Members of the Classification Review Board*, 2007, para. 170). Therefore, it follows such consideration is again required; the clause's reference to offence then making scrutiny of both core and moral elicitors warranted.

In the case of sex and violence, the characteristics of the images are paramount for classification purposes. While this remains determinate here, consideration of the actors themselves is also important. Indeed, clause 3(1)(b) is irrelevant when the actors are adults and clearly portrayed as such. While the *Troma Intelligence Test* images were refused classification under clause 3(1)(a), they could also have been so classified under clause 3(1)(b), as the Classification Board specifically objected to its images of violence against children. In practice, however, while clause 3(1)(b) states its use is not limited to sexual

situations, these are the images to which it is applied. This also accords with the Guidelines declaration that images of 'child sexual abuse' or any other 'exploitative or offensive' images of minors will be refused classification (p. 15).¹²⁷

Looking beyond the classification system, many of the norms – and laws – which govern sexual activity in Australia are dependent on the age of those involved. However, as a general statement, there are both laws and norms prohibiting people from engaging in sexual activity with children. Sex alone is a core disgust elicitor. However, when it comes to norms, the closer the participants are in age to each other and to the legal age of consent, the less potent the prohibiting norms are, although extent also depends on the individuals themselves, their backgrounds, and what actually occurred. These factors are not only relevant regarding moral disgust determination, but that of core/empathetic and moral anger as well. Indeed, when it comes to teenage encounters, sexual desire alone can be incredibly persuasive. However, so too can peer pressure, and any type of coercion has the potential to elicit anger via its links to harm and rights violation.

In contrast to encounters between teenaged minors, prohibiting norms are always powerful when one party is an adult and the other is a small child. Here, intense anger and disgust will always be elicited on both core and moral levels, even when factors are present that could otherwise mitigate anger, such as the adult's mental impairment. This reflects the gravity of the situation. Child pornography is similarly condemned by norms and laws, and comparable emotions are felt when they are transgressed. After all, the material itself is often evidence of the aforementioned abuse occurring. In this situation, however, it is not only the adult participants' behaviour that is denounced but also those who disseminate and possess the offending material. Indeed, viewing need not even be established for prosecution in

¹²⁷ In full this reads, 'Films will be refused classification if they include or contain ... [d]escriptions or depictions of child sexual abuse or any other exploitative or offensive descriptions or depictions involving a person who is, or appears to be, a child under 18 years'.

Australia.¹²⁸ Yet, when it comes to norms relating to the prohibition of child pornography, it is the act of consumption via watching that ultimately lies at the heart of their transgression. This is likely to be the first transgressive act thought of when someone has been found with it in their possession.

Historically, child pornography was prohibited under regulation 4A of the *Customs (Prohibited Imports) Regulations* (Cth). This was in place long before VHS technology and then the Internet spurred its dissemination in filmic form. The term “child pornography” – as an image warranting classification refusal – was then included in the classification guidelines until the current legislation came into force on 1 January 1996. Indeed, child pornography prevention and the classification/censorship system have long been entwined. Even today, police are allowed to submit seized material for classification, and it is here where lines can become increasingly blurred.¹²⁹ After all, child pornography – or child exploitation material as it is now legally known in many Australian jurisdictions – has long been considered a criminal matter in Australia.¹³⁰

The term “child pornography” is no longer used in the classification/censorship legislation. However, the Code’s clause 3(1)(b) bears a striking resemblance to many of the child exploitation material provisions featured in Australia’s criminal laws. The term ‘sexual activity’ – for example – is used in the *Criminal Consolidation Act 1935* (SA) (s 62(a)(i) (definition of ‘sexual activity’)), as well as clause 3(1)(b) of the Code. While the classification legislation also employs this term regarding adults, its use here is particularly pertinent, as sexual activity is potentially broader than what has been identified as actual sex for

¹²⁸ This is in accordance with the criminal laws of each jurisdiction.

¹²⁹ A positive classification is a defence to prosecution in all Australian jurisdictions under their respective criminal laws, except for the Australian Capital Territory.

¹³⁰ The term “child exploitation material” is used in South Australia, the Australian Capital Territory, Western Australia, Tasmania and Queensland. The Northern Territory and New South Wales instead refer to it as “child abuse material”. Victoria, however, still uses the “child pornography” label, and in Western Australia “child pornography” forms part of the definition of “child exploitation material”.

classification purposes (*Guidelines for the Classification of Films 2012*, p. 16). Indeed, neither the Code nor the Guidelines distinguish between real and simulation when it comes to images of children. After all, there are some activities child actors can never simulate.

For an image to be considered child exploitation material under South Australia's *Criminal Law Consolidation Act 1935*, it must also be 'of a pornographic nature' (s 62 (definition of 'child exploitation material')). The definition of this then revolves around the satisfaction of sexual, sadistic or other perverted interests (s 62 (definition of 'pornographic nature')).¹³¹ The Code, however, does not reference titillation in this context. Neither does the Act or Guidelines. Indeed, this is clearly one of the main factors used in South Australia to determine whether images of children belong with the classification/censorship system or the police. Material created for commercial release typically falls well outside the current legal definition of child exploitation material, patently distinct in both its look and intent. However, clause 3(1)(b) of the Code can be seen as targeting material, which legally replicates the aspects of child pornography that make it most offensive. Such is the sacredness of children in Australian society. These aspects can be seen in images that fall into two broad categories: children presented as sexual objects for adult consumption, and children presented as sexual beings. Unlike with child pornography, however, consumption here refers only to that of the adult characters, not the viewers' themselves.

All of the images of children that have been refused classification under the current legislation fall into one of these categories. Indeed, such images clearly have immense capacity to elicit core and moral disgust and anger. Images from both categories, however, have also been classified R18+. This means there are factors, which heighten and reduce offence elicitation respectively. Analysis of images of violence and sex has shown that the most intense emotions are elicited when the images are real rather than simulated. Yet here,

¹³¹ In full, the definition of 'pornographic nature' states, 'intended or apparently intended to excite or gratify sexual interest; or to excite or gratify a sadistic or other perverted interest in violence or cruelty'.

the images can never be real – in the same way – as this would make them bona fide child exploitation material. It is instead their ties to child pornography – which is itself linked to reality – that regulates intensity here. For norms to be considered community standards their acceptance must be decidedly widespread. This is clearly the case regarding norms prohibiting child pornography. Indeed, the child pornography label alone is intensely evocative, which is perhaps why the term – like pornography itself – is not used in legislation today. The child pornography label – as a reference to child exploitation material – is well known and well used in the community. However, perceptions regarding the images that fall just outside of this – those with which the classification/censorship system ultimately deals – are likely to be far less uniform. Yet, it is not the offence caused by a real life norm transgression that the classification system is striving to prevent here. It is instead offence via the polluting effect of the illegal images with which they are associated. Such is the power of contamination.

Children presented as sexual objects for adult consumption

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Children presented as sexual objects for adult consumption is the category that most readily accords with the ethos of child pornography. In the films that have been refused classification for featuring such images, the children are also depicted as powerless, and the acts being done to them as acceptable – even desirable – behaviour, conceptually aligning them further with this illegal material. Such images can clearly be seen in the hentai film *Holy Virgins*, which was refused classification upon review in

July 2008. This film follows a doctor and nurse team as they 'investigate the narcolepsy of a novice (a holy virgin) in a convent' (Classification Review Board, 2008c, p. 3). Here, a minority of the Classification Review Board noted that anime films often employ 'styling that shows characters as being young and this includes large eyes and small chins such as seen on young persons' (Classification Review Board, 2008c, p. 5). This alone 'does not depict the characters as childlike or as children' (Classification Review Board, 2008c, p. 5). However, as the majority observed:

[t]he [problematic] character is shown as being much shorter than the others in the story, wears pigtails tied with red ribbons, holds a teddy bear such as a child would in seeking comfort, and – in the scene where she unwittingly participates in fellatio on the instructions of the doctor – she is shown kneeling before the doctor with him patting her head as if she is a child (Classification Review Board, 2008c, p. 4).

Here, there was – of course – no real child involved in production. If there was, *Holy Virgins* would clearly have been destined for the police rather than the classification/censorship

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system. However, as hentai is essentially animated pornography, the images are not presented in a condemning fashion and they are not discreet; two factors that would have steered this work away from any child pornography connections. Indeed, in many ways, this is as close to child exploitation material as a film can be without being so labelled.

The Spanish drama *In a Glass Cage* (1986)¹³² also features images of children presented as sexual

¹³² *In a Glass Cage* is also known as *Tras el Cristal*.

objects for adult consumption. This film tells the story of Klaus who, as a Nazi doctor, conducted abhorrent experiments on children from which he derived a perverse sexual pleasure. Now housebound, confined to an iron lung, all Klaus can do is wait as his new nurse exacts the ultimate revenge. *In a Glass Cage* was sensationally refused classification exemption for inclusion in the 1995 Mardi Gras Film Festival (Office of Film and Literature Classification, 1994-1995, p. 27). This decision was upheld by the Classification Review Board, and the case to have this overturned was then dismissed by the Federal Court (*Queer Screen Limited v the Chief Censor*, 1995); the festival organisers' last recourse. In February 2005, *In a Glass Cage* was formally refused classification. This was confirmed upon review three months later.

In a Glass Cage contains many images identified as problematic for classification purposes. These include: the off screen beating of a boy who is dangling naked from a beam by his wrists; another boy's slow and agonising death after a needle is violently plunged into his chest; and the stripping of a young boy as he is made to sing, the pitiful sound echoing until his throat is slit off screen (Classification Board, 2005c, p 2; Classification Review Board, 2005d, pp. 3-4). Each of these implicitly occurs for Klaus' sexual gratification. Unlike *Holy Virgin's* animation, these images are rich in visual verisimilitude, although production techniques are often employed to shield viewers' eyes. These techniques also reduce what is required from the child actors, suggesting they have the potential to extricate challenging images of children from their child pornography ties, even though this did not eventuate here.

In a Glass Cage boasts considerable artistic merit (Classification Review Board, 2005d, p. 6). This led the Classification Review Board to conclude 'that any likely audience would be serious and educated film goers interested in art house cinema' (2005d, p. 6). Indeed, it was not anticipating viewers seeking to ogle children; the film itself being declared 'serious' and 'not intended to titillate' (Classification Review Board, 2005d, p. 6). This film clearly displays

a level of artistic merit that *Holy Virgins* does not. However, its presence here – both as image justification and the limited audience it affords – was still unable to displace the film’s child pornography links. As this shows, the mitigating effects of artistic merit are severely limited when it comes to challenging images of children.

Narrative always has the potential to increase – and reduce – offence elicited by filmic images. For classification purposes, however, it is with images of children that narrative has the most sway. After all, this plays a significant part in determining how the characters are depicted, and what the actors are required to do. When it came to *In a Glass Cage*, the Classification Review Board went even further, noting that while the film did not condone the abuse per se, it ‘did not have a satisfactory resolution’ either (Classification Review Board, 2005d, p. 5). This further strengthens the film’s child pornography links, sending out the same message as its illegal counterpart: ‘In the end it appears that the violence and abuse of children will continue’ (Classification Review Board, 2005d, p. 5).

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A Serbian Film (2010) too includes images of children presented as sexual objects for adult consumption. Masterful in its technical effects, this horror film tells the story of Milos: a husband, father and ex-porn star, who has been lured back for one final production. There was no way he could have known, however, the unspeakable horrors this decision would bring. Indeed, as one critic stated, *A Serbian Film* ‘crosses the line like it wasn’t even there, then it goes across another line that you didn’t know existed before coming to

a close’ (Quint, 2010, p. 1). *A Serbian Film* boasts a convoluted classification history. It was first refused classification in November 2010. While a cut version was again refused

classification in February 2011, a further cut version was classified R18+ two months later. This version was then refused classification on review in September 2011. However, it had already been refused classification in South Australia on 18 August 2011, one day before its Australian release (Rau, 2011).

The version briefly classified R18+ does not feature the notorious 'Newborn Porn' scene, which was filmed using a lifelike doll (Critical Dave, 2011, p. 1; see also Richardson, 2016, p. 1). However, it still includes many challenging images of children, such as a dazed Milos being tricked into viciously raping his own six year old son, while the boy lay drugged under a sheet. This is one of the images the Classification Review Board found unacceptably offensive (2011c, p. 5). The Board then went on to argue that the film presents 'sexual contact' between adults and children 'as desirable and enjoyable', 'promot[ing] paedophile activity' (2011c, p. 5). While this accords with the film's narrative regarding those responsible for Milos' downfall, it does not speak to his experience. Indeed, the man is clearly distraught by his actions. Yet looking solely at the film's images, *A Serbian Film* additionally features a rapid montage that is shown to Milos by his blackmailers. This displays benign images of children interspersed with images of adults in sexual positions; the blending of viewer reactions – and the tacit approval of this via exhibition – making it the most uncomfortable sequence of all.

The norms that prohibit paedophilia and child pornography are related but distinct. Indeed, the latter is associated with vision, while the former is predicated on action. The Guidelines, however, specifically warn paedophilia promotion and instruction warrants classification refusal (p. 15).¹³³ While its ties to harm prevention are undeniable, such prohibition can also be explained using the classification/censorship system's offence based model. Here, the Classification Review Board is concerned not with disgust and anger elicited through the act

¹³³ In full this reads, 'Films will be refused classification if they include or contain ... [t]he promotion or provision of instruction in paedophile activity'.

of viewing but via the thought of what these images may lead viewers to do. Indeed, when it comes to offence elicitation here, the validity of concerns is inconsequential; belief is enough.

Two R18+ films that present children as sexual objects for adult consumption are *Mysterious Skin* (2004) and *Salò, or the 120 Days of Sodom* (1975).

The former was classified R18+ in April 2005 and again upon review five months later. This film follows the lives of Neil McCormick and Brian Lackey who were both sexually assaulted by their baseball coach in 1981, when they were only eight years old.

Forever coupled by this horrific event, their lives diverge only to be reconnected eleven years later as they both struggle to fully comprehend what has happened to them. In the case of *Mysterious Skin*,

paedophilia is not explicitly depicted, although minors are featured in some of the challenging scenes. Child sexual abuse, however, is described on multiple occasions, leading the South Australian Attorney-General Michael Atkinson to infamously label the film a 'how-to manual of sexual abuse against boys' (Colvin, 2005, p. 1). This allegation was duly refuted by the Classification Review Board (2005b, p. 12). However, it was the film's ability to educate – in a beneficial rather than sinister way – that ultimately permitted its R18+ classification. As the Classification Review Board writes:

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the film has significant educational merit in informing adults of the consequences of child sexual abuse and powerfully exposing it as a vile crime. The film presents a realistic depiction of the horrors of this crime and demonstrates the serious

consequences and loss of innocence of children who fall victim to such criminal activity (2005b, p. 12).

This demonstrates that educational merit – for classification purposes – is not limited to documentary films. Indeed, it was the positive context this provides, which justified *Mysterious Skin*'s fictional – albeit realistic – content, severing any potential child pornography links. Here, however, the film's educational message can also be seen as aligning with paedophilia prevention. Not only is this cause championed by the classification/censorship system, it also accords with – rather than transgresses – norms, further reducing the potential for moral disgust and anger elicitation.

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While falling into the same broad category here, the images of children presented in *Salò* are vastly different to those in *Mysterious Skin*. Indeed, when it comes to *Salò*, the teenaged characters are played by adult actors, and the film's sexually abusive stance towards them does not waver. As a film, *Salò* is inherently divisive. While some champion it as an masterpiece (Sharrett, 2013), others have asserted it 'luxuriates in its own vileness' (Salo's release was wrong, 1993, p. 17). While there are

many images that have undoubtedly led to this discord, those featuring the naked teenaged captives include: them being forced to wear collars and behave like dogs; the Duke coercing a distressed female to eat faeces; and the President burning one of the captives' penis with a candle.

While *Salò* has been classified R18+ since April 2010, it boasts a seemingly endless classification history. Beginning in 1976, this includes numerous Classification and Classification Review Board submissions resulting in either an R18+ or RC;¹³⁴ the latest classification refusal bid concluding unsuccessfully in the Federal Court on 31 August 2011 (*FamilyVoice Australia v Members of the Classification Review Board*). *Salò* revels in its images of powerless children presented as sexual objects for adult consumption. This is true even though the film's protagonists are clearly moving towards implosion, and emulation is not communicated as enticing. Image scrutiny, however, changed in April 2010, for classification purposes, as *Salò* was – for the first time – submitted for classification with a bonus disc. This disc contains four documentaries exploring *Salò*'s creation and power, as well as Pasolini's filmography and life. It also includes a short film about his death. *Salò*'s images had not been perceptibly changed.¹³⁵ However, this addition deftly altered their context. No longer was *Salò* seen as peddling unjustifiable images of children with ties to child pornography, but as a filmic artefact beneficially brimming with history, culture, and allegorical message.¹³⁶

Children presented as sexual beings

The second category is children presented as sexual beings. Here, children are depicted as being in charge of their own sexuality and sexual behaviour, or at least as though they are navigating the situation on their own terms. In these situations, simulated sexual behaviour is always – as far as can be ascertained – permitted an R18+ classification, while real sexual

¹³⁴ More specifically, *Salò* was classified RC in March 1976, April 1976, June 1992, and December 1992; R18+ in January 1993, August 1997, and October 1997; RC in February 1998, March 1998, and July 2008; and R18+ in April 2010, and May 2010. This is according to the Classification and Classification Review Board reports.

¹³⁵ Different releases may, however, vary slightly.

¹³⁶ *Salò* is widely considered to be an allegory for fascism (Foster, 2010).

activity is refused classification.¹³⁷ Indeed, when children are presented as un-coerced sexual beings, the only aspect linking these films to child pornography is the realness of the sex act. However, as sexual activity is broader than simply actual sex, analysis is still needed to elucidate how this is assessed for classification purposes.

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Adrian Lyne's version of *Lolita* (1997) is of particular relevance here.¹³⁸ Classified R18+ in March 1999 and July 2006, this film charts the demise of Humbert Humbert – a middle aged college professor – who marries a woman after falling in love with her 14 year old daughter Dolores.

She was Lo, plain Lo, in the morning, standing four feet ten in one sock. She was Lola in slacks, she was Dolly at school. She was Dolores on the dotted line. But in my arms she was always – Lolita. Light of my life, fire of my loins. My sin. My soul (*Lolita*, 1997).

From this quotation it may appear like Dolores – played by 15 year old Dominique Swain – is actually being depicted as a sexual object for adult consumption. In the film, however, she is presented as an under-aged temptress, instigating the sexual encounters at her own behest. The relationship is also presented as pleasurable for both parties, at least initially. To some it may seem like the classification/censorship system should find such images inherently unacceptable. Indeed, the 1997 release of this film in Australia sparked much controversy

¹³⁷ In accordance with clause 3(2)(a) of the Code and page 14 of the Guidelines, the X18+ classification is not an option here.

¹³⁸ This is not to be confused with Stanley Kubrick's 1962 film of the same name, which stars James Mason as Humbert Humbert and Sue Lyon as Dolores. This film was classified M in January 1985.

(Office of Film and Literature Classification, 1998-1999a, p. 68). After all, a sexual relationship between a middle aged man and an adolescent girl clearly has much potential to elicit anger and disgust on both core and moral levels. However, when the classification/censorship system is understood as one that is primarily concerned with stopping offence elicitation linked to real life norm transgressions – not fictitious violations – *Lolita's* R18+ classification is entirely consistent. Indeed, despite this film being rich in verisimilitude and featuring a child actor, it includes no child nudity and no real sexual activity;¹³⁹ nothing to tie it to child pornography. While some detractors conversely argued the film promotes paedophilia (Office of Film and Literature Classification, 1999-2000, p. 42), this view was clearly not shared by the Classification Board. It has never been refused classification.

The drama *Palindromes* (2004) is another R18+ film that presents children as sexual beings.¹⁴⁰ This film documents 13 year old Aviva's quest to become pregnant. One of her sexual encounters is with a middle aged truck driver named Joe. The first time Joe and Aviva have sex is at a roadside motel. This occurs under the bedcovers, as classical music plays in the background; Joe rocking back and forth gently on top of her. They are silent and Aviva's face shows no emotion. She rolls over and he begins rocking again. 'Can you still get pregnant when it goes in there?' asks Aviva innocently (*Palindromes*, 2004). In the case of *Lolita*, all of the sexual activity took place off screen, and when it came to *Palindromes*, production techniques minimising what

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¹³⁹ In this instance at least, kissing on the mouth was insufficient to reach the threshold of sexual activity.

¹⁴⁰ This film was classified R18+ in May 2005 and on review two months later. It was again classified R18+ December that same year.

the viewer sees proved similarly influential. As the Classification Review Board writes:

Palindromes was a challenging film to classify as it depicts simulated under-age and paedophile sex scenes involving a 13 year old girl. However, the depictions are very restrained, they are neither prolonged nor detailed and there is no nudity or genitalia shown (2005c, p. 6).

The Classification Review Board was also persuaded by the film's serious context, finding the above images to not be 'glamorised' in any way (2005c, p. 6). This also helped to sever

any potential child pornography links, as well as possible ties to paedophilia promotion.

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The image presentation in *Palindromes* and *Lolita* can be contrasted with that featured in the R18+ hentai films, *T & A Teacher* and *Classes in Seduction*. As their names suggest, these films also present teenagers as sexual beings, here in the context of teacher-student and student-student relationships. As the Classification Review Board notes, 21 minutes into *Classes in Seduction*:

the Professor is depicted participating in a sex scene with three male students. She fellates one, digitally masturbates a second while engaging in vaginal intercourse with a third. Two male students ejaculate on her buttocks and the third ejaculates on her face (2008b, p. 4).

Real children are – of course – not involved in this scene; although in true anime style, minimising production techniques and solemnity are also absent. Unlike in *Holy Virgins*, however, all the minors are presented as fully aware participants. The Classification Review Board also believed the non-teacher participants look more like ‘young adults rather than school-age students’ (Classification Review Board, 2008b, p. 4). This was enough to sever any potential child pornography links; such is the sway of animation.

Larry Clark’s *Ken Park* (2002) is one of the RC films that present children as sexual beings. It was refused classification in May 2003 and again on review the following month; its teenaged characters considered not only to be participating in sexual activity deemed unacceptable for R18+ classification but actual sex as well (Classification Board, 2003b, p. 2; Classification Review Board, 2003, p. 4). This includes a lengthy ménage à trois, complete with explicit images of actual masturbation, fellatio, cunnilingus and digital penetration. Previous discussion regarding the classification/censorship of images of actual

sex is again relevant here, although the involvement of teenaged minors – played by adult actors – adds another layer of complexity when considering moral disgust elicitation, as well as core/empathetic and moral anger.

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Ultimately, *Ken Park* was refused classification for its images of actual sex (Classification Board, 2003b, pp. 2-3; Classification Review Board, 2003, p. 8).¹⁴¹ These not only irrevocably link the film to child pornography – for classification purposes – they also mean it

¹⁴¹ The Classification Review Board also objected to a scene where Claude’s father tries to sexually abuse him before Claude swiftly – and easily – fights him off.

unacceptably transgresses norms regarding sex and privacy. *Ken Park*, however, also features images of realistically simulated sex that would otherwise have gained R18+ classification (Classification Board, 2003b, p. 3; Classification Review Board, 2003, p. 5). Confronting in their blatancy, this includes images of Shaun performing oral sex on his girlfriend's mother. Shot from her perspective, his head can be seen moving between her naked legs, as viewers are left to imagine the activity of his tongue and the state of his erection. 'Moaning, she instructs him to slow, to stay, to move with her hips' (Dalton and Schubert, 2011, p. 39). 'That's a good boy Shawn. A good boy' (Ken Park, 2002). Here, the comparatively advanced ages of both the child character and actor were clearly influential in these images being deemed R18+ standard; a combination that proved similarly persuasive regarding all *Ken Park's* simulated sex scenes. The Boards did not have documentation confirming the actors were in fact young adults (Classification Review Board, 2003, p. 8). However, even if they had been minors, the closer actors are to adulthood, the more sexual activity they able to simulate as they grow in awareness and autonomy. Conversely, from a character perspective: the closer participants are to the legal age of consent, the greater the image's distinction from child pornography, reducing offence via contamination to acceptable levels.

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The sway of both character and actor age is also evident in the 2013 classification refusal of the Swedish film *Children's Island* (1980).¹⁴² Logged in the classification database as *ACMA INV-0000-3781*, this film was submitted for classification by the Australian Communications and Media Authority. Unhappy with the R18+ it

¹⁴² *Children's Island* is also known as *Barnens Ö*.

initially received, the Australian Federal Police then submitted the film for review where it was refused classification. Set in Stockholm, *Children's Island* is 'a coming of age story in which a ten year old turning eleven year old boy contends with the imminent onset of puberty and his fear of sexual maturation' (Classification Review Board, 2013, p. 4). This boy – Reine – was played by 13 year old Tomas Fryk. The Classification Review Board found the scene where Reine was watching a sleeping naked woman particularly problematic.

He is breathing heavily, he is naked from the waist down, and the camera pans down from his face and chest (at 1.08.25) to his genital area. The boy's erect penis is clearly shown in a close up (at 1.08.30-33), and he touches the shaft of his penis tentatively. The camera pans back to his face and then returns to his penis which is slowly losing its erection (Classification Review Board, 2013, p. 5).

In these circumstances, this was considered sufficient to be labelled 'actual sexual activity' for classification purposes, precipitating the film's refusal (Classification Review Board, 2013, p. 5). *Children's Island* is over 35 years old. It is also revered in its country of origin, having won multiple prizes upon release (Knott, 2014). Indeed, there are clearly many who consider the film to have significant artistic merit. Consistent with this, *Children's Island* is unlikely to hold wide viewer appeal, especially in Australia. However, with its images of a naked 13 year old with an erection – who is presented as a 10 year old – these factors were insufficient to sever the film's child pornography links. In the eyes of Australia's classification/censorship system, these images remain unacceptably offensive.

Sexual Violence

Sexual violence pertaining to adults is the fourth broad image category that has caused films to be refused classification under the current legislation. Defined by the Guidelines as

'[s]exual assault or aggression, in which the victim does not consent' (p. 16), these images are refused classification under clause 3(1)(a) of the Code, meaning that inquiry into norm transgression is warranted. The Guidelines also state that refusal is required when such images are '[g]ratuitous, exploitative or offensive' (p. 15). Therefore, scrutiny of core elicitation is similarly necessary. Previous analysis has revealed that images of both sex and violence have the potential to elicit disgust and anger. The same considerations can be used here to establish elicitation, although when these two elicitors are combined, additional norms, harms and rights violations clearly need to be considered.

When it comes to sex and violence respectively, disgust and anger elicited by simulated images is unable to rise to the level required for classification refusal. Images of *actual* sex are also required to trigger the X18+ classification; a classification which is intrinsically linked with disgust and anger elicitation, and an act of censorship in its own right. Even when it comes to challenging images of children where the link to reality is via child pornography contamination, it still must be there in order for the elicited offence to be considered sufficiently high and wide. This is why fetishes were not discussed further in the context of images of sex. A decision to classify such images R18+ currently hinges on the realness of the sex act.¹⁴³ These findings suggest the same would be true for images of

¹⁴³ *Bondage Mansion's* R18+ classification provides apt example of this, although the 2007 Classification Board report for the film *No Body Is Perfect* (2006) is also informative here. This documentary, which explores unconventional sexual practices, features explicit images of actual sex and extreme images of fetishes such as body modification, blooding and apotemnophilia. Here, the Classification Board report makes it clear the RC classification was selected over R18+ because of the images of actual sex, and over X18+ because of the images of fetishes (which it labelled as violence) (2007d, p. 2). It may be argued, however, that *The Human Centipede II* (2011) provides exception to this chapter's assessment of fetishes because the Classification Review Board considered it to feature unacceptably offensive images of fetishes (as well as violence and sexual violence) when it refused the film classification in 2011 (2011b, p. 9). Here, one of the problematic scenes featured Martin masturbating with sand paper. The Classification Review Board labelled this a fetish, as well as the human centipede itself (2011b, pp. 6-7). A close up of the 'sand paper wank' was removed prior to the film's next Classification Board submission (Monster Pictures, 2011a, p. 1). Yet, other images of this remained, as did the film's central focus: Martin's human centipede fascination (Monster Pictures, 2011a, p. 1). Furthermore, no mention of fetishes was made in either of the film's Classification Board

sexual violence. However to date, all of the sexually violent images that have been refused classification have been simulated. Indeed, it is difficult to imagine a situation where real images of sexual violence would be submitted for classification. Even in the case of *Baise-Moi* (2000), while the sex itself is real, the accompanying violence is not. This thriller was classified R18+ in October 2001, only to be refused classification on review in May the following year; 16 days after it had been released in Australian cinemas.¹⁴⁴ Described as ‘Thelma and Louise on crack’ (Seccombe, 2002, p. 1), *Baise-Moi* follows the lives of two newfound friends: Nadine and Manu. Together they go on a poignant rampage of sex and violence, spurred on by their troubled pasts; a rampage, which can only lead to further heartbreak.

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In the case of sex and violence, having the real images displayed on the cinema (or other)¹⁴⁵ screen, leads to the transgression of norms that are present in everyday life. These norms are themselves independent of the film’s narrative. While filmic exhibition and the act of image viewing both lead to transgression, they too are otherwise unrelated. Indeed, when filmic images are removed from the equation entirely, the relevant norms are still operational. Australian society still demands that respect for the dead be shown, that sex and sexual arousal only occur in private, and that citizens not view (or create or disseminate) child pornography. When it comes to images of sexual violence – which are invariably simulated – perhaps a suitable norm could, in contrast, be fashioned around the images themselves; that

reports (2011a; 2011b); one of which was compiled before the cuts, and both of which resulted in an R18+. This indicates the Classification Board did not interpret the images as fetishes.

¹⁴⁴ It was again refused classification in August 2013.

¹⁴⁵ The location of the screen – and consequently its type – is irrelevant regarding images of real violence and challenging images of children. When it comes to images of actual sex, the pertinent norms are predicated on the public/private distinction, meaning the cinema screen is the most relevant.

the community has deemed a portion of them intrinsically unacceptable for adult viewing. Even if such a norm was asserted, however, it is unlikely it could ever be considered as deep-seated and widespread as the others on which the classification/censorship system relies. Indeed, there are entire genres premised on the inclusion of simulated images of sexual violence with devoted fans that proudly and – when possible – publicly consume the films that comprise them. However, regardless of whether the issue is tentatively framed as one of norm transgression – as described above – or unacceptable core offence, images of sexual violence must still be classified and censored like all others: with reference to impact and image justification.

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When it comes to images of sexual violence, production techniques that minimise impact by shielding viewers' eyes are clearly favoured. This is evident in the R18+ classification of Gaspar Noé's thriller *Irreversible* (2002).¹⁴⁶ Told in reverse, this film is a distressing tale of hope, revelry,

brutality and revenge, which features the vicious rape of Alex – one of the central characters – by Le Tenia. Described by some as 'unwatchable' (Ebert, 2003, p. 1), this scene lasts in excess of nine minutes; a factor, which could easily be considered aggravating for classification purposes. However, according to the Classification Review Board, '[t]he implied anal rape – while a high-impact scene – is restrained in its portrayal of a deeply offensive act' (Classification Review Board, 2004b, p. 5).

¹⁴⁶ This film was classified R18+ in November 2003; its R18+ classification confirmed upon review in July 2004, and upon further classification submissions in July 2004 and March 2005.

The man is fully clothed throughout; Alex is clothed for the most part and only partially naked at the end of the scene after her dress is torn; Tenia's penis is not shown throughout the rape – although there is a fleeting depiction of his tumescent penis when he rolls off Alex; the rape of Alex is implied only – no penetration is shown (Classification Review Board, 2004b, p. 5).

This can be contrasted with *Baise-Moi* (2000) where the rapist's naked erect penis, and its (actual) penetration of the victim's vagina, is shown in lingering close up, blatantly pervading the cinema – or other – screen.

Artistic merit – as image justification – was also influential in securing *Irreversible's* R18+ classification; its presence acknowledged by both the Classification and Classification Review Boards (Classification Board, 2003a, p. 3; Classification Review Board, 2004b, p. 7). This too assisted in securing *Baise-Moi's* original R18+ classification, along with the film's 'serious cultural purpose' (Classification Board, 2001, p. 4). As the Classification Board writes:

[a]n R18+ voter was of the opinion that this film will provoke controversy in feminist and other intellectual communities, and across Australian society. In this opinion, a film that can polarise people such that there is no clear agreement on the film's offensiveness or effect, deserves to be viewed critically by the widest possible audience (2001, p. 4).

While this later proved insufficient for the Classification Review Board (Classification Review Board, 2002, p. 13), the ability for images of sexual violence to offer something of worth to the community – something more than themselves – is clearly weighted towards R18+ classification. So too, however, is low art when it is expressed via unsophisticated production

techniques. Of this the Australian sexploitation film *Fantasm* (1976) provides apt example, being classified R18+ in both July 1976 and March 2004.¹⁴⁷ Here the film's narrator – Professor Jurgen Notafreud – states:

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[d]eep down every woman desires to be raped, a cliché most women are at pains to deny. Even so, the idea of being raped is the most frequent of female sex fantasies (*Fantasm*, 1976).

These words alone have the power to elicit both core and moral disgust and anger. However, in *Fantasm* this is also acted out on screen with a young woman being roughly snatched by a musclebound boxer outside of an empty gym. Swiftly, he drags her inside by her hair before tying her to the boxing ring, ripping off her underwear, and raping her from behind. According to the Classification Board:

[s]everal factors ... mitigated the impact of this segment, including the unrealistic acting, by both the man and the woman, in the rape scene, the age of the film which lessens its realism, and, despite the lack of sensitivity, the placement of the scene within a comedic treatise on sex (2004b, p. 2).

Unsophisticated production techniques and humorous presentation are both consistent with the sexploitation genre. However, they also mean that *Fantasm's* sexually violent images lack the aggression that is so evident in *Irreversible* and *Baise-Moi*; another aspect seemingly weighted towards R18+ classification.

¹⁴⁷ This film was also classified X18+ twice in February 1984, when the X18+ classification was seen as extending the R18+ classification.

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The unsophisticated production techniques used in *Fantasm* are – in many ways – comparable to those featured in the exploitation splatter film *The Gore Gore Girls* (1972).¹⁴⁸ This film follows the exploits of Nancy Weston, a young reporter who seeks the help of Abraham Gentry, an arrogant middle-aged detective. Together they investigate the stripper Suzie Cream Puff's murder, as the body count – and their workload – steadily rises. Here, the Classification Review Board notes:

the crude, unrealistic, "schlock horror" nature of the effects and production values, together with the non-menacing, over-the-top storyline and slapstick elements, meant that the impact of the gory violence was markedly less than in other more serious and realistically filmed violent movies (2005a, p. 6).

These are all factors, which helped secure *Fantasm's* R18+ classification. However, surprisingly, *The Gore Gore Girls* was refused classification in February 2005,¹⁴⁹ and again on review three months later. Indeed, this film does not even feature sexual violence per se; the Classification and Classification Review Boards instead objecting to 'sexualised violence' (Classification Board, 2005b, p. 2; Classification Review Board, 2005a, p. 6). As the Classification Board writes:

[v]ictims of the murderer are all striptease dancers who are shown performing, and stripping to pasties and G-strings in a night club prior to their murder. In addition, some victims are in brief costumes and/or breast nude when attacked (2005b, p. 2).

¹⁴⁸ When it comes to *The Gore Gore Girls*, however, this extends to patently unrealistic images of blood and gore.

¹⁴⁹ Despite the film's age, this was its first submission to the Classification Board.

Such juxtaposition, however, is arguable unavoidable here. After all, the strippers were being murdered because of their chosen vocation. Sexualised violence is distinct from sexual violence; the Guidelines defining it simply as '[w]here sex and violence are connected in the story' (p. 16). Yet this is only forbidden in the X18+ classification (*Guidelines for the Classification of Films 2012*, p. 14);¹⁵⁰ a classification that was not even part of deliberations here. This demonstrates yet again the immense discretion the Classification and Classification Review Boards are afforded, and the elasticity of the legislative provisions.

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The absence of titillation is arguably implicit in all decisions permitting sexually violent images R18+ classification. Such absence was specifically relied upon by the 2001 Classification Board when permitting *Baise-Moi* national release (Classification Board, 2001, p. 3). However, its importance was made particularly clear via the 2011 R18+ classification of Meir Zarchi's notoriously brutal film *I Spit on Your Grave* (1978).¹⁵¹ Here, upon scrutiny of the DVD extras, the Classification Board observed:

[t]he film historian notes in his commentary (at approximately 26 minutes) that there is no eroticism in this movie: that rape is presented as "completely oppressive violence" – in other words, as violence, not sex (2011c, p. 2).

¹⁵⁰ The X18+ classification is the only classification regarding which sexualised violence is even mentioned.

¹⁵¹ This is not to be confused with the film's remake in 2010 by Steven R. Monroe, which was classified R18+ in August 2010 and March 2011.

This not only confirms the film's lack of titillation but provides the potentially problematic images with an 'explanatory context' (Classification Board, 2011c, p. 2), steering them away from offence elicitation. After all, *I Spit on Your Grave* features what is widely accepted as 'the longest rape scene in movie history, extending 25 minutes and 44 seconds' (Classification Board, 2011c, p. 2).¹⁵² Clearly, this film has much opportunity to elicit both core and moral disgust and anger. *I Spit on Your Grave* tells the story of Jennifer who is gang raped by four men. Bloodied and bruised, Jennifer retreats after her ordeal only to swiftly re-emerge, hunting down her attackers one by one, and exacting revenge that is both perverse and fitting. As this description shows, *I Spit on Your Grave* is firmly situated in the rape revenge genre; a consideration that was also undoubtedly influential for classification purposes. After all, as Young has observed, this genre 'claims that rape requires full-scale revenge, and that there should be as much violence inflicted in the punishment as there was in the crimes' (2010b, p. 46). Consistent with this genre's influence, *I Spit on Your Grave* has only been refused classification once – despite being notorious for its images of sexual violence – otherwise receiving an R18+ classification five times between December 1982 and 2011.¹⁵³

Modification and reclassification

A number of the films that have been refused classification for images of sexual violence under the current legislation have later been permitted an R18+ with minor modifications. This includes *The Human Centipede II* (2011); a film which abounds in both sexual and non-

¹⁵² This includes instances when the victim attempts to escape only to be recaptured and raped again.

¹⁵³ This was in July 1982, December 1982, February 1983, June 2004 and March 2011. Classification refusal occurred in March 1998. Page two of the corresponding Classification Board report stated the film had 'previously been classified R and RC' with these '[d]etails on file'. However, no such reports were available from Australian Classification, and no previous RC classifications are recorded in its database.

sexual violence alike.¹⁵⁴ Indeed, in its modified form, *The Human Centipede II* was permitted an R18+ classification just 14 days after the previous version had been refused classification upon review, with only mere seconds of footage removed.¹⁵⁵ As the film's Australian distributor Monster Pictures eagerly divulged to its *Facebook* fans:

[t]he close-up of the bloodied dick during the sand paper wank, the barb wire close up of the dick during the rape scene and a few mid shots during the rape scene – This is All Folks – nothing more. 30 seconds in total!! (2011a, p. 1).¹⁵⁶

The film has been indisputably modified. However, viewers are still permitted to see the sandpaper and the barbwire, and the rape still occurs onscreen. Indeed, under all but the closest scrutiny, the changes are imperceptible.

When it comes to images of violence, sex and children, the existence of the norms that the classification/censorship system draws on is undisputable, even though the merits of their application to the classification process is open to challenge. It is this fundamental irrefutability, which allows them to be considered community standards for classification purposes. However, it is the *real life* focus these norms provide – away from the images themselves – which allows defensible lines to be drawn with the aid of the legislation's impact and image justification considerations. Indeed, these images are not refused classification simply because they feature violence, sex or children depicted in certain ways but because they occasion disrespect for decedents, cause a sex act to become public, precipitate sexual arousal in public, or legally emulate the most offensive aspects of child pornography.

¹⁵⁴ As previously discussed, fetishes were also referenced by the Classification Review Board here.

¹⁵⁵ *Father's Day* was also eventually classified R18+ in similar circumstances,

¹⁵⁶ At this time, Monster Pictures was 'a genre label of Bounty Entertainment' (Classification Review Board, 2011b, p. 1). It was Bounty Films that originally submitted *The Human Centipede II* for classification.

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Even when it comes to images refused classification under the banner of crime, the classification/censorship system draws on real life connections. Indeed, as far as can be ascertained, the only images so classified have been those of real crimes: the writing of actual graffiti. This occurred in 2006 with the classification refusal of *70k* (2006; Office of Film and Literature Classification, 2005-2006, p. 44), and again in June 2015, when the Queensland Police's graffiti task force submitted: *Chasing Reality* (2013), *River City* (2010), and *River City 2* (2013). Each of these films were refused classification under clause 3(1)(a) of the Code. They also all feature 'what appears to be amateur footage of various individuals breaking into train yards and graffitiing trains' (Classification Board, 2015d, p. 2).¹⁵⁷ With rousing music and even dancing by some onscreen participants, these images – and their actions – are clearly presented in a celebratory fashion, without the addition of narrative to (potentially) inform viewers otherwise (Classification Board 2015c; Classification Board, 2015a).¹⁵⁸ While criminality is but one lens through which graffiti writing can be viewed,¹⁵⁹ championing the commission of a crime can undoubtedly be framed as a norm violation in Australia. So too can profiting from crime; a result implicit in these images' release. Both these factors position images of actual graffiti writing to elicit both intense and widespread offence, especially core/empathetic and moral anger; factors which are undeniably grounded in real life.

¹⁵⁷ Classification Board reports for *Chasing Reality* and *River City* express similar sentiment, as does the 2005-2006 Office of Film and Literature Classification annual report regarding *70K*.

¹⁵⁸ The report for *River City 2* expresses similar sentiment, as does the 2005-2006 Office of Film and Literature Classification annual report regarding *70K*.

¹⁵⁹ Halsey and Young's (2006) work reveals graffiti itself can also be perceived as – among other things – art, a mode of communication, a method of connecting people and spaces, and a way to create a sense of belonging.

When it comes to sexual violence, the decision to classify or censor conversely rests on the image itself in ways it does not for the other categories. Indeed, remove the image from the equation, and the norm – as tentatively posited at the beginning of the “Sexual Violence” section – evaporates. This means there is nothing external that can be used to assist decision making here. The norm itself is similarly unhelpful. It does not divulge which images of sexual violence society has deemed intrinsically offensive, only that some of them have. The Code requires that classification/censorship decisions must ‘take account of community concerns about depictions that condone or incite violence, particularly sexually violence’ (clause 1(d)(i)). However, this too provides little guidance, aside from impressing the need for sexually violent images to be closely scrutinised. Consequently, the only avenue for meaningful assessment here is core offence elicitation.

When it comes to core offence, knowledge regarding the operation of the disgust and anger emotions significantly aids in determining, which images are likely to cause more offence than others, in accordance with the legislative considerations. This is not only paramount when distinguishing between R18+ and RC images of sexual violence; it is also relevant when it comes to images of violence, sex, children, and graffiti writing. Indeed, while core and moral disgust and anger can clearly be distinguished on paper, they inevitably become entwined in practice. R18+/RC distinction regarding images of violence, sex and children is supported by impact and image justification considerations.¹⁶⁰ When it comes to images of sexual violence, however, these factors are conclusions in their own right, and for this they are ill-equipped, especially when classificatory judgment calls rest on the minutest of degrees, as they can here. Indeed, when it comes to *The Human Centipede II* for example, how can it be defensibly argued that one image of Martin’s bloodied dick should be considered unacceptably offensive, while another slightly smaller one should not? While all judgment calls are open to criticism, this situation routinely brings the Australian

¹⁶⁰ While not discussed in this chapter, the same is inevitably true regarding images of graffiti writing as demanded by the classification/censorship legislation.

classification/censorship system into disrepute. It also provides ample opportunity for institutional censorship's most unintended consequence: image promotion. Indeed, Monster Pictures captures this well in their summary of *The Human Centipede II's* reclassification.

What a pain in the arse you say? Well yes it would appear that way, but in all honesty the publicity generated from the banning could not have been better ... and at the end of the day, the film returned with very little removed but with a lovely dose of notoriety hanging off every frame (Refused-Classification.com, 2016j, p. 1).

Chapter Four

Participation

The classification/censorship system is a powerful voice in the apparatus of filmic image response in Australia, influential due to its institutional standing, and the pervasiveness of its message (Foucault, 1980, p. 194). Indeed, aside from any concerted advertising, the system spreads its filmic image response message with every classification and censorship decision it makes. This extends to the response it advocates via the licit image boundaries it sets. Here, it communicates which images should elicit disgust and anger, and to what level, as well as which images are permissible for adult viewing, and in what locations. In Australia, the general boundaries for licit filmic images are set by the classification/censorship legislation: the *Classification (Publications, Films and Computer Games) Act 1995* (Cth) (the Act), the *Guidelines for the Classification of Films 2012* (the Guidelines), and the *National Classification Code (May 2005)* (the Code). The outer limit nuances of these boundaries are then re-determined each time a challenging film is classified or censored. While the legislation affords decision makers immense discretion, they formally take a neutral stance here, applying the law and reaching a supported conclusion. There are, however, others who participate in the classification/censorship process with the specific intention of influencing these boundaries in a certain way. After all, participants do not merely submit films for any classification, they do so, striving for a particular one. While decision ultimately rests with the classification/censorship system itself, this means external participants inevitably influence the filmic image response message the system communicates. Indeed, classification submission not only shapes what the classification/censorship system does say, it determines what it is able to say.

Due to the system's design, external participants can only act – via film submission – at four specifically designated sites: the Classification Board, the Classification Review Board, the South Australian Classification Council, and the Federal Court.¹⁶¹ Indeed, every formal classification and censorship decision is determined at one of these sites.¹⁶² The Classification Board Director, however, will be also analysed – as a fifth designated site of action – even though its status as such was abolished in September 2015. This is because a number of the case study films discussed in this thesis were censored here prior to its abolition. Indeed, many of the filmic image response messages that have been communicated via this site clearly remain operational today. This chapter will elucidate how the designated sites function in practice. In so doing, it will also identify the participants who influence the classification/censorship system's filmic image response message via site access, how they do this, and to what ends. Some individuals and groups, however, do not act at these sites, electing instead to appropriate others. While this can never bring about formal classification, it can prove influential in other ways: a competing voice in the apparatus of filmic image response. Therefore, this chapter will also explore the identities of these participants, the locations of the sites they appropriate, and their motivations for acting elsewhere.

¹⁶¹ Here, the notion of film submission is a particularly useful way to conceptualise external participation and the classification/censorship system. As will be explored later in the chapter, however, participants do not technically submit films to the South Australian Classification Council or the Federal Court but they still act at these sites with the intention of exacting a particular classification for a specific film.

¹⁶² This is also a useful way to conceptualise the system's operation. However, please note that classificatory decisions made by the Federal Court do not technically result in the classification of a film per se but in the setting aside of a classification that has already been given.

Designated sites of action

The Classification Board

The Classification Board is the first site where the classification/censorship system can be 'acted upon' by external participants (Kuhn, 1988, p. 6). Here, under section 14(1) of the Act, an application for classification must generally be made in writing and submitted with: a copy of the film in question, a written synopsis, and the prescribed fee: \$2180.00 for a one to two hour film seeking public exhibition and \$730.00 for a comparable sale/hire classification.¹⁶³

These requirements can all be seen as hurdles to acting at this site. Indeed, the potentially prohibitive nature of the fee – for example – is one of the reasons why there have long been measures in place for film festivals to bypass this site (*Classification (Publications, Films and Computer Games) Regulations 2005* (Cth): explanatory statement, p. 3).

All films must be classified by the Classification Board before they are permitted Australian release outside of the film festival circuit.¹⁶⁴ Therefore, it is distributors who most commonly access this site in the course of their business, doing so largely for their own financial gain. While the majority of films brought by distributors provide no challenge, if anything, these individuals seek to widen the licit image boundaries. Indeed, some companies have even built their reputation on sourcing films that challenge the status quo. Potential Films – for example – proudly promotes itself as '[b]ringing an eclectic mix of audacious international

¹⁶³ Dependent on the film's length, the fee structure is set out in schedule 1 of the *Classification (Publications, Films and Computer Games) Regulations 2005* (Cth). The amounts stated are accurate as of 1 January 2017.

¹⁶⁴ The exception to this is 'exempt' films. Section 6B(1) of the Act lists these as falling into the categories of: business, accounting, professional, scientific, educational, current affairs, hobbyist, sporting, family, live performance, musical presentation, religious, community or cultural, social sciences, and natural history. Many of these are areas not readily associated with film as entertainment. Exempt films are not permitted to feature images otherwise warranting an M classification or higher (*Classification (Publications, Films and Computer Games) Act 1995* (Cth) s 6B(3)).

cinema to Australian and New Zealand screens' (Potential Films, 2012, p. 1). This company has submitted multiple films that have challenged the classification/censorship system's borders, including *Baise-Moi* (2000) and *Romance* (1999). Indeed, since 2000, the majority of the border challenging films that have later been submitted for classification review have entered the system – via the Classification Board – at the behest of three companies: Potential Films, Accent Film Entertainment, and Siren Visual Entertainment. Clearly, they are significant players when it comes to licit image boundary re-determination.

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Being a business decision, distributors must consider their target audience when deciding whether to submit a film for classification. However, they must also consider whether the images in question are likely to be permitted classification. After all, while censorship controversy presents the benefits of additional publicity, and allure via the disgusting and forbidden, distributors cannot profit from this in Australia if they are legally prevented from distributing the film in question. The likelihood of classification refusal compels some distributors to cut their films prior to submission (Refused-Classification.com, 2016b). Indeed, such cutting is a system driven act of censorship where the system itself need not act but for the foundations it has already laid. In the case of *A Serbian Film* (2010), Monster Pictures even took the unusual step of only agreeing to distribute the film once it had been classified by the Classification Board (Taylor, 2011); a safeguard that ultimately proved ineffectual as *A Serbian Film* was later refused classification upon review. Its Classification Review Board report has not even been posted on the Australian Classification website because the document itself was deemed to 'contain offensive and confronting descriptions',

and 'should not be read by minors' (Classification Review Board, 2011a, p. 1). This is the first time website publication has been denied.¹⁶⁵

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While distributors are the main users of the Classification Board, law enforcement agencies – such as the police – also routinely access this site. For them, the access fee is waived under section 91 of the Act. These participants operate with the intention of restricting access to certain filmic images. Indeed, they only submit films seized in the course of their employment that are – or are likely to be – unlawful. This also means they have comparatively limited control over their selections. Unlike distributors, law enforcement officials do not have a financial interest in the outcome. Their motivations – like those of the classifier/censors themselves – formally revolve around upholding the law with a view to community protection, albeit with a harm rather than offence focus. Yet, this does not automatically negate their interest in a particular outcome. After all, Australian Federal Police representatives were clearly driven to submit *Children's Island* (1980) for review in 2013 after its Classification Board submission resulted in an R18+.¹⁶⁶ This was not where they believed the licit image boundaries should stand.

The Classification Board is available to everyone who can satisfy the prescribed fee via payment or waiver. However, aside from distributors and law enforcement personnel, there is generally little – or no – incentive for others to act here. Indeed, as the first step in a film's

¹⁶⁵ The website does, however, direct adults to contact Australian Classification should they want a copy.

¹⁶⁶ Please note, however, the Australian Federal Police did not submit *Children's Island* to the Classification Board. This was done by the Australian Communications and Media Authority.

classification journey – and the first opportunity for censorship to occur – the Classification Board is not typically used by those seeking to challenge the licit image boundaries in response to other classification/censorship decisions; its initiatory nature at odds with such reactionary behaviour. Nevertheless, there has been one occasion when the Classification Board was used in this way. This occurred in 2007 when the Eros Association submitted *The Hanging* (2006): a copy of Saddam Hussein’s execution, which had been filmed on a spectator’s mobile phone and posted on the Internet.

Established in 1992, the Eros Association is promoted as being ‘Australia’s national adult retail and entertainment association’ (Eros Foundation, 2013, p. 1).¹⁶⁷ According to their website they ‘seek to bring logical and popular perspectives to love and sex rather than moral or religious ones. “Make love not war” is the philosophy that we bring to our political debates’ (Eros Foundation, 2013, p. 1). Interestingly, however, the website also states its featured material is intended for ‘information and education’ rather than ‘titillation’ (Eros Foundation, 2013, p. 1). This further supports assertions that sexual arousal is relegated to certain times and places via Australian norms.

Naturally, the Eros Association wants the licit image boundaries regarding actual sex widened when it comes to adult viewing, and for such images to be nationally available and able to be publicly exhibited (Eros Association Inc, 2007). However, it does not want this to be a blanket widening. Indeed, in 2001 the Eros Association even considered attempting to instigate classification review for the crime thriller *Hannibal* (2001), which had just been classified

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¹⁶⁷ While the website has now been updated, the information cited in this paragraph is still relevant.

MA15+ (Cettl, 2014, pp. 280-281, 473). With its realistic depictions of brutal violence and cannibalism, the Eros Association firmly believed an MA15+ classification was too lenient (Cettl, 2014, pp. 280-281).¹⁶⁸ While this example does not pertain to the licit image boundaries per se, it does speak to the Eros Association's views regarding image release and the strength with which it holds them. Indeed, the Eros Association resolutely believes that 'real or overly-intense simulated acts of violence, should be the most restricted films' in Australia (Eros Association Inc, 2007, p. 1).¹⁶⁹

Eros Association representatives used the Classification Board to begin *The Hanging's* classification journey, consistent with the site's initiatory operation. However, these participants did not care about *The Hanging* per se. Their actions were guided by the belief that its classification could be used as a lobbying tool. Indeed, by submitting *The Hanging* to the Classification Board for what they thought would be an R18+ classification, the Eros Association was actually using this site to challenge the classification/censorship system's restrictive views on actual sex. It wanted to highlight what it saw to be a discrepancy in image treatment: actual sex vs real violence (Eros Association Inc, 2007, p. 1). The Eros Association's action was further spurred by the X18+ classification of *Viva Erotica* (n.d.) by both the Classification and Classification Review Boards in 2006, despite its distributor seeking an R18+ classification (Eros Association Inc, 2007, p. 1). Comprising of six vignettes featuring blatant and titillative actual sex (Classification Review Board, 2006, p. 3), this film's submissions has also now been revealed as a test case; the ramifications of which will be discussed later in the chapter.

After concerted deliberation, the Classification Board refused *The Hanging* classification, thwarting the Eros Association's efforts. Here, the Board's majority objected to the lack of context provided by the film for the death, declaring the images 'gratuitous' (Classification

¹⁶⁸ Classification review was eventually instigated by the Federal Censorship Minister and *Hannibal's* classification was changed to R18+ in February 2001.

¹⁶⁹ Underlining as featured in the original publication.

Board, 2007c, p. 2). Being – as far as can be ascertained – an unedited version of events, these images were not manipulated to make light of the death. However, without context, they could not be seen as sufficiently educative to afford the decedent sufficient respect. This is despite the circumstances of Saddam Hussein’s demise being well covered in the Australian media. Interestingly, the Classification Board report boasts three minority opinions, each respectively advocating an R18+, MA15+ and M classification (Classification Board, 2007c, p. 2). This outcome is arguably more telling than any one classification could be, aptly highlighting the inevitable subjectiveness of filmic image classification. After all, each of these classifications – plus the prevailing fourth – was clearly able to be formulated within the ambit of the legislation. Publicising this, however, would have challenged the entire system, not just the portion dealing with images of actual sex. Therefore, the Eros Association merely asserted *The Hanging* was ‘banned for political reasons’ (Refused-Classification.com, 2016i, p. 1). ‘I think they saw our recent campaign in this area and decided to head it off’ (Refused-Classification.com, 2016i, p. 1).

Director of the Classification Board

Prior to 11 September 2015, if a film festival wanted to screen an unclassified film – or one that had been classified X18+ or RC¹⁷⁰ – organisers were required to seek its classification exemption in accordance with the *Film Festival Guidelines 2007*.¹⁷¹ As a general rule, this was done via a written application to the Director of the Classification Board, which included the film festival’s details, as well as a synopsis of the film itself, addressing the six classifiable elements (*Film Festival Guidelines 2007*, para. 3).¹⁷² The Director then considered this along with section 11 of the Act, as well as the proposed number of

¹⁷⁰ Under paragraph 9 of the *Film Festival Guidelines 2007*, consideration here was only permitted if the classification was given at least two years earlier.

¹⁷¹ *Classification (Publications, Films and Computer Games) Act 1995* (Cth) pt 1A is also relevant here.

¹⁷² In South Australia, however, organisers instead wrote to the Film Festivals Exemption Officer in the Attorney-General’s Department. In Queensland, organisers wrote to the Films Classification Officer in the Department of Tourism, Racing and Fair Trading.

screenings and the age of the audience members (*Film Festival Guidelines 2007*, paras 5, 7). Assuming children were prohibited entry, exemption was only denied if the Director believed the film would – or would still – attract an X18+ or RC upon formal classification (*Film Festival Guidelines 2007*, para. 10).¹⁷³ If this occurred, recourse then lay with the Classification Board for unclassified films and the Classification Review Board for films already classified (*Film Festival Guidelines 2007*, para. 11).

Like distributors, film festival organisers too must consider their target audience before acting on the classification/censorship system via film submission, and some have similarly built their reputation around sourcing boundary pushing images. The Melbourne Underground Film Festival – for example – proudly declares it ‘is looking forward to many more years of controversy and discovery’ (2016, p. 1). This event was first held in 2000, to counteract the Melbourne International Film Festival’s perceived lack of ‘support for underground and local film’ (Melbourne Underground Film Festival, 2016, p. 1). Underground films are said to have been born out of ‘low-budget filmmaking’, as well as ‘transgressive cinema, and also experimental cinema’ (Barr, 2016, p. 1). Consequently, they often personify the unsophisticated production values tag, and duly reap the resulting classificatory benefits. This, however, is not without its detriments. Indeed, it was their status as low art – or trash – which undoubtedly led to these films being shunned by the Melbourne International Film Festival. Here, organisers needed to distance this event from these disgust eliciting products to preserve its cultured image.

The only barrier to accessing the Director of the Classification Board was for participants to be considered “approved organisations” in accordance with the *Film Festival Guidelines 2007*; no fee was required. This permitted festival organisers a degree of freedom not

¹⁷³ This indicates that the Code and Guidelines also needed to be considered. The *Sydney Film Festival Direction 2004*, however, afforded the Sydney Film Festival permission to screen RC films in prescribed circumstances. This was drafted after the *Ken Park* controversy, which will be discussed later in the chapter (Office of Film and Literature Classification, 2003-2004, p. 43).

afforded to distributors. From a financial perspective, however, it was still beneficial for organisers to consider whether the film in question was likely to receive classification exemption. Indeed, organising a film festival requires considerable resources, and at times, classification exemption was only refused after screenings had already been promoted, meaning last minute changes had to be made (Refused-Classification.com, 2016g).¹⁷⁴ If anything, film festival organisers – like distributors – seek to widen the licit image boundaries. After all, the consequences of classification and classification exemption refusal have broadly similar effects for both these participants: they are legally prohibited from disseminating the film in the manner in which they had planned. Unlike distributors, however, film festival organisers can still reap the promotional benefits of prohibition, even if this is not overturned. There is after all still an event for patrons to attend with or without the film in question. Benefit is then augmented for underground film festivals – and others like them – which have ties to subcultures where rebellion is celebrated. Here, the opportunity to become associated with products deemed publicly illicit is likely to attract rather than deter; another operative factor in determining participatory nuances.

The *Classification (Publications, Films and Computer Games) (Conditional Cultural Exemption Rules) Instrument 2015* (Cth) (the Instrument) took effect on 11 September 2015.¹⁷⁵ Now, film festival organisers are no longer required to seek classification exemption via the Classification Board Director.¹⁷⁶ They are instead permitted to self-assess their films' eligibility – under section 7(2) of the Instrument – after receiving the mandatory training. The festivals themselves, however, are still required to be approved organisations – now labelled

¹⁷⁴ This occurred – for example – when the Melbourne Underground Film Festival sought to screen *L.A. Zombie* (2010) in August 2010 (Refused-Classification.com, 2016g). This will be discussed later in the chapter.

¹⁷⁵ Part 1A was also added to the *Classification (Publications, Films and Computer Games) Act 1995* (Cth).

¹⁷⁶ *Classification (Publications, Films and Computer Games) (Conditional Cultural Exemption Rules) Instrument 2015* (Cth): explanatory statement, p. 1. This reference is included in a footnote so as not to disrupt the text.

“registered events” – for this to be lawful.¹⁷⁷ At first glance, this may seem like Parliament has effectively demolished the licit image boundaries where film festivals are concerned, or at least severely weakened them. Indeed, many see this as a ‘loosening of rules’ after the Sydney Underground Film Festival lawfully screened Gaspar Noé’s sexually explicit film *Love* (2015) two days after the changes came into force (Taylor, 2015, p. 1). Yet, film festival

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organisers are still not permitted to exhibit content warranting an X18+ or RC classification (*Classification (Publications, Films and Computer Games) Act 1995* (Cth) s 6C). *Love* was later classified R18+ after an unrelated Classification Board submission: the ultimate test of SUFF’s assessment.¹⁷⁸ While time will reveal the extent of the new procedures’ permissiveness, action is unlikely to be as unrestricted as it may first appear. The system will not permit itself to fracture.

The Classification Review Board

Participants who act at the Classification Review Board do so seeking to challenge the licit image boundaries by compelling classification change. After all, this is the only site permitted to review the merits of a classification decision with national reach. Like the Classification

¹⁷⁷ This is in accordance with *Classification (Publications, Films and Computer Games) (Conditional Cultural Exemption Rules) Instrument 2015* ss 6-7. See also, *Classification (Publications, Films and Computer Games) Act 1995* (Cth) pt 1A div 2. This reference is included in a footnote so as not to disrupt the text.

¹⁷⁸ If a film is classified R18+ for national release, with audience consideration in mind, it is definitely suitable for film festival screening.

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Board, there is a prescribed fee that must be paid or waived.¹⁷⁹ At \$10,000 per film, however, payment here provides a more onerous hurdle (*Classification (Publications, Films and Computer Games) Regulations 2005* (Cth) sch 1, pt 8). Indeed, this is one of the reasons why American filmmaker Tony Comstock did not seek review regarding the X18+ classification given to *Damon and Hunter: Doing It Together* (2005). As Comstock explains:

[w]e could have challenged this rating (as *9 Songs* did), but it's rather costly ... with no certainty of success – too much for a small studio like Comstock Films. So our lovely little film about love and sex goes into the world a bit of a pariah, a scarlet letter X emblazoned on its chest (2006a, p. 1).

Unlike the Classification Board, access to the Classification Review Board is legally restricted. Indeed, according to section 42(1) of the Act, only the Federal Censorship Minister, the original applicant, the film's publisher, and 'a person aggrieved by the decision' can apply. While there is no time limit imposed on the Minister's applications, section 43(3)(a) of the Act permits all others a 30 day window.¹⁸⁰ This provides a level of security for distributors and retailers as they embark further along the distribution process, although the Classification Review Board has the power to permit late applications (*Classification (Publications, Films and Computer Games) Act 1995* (Cth) s 43(3)(b)).

¹⁷⁹ Under section 91A of the Act, the Classification Review Board Convenor also has discretion to waive the fee in prescribed circumstances, including when he or she considers it 'in the public interest to do so for public health or educational reasons', or if the applicant is a not-for-profit entity. The fee does not apply to the Minister's applications.

¹⁸⁰ According to section 43(3) of the Act, the 30 days begin 'after the applicant received notice of the [original] decision'.

The Classification Review Board reports from 2000 onwards are published on the Australian Classification website. While this means they are publicly available for those knowing where to look; only a small portion is reported by the media, who clearly favour submissions punctuated with impassioned calls for censorship. This means the majority of community members are likely to be aware of only a small – and skewed – portion of the participant action that occurs here. The Classification Review Board is significantly less active than the Classification Board, assessing only 100 films between 2000 and 2016; the timeframe used for the calculations below.¹⁸¹ Unlike media reporting patterns imply, however, the vast majority were instigated by distributors seeking more lenient classifications under the mantle of original applicant: 84 in total. Reviews sought for other purposes – and by other people – are undeniably rare.

Over half of the distributor sought reviews have been successful.¹⁸² Indeed, when considering all of the submissions between 2000 and 2016, not only is it evident the majority of the Classification Review Board's time is spent determining whether leniency should be increased, when this occurs – more often than not – the answer is yes. The bulk of these actions, however, do not challenge the licit image boundaries, pertaining to films already classified R18+ or lower. Indeed, only X18+ and RC films are pertinent when it comes to submissions seeking to widen the licit image boundaries. Of these there have been 16; nine of which were successful.¹⁸³ Again, this is over 50 percent. In comparison, all but two of the 13 reviews instigated by other participants sought to tighten the licit image boundaries: R18+ classification to RC. These were all instigated by the Federal Censorship Minister, although one was also simultaneously instigated by the Australian Family Association (AFA) as an

¹⁸¹ The year 2000 being the starting date of the reports published online, and 2016 being the last full year prior to this thesis' completion. Assessments that did not result in classification review, such as aggrieved person status and fee waiver deliberations, were not included in here. The ensuing classifications were made using the online Classification Review Board reports.

¹⁸² Fifty of the 84 films submitted by their distributors received lower classifications from the Classification Review Board.

¹⁸³ More specifically there have been: ten X18+ films seeking an R18+ classification, seven of which were successful; three X18+ films seeking an R18+ classification, two of which were successful; and three RC films seeking an R18+, none of which were successful.

aggrieved person; the only successfully launched review of its kind under the current legislation. These participants have a lower success rate than distributors. Indeed, out of the 11 submissions, the licit image boundaries have only been successfully narrowed via the Classification Review Board four times between 2000 and 2016.

The motivation driving most – if not all – distributors to act at the Classification Review Board is clear. For them, this is the next step in the distribution process. That which drives other participants, however, is far more convoluted. This will now be explored.

Aggrieved persons

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The only classification review successfully launched by an aggrieved person under the current legislation pertains to the French film *Anatomy of Hell* (2004),¹⁸⁴ which was classified R18+ by the Classification Board in May 2004.¹⁸⁵

This film documents one woman's desire to be observed where she is – in her words – 'unwatchable': her bedroom (*Anatomy of Hell*, 2004). Here, the AFA objected to the film's images of actual sex and children (Foschia, 2004). Indeed, *Anatomy of Hell* features images of adults partaking in fellatio, masturbation, digital vaginal penetration, and dildo use. It also includes a scene where a girl – approximately 10 years old – has 'the arm of a pair of spectacles inserted into her vagina' (obscured from the audience's view) by a boy of similar age (New South Wales Parliament, 2005, p. 16369). These images clearly have significant potential to

¹⁸⁴ *Anatomy of Hell* is also known as *Anatomie de l'enfer*.

¹⁸⁵ While the application was successful, the plight of the applicants was not, as the Classification Review Board confirmed the film's R18+ classification on 9 July 2004.

elicit disgust. Anger, however, is less likely, as the actual sex occurred between consenting adults, and the glasses were never actually inserted; its fictitious occurrence presented as a consensual example of youthful curiosity.

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Today's aggrieved person provisions were born out of the *Customs (Cinematograph Films) Regulations* (Cth). Here, regulation 39 provided that 'a person aggrieved by the decision of the Censorship Board' could apply for review, and it was long accepted that only the original applicant could meet this requirement: a distributor or the like (Joint Select Committee, 1988a, p. 115). Opinion changed in February 1987, however, when a Catholic and an Anglican priest were granted aggrieved person

status to challenge the permitted release of Jean-Luc Godard's French drama *Hail Mary* (1985). Described as '[o]ne of the most tenderly religious movies ever made' (David Denby quoted on *Hail Mary*, 1985),¹⁸⁶ this film explores the concept of virgin birth in a contemporary setting. However, as the Classification Board noted in March 1986:¹⁸⁷

[some] people may well be offended by the naked depictions of Marie, particularly when she explores (in situ) her pubic hair with her fingers and where she uses (occasionally only) such words as "fuck" or "cunt" in addition to such expressions as "God is a creep ... a coward ... a vampire"; or where Joseph says to Marie "you like guys with big cocks" (Film Censorship Board, 1986, p. 1).¹⁸⁸

¹⁸⁶ Quotation featured on the DVD cover released by New York Video.

¹⁸⁷ Unlike the Australian Classification database, the Classification Board reports reveal that *Hail Mary* was submitted twice for classification in 1986.

¹⁸⁸ Ellipsis as featured in the original publication.

The priests argued that *Hail Mary* was blasphemous, thus not fit for release under the legislation of the day (Film Censorship Board and Films Board of Review, 1986, p. 16). After all, the film itself had already been denounced by Pope John Paul II, who declared it ‘deeply wounds the religious sentiments of believers’ (*Hail Mary*, 1985).¹⁸⁹ It is also easy to understand the priest’s ire from an offence perspective. Indeed, there is no doubt the priests experienced disgust and anger to the levels of extreme disgust and outrage. While *Hail Mary* does not feature images of sex – simulated or otherwise – sex is a recurrent theme throughout the film, and as a disgust elicitor, even its thought is potentially sufficient to generate this emotion. Sex disgusts on a core level (Kelly, 2011, p. 31). However, its association with the religious figure of Mary, the virgin mother of Jesus, clearly debases the Christian faith (in the priests’ opinion) transgressing a norm they both hold dear. This means the priests’ disgust would have been threefold in intensity, responding to threats against the body, the collective – here, the priests’ respective congregations and the Church in general – as well as the soul.

When it comes to anger, the priests undoubtedly saw *Hail Mary* as an attack on their own beliefs, as well as those of their parishioners and others who share the faith. They may also have believed its release could harm the Church via the diminishing or trivialisation of Christianity. Harm then extends to those who facilitate or watch the film’s screening without repentance – as this would clearly be considered a sin – and to any individuals dissuaded from Christianity by the film’s release. For the priests, this is real life harm which extends beyond life, into death: eternity spent in hell. While norm transgression has already been established, the above occurrences provide further avenue for norm identification. Indeed, there is no doubt the priests would have experienced all three types of anger: core/personal, core/empathetic, and moral.

¹⁸⁹ Quotation featured on the DVD cover released by New York Video.

The priests sought to prevent *Hail Mary's* Australian release by having its registration quashed, although they were ultimately unsuccessful. Indeed, when the film was submitted for classification – a legally separate issue under the historic system – the Classification Board also formally declared the film not to be blasphemous; the majority classifying it R18+, while the minority believed only an M was warranted (Film Censorship Board, 1986, p. 1).¹⁹⁰ Looking at the situation under the current legislation's lens, this is a prime example of offence levels being high enough in some people to warrant classification refusal but not wide enough throughout the community to be considered a breach of community standards. Indeed, further to the priests' challenge, *Hail Mary's* Australian release sparked fervent protests outside Sydney's State Theatre (Film Censorship Board and Films Board of Review, 1986, p. 16). This was organised by a Catholic Marian group reportedly lead by the Reverend Fred Nile; a well-known conservative politician and advocate for licit image boundary tightening (Film Censorship Board and Films Board of Review, 1986, p. 16; Dunne et al., 2003). Film critic Mark Roberts recalls the afternoon with incredulity.

As I emerged onto Market Street I was confronted by an angry mob – but it wasn't your normal angry mob. There appeared to be a large number of chanting nuns and banners proclaiming that the 'Legion of Mary' was not happy. I was trying to figure out what was going [on] when I was struck heavily on the back of [the] head with a large wooden crucifix. I remember dropping to my knees and then being helped into the theatre by a security guard (Roberts, 2015, p. 1).

Upon controversy's end, the classification/censorship system had received 39, 816 letters of complaint; most emanating from the Religious Right (Film Censorship Board and Films Board of Review, 1986, p. 16). As this demonstrates, such organisations have immense ability to mobilise their members (Johnson, 2004). Many of these letters undoubtedly expressed much of the same extreme disgust and outrage felt by the priests, and some of

¹⁹⁰ The priests were challenging the film's registration. In accordance with the historic system, this was reviewed by submitting the film to the Film Censorship Board for classification.

this would certainly have been genuine, coming either from a place of authenticity or from a blind faith in the leaders professing its necessity. It is also possible, however, at least some of the participants were feigning these feelings in order to satisfy their leaders, or to retain sound social standing within the collective as offence driven action was clearly seen as the appropriate response to the images in question. In the context of disgust, this is what Susan Miller refers to as 'borrowed disgust' (2004, p. 40). For Miller, this then falls under the banner of 'partial' rather than 'actual' disgust, as only some of the bodily reactions will inevitably be present (Miller, 2004, p. 40).

From the letters, it was evident the vast majority of campaigners had not seen *Hail Mary* (Film Censorship Board and Films Board of Review, 1986, p. 16). Indeed, this is common in film censorship campaigns led by the Religious Right, and is consistent with the presence of 'borrowed disgust' in so far as it indicates members' dedication to their authority figures (Miller, 2004, p. 40). While those complaining may simply not have wanted to view the images in question, the decision not to watch can also be linked with a desire to avoid the contaminating effects of the images as disgust eliciting artefacts, and the potential for ensuing social detriment. People campaigning against films they have not seen are often disparaged by those who believe firsthand knowledge of the images is needed for credibility (nocensorshipaus, 2011). Indeed, without it, campaigners are essentially basing their image response on the response of another. Similar sentiment has even been echoed by the Classification Review Board, which affords 'less weight to submission[s] made by organisations where representatives of that organisation have not viewed the film' in question (Classification Review Board quoted in Banks, 2006, p. 1). This – of course – presents a dilemma for those seeking to challenge classification refusal. Here, firsthand image knowledge can only be obtained by circumventing the classification/censorship system; an act which itself is denounced in many settings. Therefore, they risk criticism whatever action they take.

When it came to *Hail Mary*, the priests were permitted aggrieved person status because – as priests – their concern was considered by the Court to be ‘beyond that of other members of the Christian community whose limited concern could be fairly described as only “intellectual or emotional”’ (1987, para. 6, Fisher J).¹⁹¹ This meant they had a ‘special interest’ in the matter (1987, para. 6, Fisher J); a threshold clearly intended to limit successful applicants. Under the current legislation, an aggrieved person remains largely undefined; deliberations – which are undertaken by the Classification Review Board itself – referring to the common law. However, today’s Act does provide additional ambit for reviews pertaining to restricted material: that classified MA15+, R18+, X18+ and RC. Under section 42(3) of the Act, an aggrieved person in such instances additionally includes:

- (a) a person who has engaged in a series of activities relating to, or research into, the contentious aspects of the theme or subject matter of the ... film ...;
- (b) an organisation or association, whether incorporated or not whose objects or purposes include, and whose activities relate to, the contentious aspects of that theme or subject matter.¹⁹²

This was inserted after the not-for-profit organisations Helping All Little Ones (HALO) and Child Protection Connection (CPC) were denied standing to challenge *Lolita’s* (1997) R18+ classification in March 1999 (Marr, 2001). These

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¹⁹¹ *Re Rev Fr Walter Ogle and Rev Fr John O’Neill v Janet Strickland, At All Material Times Chief Censor of the Censorship Board Constituted Pursuant To the Customs (Cinematograph Films) Regulations 1956 and Kenneth Bardon; David Haines; Graham Wood; D*, 1987. The case name is referenced in a footnote so as not to disrupt the text.

¹⁹² Lettering as featured in the legislation. In full section 42(3)(a) reads, ‘a person who has engaged in a series of activities relating to, or research into, the contentious aspects of the theme or subject matter of the publication, film or computer game concerned’. Nothing has been omitted from section 42(3)(b).

organisations objected to the film's sexualised images of a child in line with their respective focusses. However, the Classification Review Board still found they did not have the requisite 'special interest', as neither were 'representative of the public interest on the issue', considering their relatively small size and recent formation (Office of Film and Literature Classification, 1998-1999b, p. 150). The legislative inclusion that ensued was formally intended by Parliament to 'introduce a greater degree of flexibility into the review process' regarding 'decisions where there is some community concern' (Commonwealth of Australia, 1999, p. 13024). Rendering assistance to organisations like HALO and CPC, however, was clearly anticipated. Indeed, as will now be explored, the scope of participants it benefits is incredibly narrow.

Even from a cursory reading of the Act, section 42(3) clearly favours those seeking stricter classifications. After all, considering the images the classification/censorship system deems most problematic – real death, actual sex, images of children with a legal child pornography nexus, sexual violence, and actual graffiti writing – it is difficult to imagine an individual or organisation with a sufficient connection to such images that could argue for their more lenient treatment in a way consistent with their work.¹⁹³ Section 42(3) is considered by many to favour the Religious Right (Marr, 2001). Indeed, even before it took effect, Democrats Senator Brian Greig declared it 'nothing more than a sop to the more extreme elements in society' (Commonwealth of Australia, 2001, p. 22244).

My fear ... is that ... you are opening the door to every lunatic fringe, nutter organisation and individual in this country to complain about every film that they want to, and let us be clear about this: they will not hold back. Organisations around Australia such as the Logos Foundation, the Salt Shakers or, for that matter, the Australian Family Association – who are no newcomers to consistent and persistent

¹⁹³ If anything, perhaps exception could be extended to actual sex as this subject matter alone does not deal with real life harm and arguments for its national release have on occasions been positively linked – outside of the classification/censorship system – with educational value.

attacks on issues of censorship – have been imposing their particular morality on the rest of the country [for years] (Commonwealth of Australia, 2001, p. 22244).

Clearly, the onslaught Grieg predicted did not eventuate. Indeed, perhaps section 42(3) is better understood as being geared not towards Religious Right participation but away from the participation of others (Marr, 2001).¹⁹⁴ Not only are the voices of those wanting wider licit image boundaries decidedly absent here, so too are the voices of community members more generally; those whom the classification/censorship system is formally tasked with representing. Yet, in fairness to Grieg, the only successfully launched aggrieved person application in the current era, was made possible with the assistance of section 42(3)(b), and the victorious applicant was the Australian Family Association (AFA), about whom Grieg expressly warned.

Established in 1980, the AFA promotes itself as:

a not-for-profit, voluntary, and (non-party) political organisation which has been formed to provide a forum and a vehicle for those individuals and organisations in the community concerned with the strengthening and support of the family (The Australian Family Association, 2014, p. 1)

It is, however, widely considered to be a Religious Right organisation operating under the more palatable guise of family protection (Graham, 2010). After all, the families it champions are strictly of a heterosexual and nuclear nature in line with the Religious Right's conservative stance (The Australian Family Association, 2014). Nevertheless, the AFA's family focus proved crucial when assessing its connection to *Anatomy of Hell's* contentious images. Indeed, the Classification Review Board was largely persuaded by the organisation's assertion that "offensive depictions involving a child" have or may have a

¹⁹⁴ Marr speaks to the latter but not the former.

detrimental effect on the family', (Classification Review Board, 2004a, p. 4). However, it was also influenced by the AFA's constitutional objectives to 'analyse laws and policies for their effect on the family and to formulate and promote corrective measures as necessary to uphold and protect the rights and responsibilities of families' (Classification Review Board, 2004a, p. 3). Indeed, the AFA did not merely have a connection to what was happening in the images but a vested interest in their specific repression as well.

Interested parties

While most individuals and organisations cannot instigate classification review, they are permitted to participate in the review process once it has been launched by making a submission to the Classification Review Board as an interested party. Indeed, this is how distributors take part in reviews initiated against their films by the Federal Censorship Minister or a person aggrieved. Since August 2009, all Australian Classification review announcements invite 'individuals and organisations' to 'write to the Convenor of the Review Board' if they want 'to apply for standing as an interested party', although no information is given regarding the threshold requirements (Classification Review Board, 2009, p. 1; Classification Review Board 2016, p. 1). While this in itself can perhaps be seen as a measure to dissuade new participants and limit application numbers, reports suggest all genuine applications will be accepted, assuming they pertain to the film in question rather than the classification/censorship system in general (Refused-Classification.com, 2016j). Once accepted, distributors and organisations are permitted to make both oral and written submissions to the Classification Review Board, providing reasons for their advocated classification. Individuals, however, appear to only be permitted the latter (Refused-Classification.com, 2016j); another way the classification/censorship system diminishes the scope of community members' participation as well as its apparent worth.

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In July 2008, the Australian Classification review announcement regarding *Classes in Seduction* (2004), *T & A Teacher* (2004), *Holy Virgins* (2001), and *Bondage Mansion* (2001) specifically invited the AFA and the NSW Council for Civil Liberties (NSWCCL) to apply for interested party standing (Classification Review Board, 2008d). They also both participated as interested parties in the 2010 classification review of *Salò; or the 120 Days of Sodom* (1975). Here, the Classification Review Board Convenor Trevor

Griffin elaborated on their desired inclusion, declaring the Classification Review Board:

was endeavouring to get two perspectives – possibly different perspectives from opposing points of view – not just on the issue of community standards but also on the issue of acceptance of the particular film (Commonwealth of Australia, 2010, p. 90).

This can easily be perceived as promoting a balanced view of the issues. Indeed, ‘with the aim of protecting the rights and liberties of persons in Australia and its Territories’, the NSWCCL is a passionate champion of free speech (New South Wales Council for Civil Liberties, 2013, p. 1). This means its arguments for wider licit image boundaries provide direct competition for the AFA. However, the specific invitation of these two organisations also ostensibly communicates that the Classification Review Board perceives licit image boundary struggles as a dichotomous issue, with the beliefs of these and other like organisations being the correct way to construct debate: freedom of speech vs family protection. As this thesis shows, however, this is a deceptively simplistic view.

FamilyVoice Australia (FAVA) was also an interested party participant in *Salò's* classification review. Formerly known as the Australian Festival of Light, this organisation too has a long history of advocating for stricter licit image boundaries. However, unlike the AFA, it is open – and proud – of its religious roots, promoting itself as '[a] Christian voice for family, faith and freedom' (FamilyVoice Australia, 2016, p. 1). This freedom, of course, does not extend to adults being able to decide their filmic image viewing without government intervention. FAVA was also an interested party participant in the 2011 classification review of *The Human*

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Centipede II: Full Sequence (2011). With its extreme images of violence and sexual violence, this film has much to elicit disgust and anger. While not connected to religion per se, it is also easy to imagine such images being condemned on religious grounds, especially when they are construed as entertainment. FAVA's national research officer, Roslyn Phillips, however, cites a different motivation for FAVA's action here, declaring:

it's not a case of whether you like it or are offended by it, the really basic issue is does this film have the potential to cause harm (nocensorshipaus, 2011).

This is ... the point of our objection. That there is harm ... It is not to do with offence, it is to do with harm (nocensorshipaus, 2011).

The notion of filmic image viewing causing harm clearly gestures to the media effects tradition whose influence on filmic image response – like that of the classification/censorship system – is almost as old as film itself (Barker, 2001, p. 41). This will be explored further in Chapter Five.

Neither the AFA nor FAVA were interested parties in the 2011 classification review of *A Serbian Film*, highlighting they have selection processes in place. Here, however, the founder of Collective Shout, Melinda Tankard Reist, did choose to participate. Established in 2009, Collective Shout formally aims 'to target corporations, advertisers, marketers and media which objectify women and sexualise girls', 'mobilising and equipping individuals and groups' for similar action (Collective Shout, 2016, p. 1). It too, however, is widely considered to be founded on religious morality (Sandeman, 2011; Wilson, 2012). As an interested party, Tankard Reist did not instigate *A Serbian Film's* classification review. However, mere participation was enough for her to claim victory, later publishing an article on her website

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titled *Collective Shout win against A Serbian Film: Review Board reverses decision* (Tankard Reist, 2011). One of her supporters then eagerly echoed these sentiments declaring, '[s]uch a fantastic win! Proof again that our voices can change the world!' (Nicole J, 2011, p. 1). While participant voices can indeed make a difference, statements such as this inevitably obfuscate the role others play. No one can secure a classification refusal by themselves.

The Federal Censorship Minister

When it comes to the Federal Censorship Minister, access to the Classification Review Board is not controlled by time, fees, or standing. Indeed, aside from assessing the merits of classification review in each particular instance, the Minister need only informally consider how a review application would impact him or her: politically, socially and privately. He or she must, however, act – under section 42(2) of the Act – if so requested by a state or territory counterpart. Consistent with the nature of the office, state, territory and Federal

Censorship Ministers do not typically act on their own volition, doing so instead at the behest of others. This permits those who are effectively prohibited from this legislatively gated site to access it via proxy. The identities, motivations and tactics of these crafty participants will also now be explored.

Classification review provides a forum for participants to argue the Classification Board erred in its conclusion when applying the Act, Code and Guidelines to a particular film. Indeed, as Federal Attorney-General – and Censorship Minister – Daryl Williams declared upon launching *Baise-Moi's* (2000) classification review:

after carefully reading the decision of the Board, I was persuaded that there is an arguable issue about whether *Baise-Moi* ought to have been classified R18+ and there is merit in seeking a review of the Board's interpretation of the guidelines (Williams, 2002, p. 1).

It is erroneous to assume, however, that all Censorship Ministers automatically take a purely legalistic stance. While most are discreet regarding their personal opinions, in 2005 – for example – the South Australian Minister, Attorney-General Michael Atkinson, publicly declared he was 'in favour of moderate censorship' when discussing *Mysterious Skin* (2004; Colvin, 2005). The office of the New South Wales Minister, Attorney-General Greg Smith, also declared – in the wake of *The Human Centipede II's* 2011 review – that Smith 'does not support the use of gratuitous violence, especially

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gratuitous sexual violence' (Marr, 2011, p. 1). Comments such as these communicate their makers are sympathetic to stricter licit image boundary arguments making them prime targets for participants who peddle them.

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Some of these participants are other politicians. This was particularly observable in the case of *Baise-Moi*. Here, Christian Democratic Party MP Fred Nile,¹⁹⁵ Independent Senator Brian Harradine, South Australia Liberal MP Trish Draper, and National Party MP De-Anne Kelly all lobbied Williams attempting to persuade him to seek classification review (Morris, 2002). These individuals are well known film censorship advocates in their own right. Indeed, the headline labelling them 'the usual suspects' is particularly telling (Morris, 2002, p. 1). When it came to *Salò*, eight years later, however, it was Liberal senator Julian McGauran and Tasmanian Liberal MP Guy Barnett who took up the cause (Bodey, 2010).¹⁹⁶ Indeed, while participants change, history has revealed a constant stream of politicians eager to defend the licit filmic image boundaries. Occasionally there have also been individuals willing to champion boundary widening after classification refusal has occurred. However, regardless of the filmic image responses they advocate in private, it is rare for politicians to publicly support the release of RC images, lest such association irrevocably contaminate them. Indeed, when the New South Wales Premier Bob Carr disagreed with *Baise-Moi's* censorship, he elected to denounce the censorship act without championing the film itself, severely limiting contamination potential. 'I'm sure it's the lousiest

¹⁹⁵ He has previously been referred to in this chapter as the Reverend Fred Nile.

¹⁹⁶ While only McGauran appears to have lobbied for classification review, Barnett assisted him in the Federal Court challenge.

and most offensive film we have seen in some time' he declared but 'adults ought to be able to see and read what they want' (nocensorshipaus, 2008).

When it came to *Baise-Moi*, Draper and Kelly declared themselves to be acting upon constituent request (Morris, 2002). Indeed, such lobbying can be an easy way for community members with politically palatable arguments to participate in licit image boundary creation. This is regardless of whether they target a Censorship Minister directly, or those thought to have his or her professional ear. After all, a telephone call, email, or letter is all that is required. The power of lobbying has long been recognised by the politically savvy Religious Right, with either one representative tendering the organisation's views (see eg, Refused-Classification.com, 2016c), or the organisation itself rallying members to do the same (see eg, The Australian Family Association, 2011). When it came to *Baise-Moi* – for example – FAVA too contacted Draper (Morris, 2002). Indeed, FAVA and the AFA are also documented as lobbying against *Mysterious Skin* (Maddox and Moses, 2005), as are FAVA and Collective Shout regarding *The Human Centipede II* (Marr, 2011). Unlike community members, organisations such as these often publicise their lobbying efforts. Indeed, the AFA even encourages – and instructs – its members to act via its publicly accessible website (The Australian Family Association, 2011). Some groups, however, operate more discreetly, meaning that which is made public is likely to only be a portion of Religious Right action here.

Each of the films mentioned above was duly submitted for classification review by the Federal Censorship Minister. Indeed, this presents a situation where it is possible for Religious Right organisations – and the like – to essentially compel a film's classification review and then participate in the review itself as an interested party: all the benefits of aggrieved person status without needing to invoke the provisions themselves. The

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AFA, however, also lobbied against the R18+ classification of the horror film *The Life and Death of a Porno Gang* (2009), which charts one man's descent into snuff film production (The Australian Family Association, 2011). This was never submitted for classification review. Indeed, persuasion to act is never guaranteed. When a requested review is sought, the AFA in particular then directs its members to thank the obliging Minister (The Australian Family Association, 2011), and if the review yields classification

refusal, congratulate him or her on the desirable outcome (The Australian Family Association, 2012). Thanking the relevant Minister was also a tactic Nile frequently employed in his media releases (The Christian Democratic Party, 2002). This may be done with the intention of retaining the relevant Minister's support, letting him or her know their work is appreciated. However, through these statements, their makers also tacitly communicate to supporters and the wider community that their proposed image response was correct all along. They are proclamations of the classification/censorship system's ostensible endorsement.

Much of the Religious Right's success here can be attributed to its lengthy lobbying history and the strength of its numbers (Marr, 1999b, p. xiii). However, compelling a Censorship Minister to act need not involve a multitude of participants. Indeed, when it came to *A Serbian Film*, the South Australian Minister, Attorney-General John Rau, was persuaded to seek review simply by becoming aware that retail chain JB Hi-Fi refused to stock the film, declaring it was 'not suited to its customers' (Colvin, 2011, p. 1; see also Bodey, 2011). This also incited him to act on the South Australian Classification Council, as will later be explored. Participant analysis here hinges on how Rau became aware of the store's stand

and – as far as can be ascertained – this has not been made public. Nevertheless, a scenario can easily be imagined where an individual is making his or her own personal stand – albeit on a national platform – only to have it result in classification refusal. As this shows, one person’s actions can potentially compel the Federal Censorship Minister to instigate classification review. However, such occurrence is undeniably rare. After all, it is the atypical itself, which attracted the Censorship Minister’s attention here.

This chapter has divided participants into discrete categories: politicians, the Religious Right, and others. In practice, however, these lines are frequently blurred. While Fred Nile founded – and still leads – the Christian Democratic Party in Australia (Christian Democratic Party, 2016), prior to this he was FAVA’s New South Wales director (FamilyVoice Australia, 2016). Collective Shout’s Melinda Tankard Reist was also Brian Harradine’s former advisor, and Damien Tudehope was simultaneously Attorney-General Greg Smith’s chief of staff and a member of FAVA’s advisory board (Marr, 2011). Moreover, Tudehope represented the AFA, as a solicitor, in its bid for aggrieved person status regarding *Anatomy of Hell* (Classification Review Board, 2004a), further demonstrating this area’s convoluted nature.

The South Australian Classification Council

Like the Classification Review Board, the South Australian Classification Council (SACC) is permitted to review the merits of a classification decision. Indeed, under section 16(1) of the *Classification (Publications, Films and Computer Games) Act 1995 (SA)* (the SA Act), the SACC can examine decisions made by both the Classification and Classification Review Boards. Any ruling it makes, however, only applies in South Australia. This means the SACC is of little use to today’s nationally minded distributors. It is solely complaints driven. When it comes to film classification and censorship, the SACC is largely inactive, assessing no films in the 2015-2016 period (South Australian Classification Council, 2015-2016). Indeed, the

last time the SACC altered a film's classification was in 2005 when it reverted *9 Songs*' (2004) R18+ classification to X18+ (South Australian Classification Council, 2006, app. B); a blatant act of censorship as defined by this thesis. In 2011, however, Attorney-General John Rau also classified *A Serbian Film* RC on the SACC's advice (South Australian Classification Council, 2012, p. 4), making this position itself a quasi-designated site of action albeit still with the SACC's influence; another foible of the South Australian system.¹⁹⁷

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In accordance with sections 18 and 19 of the SA Act, the SACC applies the same text as the Federal Boards when making a decision: the Act, Code and Guidelines. However, unlike the Classification and Classification Review Boards, there is no access fee. Indeed, while the SACC must – under section 16(1)(a) of the SA Act – examine a film's classification if requested by the South Australian Censorship Minister, it does not otherwise boast a formal application process. The only hurdle is persuading the SACC to act. Lobbying here, however, does not demand the grand scale often directed at the national system, or for circumstances to attract attention. When it came to *9 Songs*, for example, the SACC acted after receiving only two complaints (South Australian Classification Council, 2006, app. B). That same year it also examined – but did not change – the classifications of two other films after receiving one complaint apiece (South Australian Classification Council, 2006, apps A, C). Indeed, the SACC is the only designated site where classification decisions can be directly challenged by community members who are acting as such, regardless of their filmic image boundary views or motivations.

¹⁹⁷ This is permitted under section 16(2) of the SA Act.

Unlike the Classification Review Board, the SACC does not receive submissions from interested parties to aid their deliberations. Furthermore, under section 8 of the SA Act, its six person membership must include certain experts: a lawyer, someone 'with wide experience in education', and 'a person with expertise relating to the psychological development of young children and adolescents'. As discussed in Chapter One, the Howard Government shunned experts as Classification Board members in 1999, favouring instead community members. This has established a curious dichotomy regarding the status of community participation. While community members make the classification decisions at the national sites, they are not permitted to challenge them there. In comparison, community members can challenge the national decisions made by their peers at the SACC but there will be at least some experts who – in this capacity – will decide the classificatory outcomes. Much of the required expertise, however, is clearly geared towards children. Indeed, there are no experts mandated to assist in identifying unacceptable offence levels in adults. As with the national sites, this is considered inherently obvious.¹⁹⁸

The Federal Court

The Federal Court has long been a designated site of action for those seeking to challenge legal decisions. However, very few participants access it for film classification and censorship matters. Unlike the Classification Review Board and the South Australian Classification Council, which have the power to reclassify films,¹⁹⁹ the court here looks solely at the process undertaken: was the classification lawfully made? (*FamilyVoice Australia v Members of the Classification Review Board*, 2011, para. 46).²⁰⁰ This in itself limits the site's

¹⁹⁸ This is evidenced by its lack of explanation in the classification reports from the SACC, as well as the Classification and Classification Review Boards. The SACC publishes its classification reports in its annual reports.

¹⁹⁹ More specifically, the Classification Review Board always reclassifies the films it assesses, even if this is the same classification given to it by the Classification Board. In contrast, the SACC only reclassifies a film if it wants to vary its classification.

²⁰⁰ This also reflects section 5 of the *Administrative Decisions (Judicial Review) Act 1977* (Cth) under which the cited action was brought.

usefulness to many participants. After all, multiple classifications can often be lawfully reached regarding the same film, as shown by the inclusion of majority and minority opinions in the Board reports. Additional hurdles then include the high access cost and the court's 'power to dismiss proceedings or strike out pleadings if they are vexatious, frivolous or an abuse of process' (1987, para. 25, Lockhart J).²⁰¹ There must also be a Classification Review Board decision to challenge. Indeed, the Federal Court is truly a site of last recourse.

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Since 2000, only two upper level classifications have incited Federal Court action: *Salò's* R18+ and *Viva Erotic's* X18+. Here, participants argued lawful process should have resulted in classification refusal for the former, and an R18+ classification for the latter. This represents an equal split between participants seeking to widen and tighten the licit image boundaries; both unsuccessful. Action regarding *Salò* was instigated in 2011 by FAVA with the support of Liberal senator Julian McGauran, Tasmanian Liberal MP Guy Barnett, and the Australian Christian Lobby; another Religious Right organisation (Craven, 2010). From the outset, however, these participants were preoccupied with the merits of the Classification Review Board decision; that which is outside the Court's jurisdiction. As Justice Stone confirmed, 'the Court is not concerned with what is a better view but only whether the majority's reasons contain errors of law' (*FamilyVoice Australia v*

²⁰¹ *Re Rev Fr Walter Ogle and Rev Fr John O'Neill v Janet Strickland, At All Material Times Chief Censor of the Censorship Board Constituted Pursuant To the Customs (Cinematograph Films) Regulations 1956 and Kenneth Bardon; David Haines; Graham Wood; D* [1987] FCA 36 (13 February 1987), [25]. The case name is again referenced in a footnote so as not to disrupt the text. This case was assessing aggrieved person status. However, its discussion regarding participant constraints is equally relevant here.

Members of the Classification Review Board, 2011, para. 36). This is a prime example of one motivation masquerading unsuccessfully as another.

Action regarding *Viva Erotica* was instigated by its distributor Adultshop.com in 2006. However, it soon became apparent the Court was the final stop in this participant's quest to dramatically widen the licit image boundaries pertaining to actual sex, having previously acted on the Classification and Classification Review Boards for this purpose. Here, Adultshop.com's arguments predominately clustered around allegations the Classification Review Board failed to consider whether *Viva Erotica*'s images of actual sex were 'likely to cause offence to a reasonable adult' in accordance with clause 3(2)(a) of the Code (*Adultshop.com Ltd v Members of the Classification Review Board*, 2007, para. 8). Indeed, Adultshop.com believed 'community standards ha[d] changed since the classification guidelines were drafted in 1984' because of 'the burgeoning market in illegal pornographic films' (Alberici, 2007, p. 1). Yet, the Court disagreed, observing – among other things – that Adultshop.com's desired outcome would render the X18+ classification obsolete; something which cannot be done at any of the designated sites (*Adultshop.com Ltd v Members of the Classification Review Board*, 2007, para. 124).²⁰² After all, the composition of the classification/censorship systems reflects Parliament's intention and this can only be changed via legislation. Therefore, while the line between the R18+ and X18+ images is becoming increasingly blurred, classifier/censors must continue to grapple with this distinction.

²⁰² Here, the Court was agreeing with the Classification Review Board's assessment of the situation, as outlined in their 2006 report regarding *Viva Erotica*.

Power, knowledge, and the control of truth regarding filmic image response

The Classification Board, the Classification Review Board, the South Australian Classification Council, and the Federal Court, are all designated sites of action where those external to the classification/censorship system can participate in the creation of licit filmic image boundaries. Prior to September 2015, the Classification Board's Director was also used for this purpose. With the Federal Court's exception, these sites are all arbiters of disgust and anger. However, this is not why external participants use them to act. While categories can – and do – blur, distributors predominantly act for their own financial gain; law enforcement officials endeavour to uphold the law; sex industry representatives seek to advocate sexual freedom and suppress violence; politicians work to further their political aspirations; the Religious Right and family organisations attempt to impose their conservative morality on others, as well as to protect the community from harm; and civil rights activists strive to champion freedom of speech.

Each of the designated sites is geared towards the action of different participants, as determined by legislation, procedure and permitted outcome. When it comes to challenging a classification decision on the national stage for example, anyone can participate as an interested party in a review that has already been launched. However, aside from distributors, those seeking to widen licit image boundaries are effectively prohibited from review instigation, both directly and indirectly. Consequently, these participants – as well as film festivals and distributors – often appropriate other sites at which to act. Success at the designated sites is measured by obtaining the desired classification. However, classificatory change can never occur at an appropriated site, meaning success cannot be measured here in the same way. Indeed, the vast majority of participants know this, meaning formal licit image boundary alteration is not even their aim.

The production of knowledge and the sanctioning of truth play an integral role in Foucault's analysis of apparatus and power (Foucault, 1980, p. 119). Indeed, for Foucault, the power relations shared by apparatus elements not only produce knowledge through the presence – and absence – of discourse and action, but control the status of this knowledge, determining that which is deemed truth (Foucault, 1980, p. 119). As Foucault writes:

[e]ach society has its regime of truth, its “general politics” of truth: that is, the types of discourse which it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true (1980, p. 131).

Foucault has described law as ‘the language of power’ because it compels people to act in certain ways (1980, p. 201). In this sense, the classification/censorship system – as the maker of legally binding decisions – has an authoritative presence in the community regarding who can watch what filmic images and where. However, each time the system makes a classification decision it also transmits additional knowledge regarding filmic image response. In this way, the chapter's title – participation – has dual reference: participation in the classification/censorship process and participation in knowledge construction. By refusing images classification, the classification/censorship system declares to community members they should respond to them with feelings of extreme disgust and/or outrage, and in only refusing to classify images from five broad categories – real death, actual sex, children, sexual violence, and actual graffiti writing – it communicates such images are the worst of the worst commercially produced, even more so than others formally flagged as problematic by the Guidelines. The system also communicates that any images outside these categories do not require an offence reaction, although if they are given an R18+

classification, such reaction is still permitted. Indeed, while not presented as mandatory, an offence response is deemed acceptable for all R18+ images.

When an image is classified X18+, the system declares community members should respond to both it – and those who enjoy it – with extreme disgust and/or outrage. Indeed, given the operation of these emotions, classification refusal and – to a lesser degree – R18+ classification also tacitly tells community members how they should feel about – and act towards – those associated with the images as well. By basing its decisions on disgust and anger elicitation, the system then further communicates these emotions (in their extreme forms) are acceptable reasons to have a film banned, and that theirs is a negative experience worthy of avoidance. Moving away from disgust and anger, the classification/censorship system also declares that art should be privileged over pornography by the way it distinguishes between at least some X18+ and R18+ images. Furthermore, each time a decision results in an R18+, X18+ or RC classification, the classification/censorship system communicates which types of images are permissible for adult viewing, and where this should occur. While the effects of this communication are limited in Australia as choice is already curtailed along these lines via the law, its reach extends to images residing outside of the classification/censorship system's jurisdiction. It is here where this message is most operational.

As the classification/censorship system is broadly tasked with upholding societal norms – especially when it comes to images of real death, actual sex, and actual graffiti writing – the system's knowledge transmission extends to communications regarding acceptable real life behaviour that goes beyond filmic image response. This clusters around treating the dead with respect, the relationship between sexual activity and privacy, and denouncing crime. Bennett, however, has looked beyond these areas, arguing the system also proffers an acceptable 'model of sexuality' via its dispersal of images of actual sex over the R18+, X18+

and RC classifications (2013, p. 90). As Bennett writes, it is here the system additionally communicates, particularly in the context of the latter two classifications, that:

sex should not contain any violence or coercion (even if consensual and role-played, for example sadomasochism), participants should not take sexual gratification from objects or non-sexual parts of the body (what the *Guidelines* define as a 'fetish'), dirty talk should at all times be respectful (or else become 'sexually assaultive language') and the sex itself should not be done in a way that demeans anyone involved (even with their consent) (2013, p. 90).²⁰³

While the nuances of the X18+/RC distinction fall largely outside this thesis' scope, the communicative power of this boundary's positioning should not be forgotten. Indeed, augmented awareness of that which the classification/censorship system communicates from any of its outer limit boundaries makes this chapter's analysis all the more fruitful. This chapter has revealed the motivations of the external participants who make the classification/censorship system's communications possible; motivations not evident in the utterances themselves. However, appropriated site participants also act with diverse motivations, and – in contrast – they seek a range of different outcomes. They too communicate filmic image response knowledge each time they act, challenging that espoused by the classification/censorship system. This will now be explored.

Appropriated sites of action

Unlike the designated sites, which are fixed through law and policy, the appropriated sites are potentially limitless, determined ultimately by their availability to – and the desires of – those who use them. Such fluidity makes locking these sites down for analysis difficult. Consequently, they are best examined by focussing on the broad actions these participants

²⁰³ Italics as featured in the original publication.

take, namely voicing their opinion in public, and defying the classification/censorship laws in public and the system in private. Conduct then seamlessly funnels into specific location types. People of course also voice their opinions in private, and this too has great potential to transmit filmic image response knowledge. Analysis of this, however, falls outside this chapter's scope.

Voicing their opinion in public

People have long voiced their opinions in public about that with which they do not agree. Traditionally, this occurred at organised gatherings or via letters to newspaper editors. While these forums are still used today, the Internet now means people can be their own publisher with the potential to reach an audience of untold size almost anytime and anywhere, both instantaneously and in a prolonged manner (Turnbull, 2014, pp. 59-60). For these reasons, numerous participants have appropriated the Internet as a site of action. Most obviously, action here tells people that film censorship has occurred, or informs them of its potential. Indeed, the *Refused-Classification.com* website – for example – is striving to document each formal instance of film censorship in Australia, as well as the surrounding circumstances. Many distributors also now have *Facebook* pages, as do film festivals, allowing them to directly converse with fans regarding the censorship of films pertinent to them. *Twitter* and other social media platforms are used in a likewise manner, as are blogs. Journalists too often report when classification refusal is sought via classification review, some of whom publish in online newspapers. A number of these outlets then provide consumer comment forums; another avenue for community participation here.

From a communication perspective, divulging a film's censorship may ostensibly appear to be aiding the classification/censorship system disseminate its own filmic image response message. However, that which has not been acknowledged cannot be challenged (Curry

Jansen and Martin, 2004, p. 32). Furthermore, awareness plays an integral role when it comes to the third appropriated site category: defying the system in private. Here, participants concertedly obtain censored films, meaning action at the other appropriated sites – and even the designated sites – informs them of the relevant titles. Indeed, the popularising effect of film censorship is well documented (Dalton and Schubert, 2011, pp. 45-46; Vnuk, 2003, p. 212). Consequently, those seeking stricter licit image boundaries are less likely to use the types of sites labelled here as “appropriated” to push their agenda unless it is connected with designated site action. Indeed, spurring more people to see the film in question without the potential for its legal prohibition is counter intuitive to their cause.

Almost anything can be said on the Internet; the beauty of this publication medium. However, whenever the release of a censored film is championed – as is inevitably done by distributors, film festivals, and at least some journalists and community member participants – a filmic image response narrative is also disseminated. Most obviously, this narrative advocates a legal filmic image response different to that espoused by the classification/censorship system: the images in question should not be censored. However, it also advocates an alternative social and private response: these images need not be met with extreme disgust and/or outrage, and – focussing again on the legal sphere – even if they are, this is not a reason for them to be censored. When it comes to the disgust emotion, narrative then extends to how those associated with the images are perceived: they need not be contaminated and seen as socially less, and viewers themselves need not internalise such feelings.

The publication modes listed above are routinely employed. However, in 2013, the Internet was used in other ways to challenge *I Want Your Love's* (2012) classification exemption refusal. Here, an incensed bystander – Australian filmmaker Grant Scicluna – instigated an online petition addressed to the Classification Board Director, imploring the exemption refusal be overturned (Scicluna, 2013). Indeed, the petition's introduction declares *I Want*

Your Love has value in its realistic depiction of life (Scicluna, 2013). It also notes the actual sex 'is shown within a non-violent, intelligent and artistic narrative', which Scicluna argues means it is 'not gratuitous' (2013, p. 1). These are all considerations the system itself weighs towards national release. While designated site action is required to achieve Scicluna's formally desired aim, at its close the petition had attracted 2,853 signatures. This is the minimum number of people Scicluna informed of the film's censorship and his denunciatory views, although many more were undoubtedly reached. This number, however, can also be understood as the amount of additional communications Scicluna's actions facilitated here; each signatory disseminating a similarly positioned message via their support.

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Nine days after the petition was launched, a video recording of American actor James Franco championing *I Want Your Love's* Australian release was uploaded to *YouTube*. Indeed, the Internet's potential not only means people can be their own publisher but their own broadcaster as well (Turnbull, 2014, pp. 59-60). In his video, Franco champions *I Want Your Love* as 'sophisticated' and denounces its censorship as 'embarrassing' (2013).

Like Scicluna, he too questions 'why in this day and age something like this – a film that's using sex not for titillation but to talk about being human, is being banned' (Franco, 2013). Franco's video was viewed in excess of 132,770 times before its status was changed from public to private. Indeed, this was an immensely successful way for him to communicate his filmic image response views to a large number of people undoubtedly aided by his celebrity status.

Defying the law in public

Another way participants challenge film censorship decisions is by publicly defying the classification/censorship law. This is done by providing other individuals with unlawful access to the films in question; offering them for public exhibition, sale or hire at appropriated sites. These participants also inform others of film censorship's occurrence, as well as their advocated filmic image response. However, with this in mind, they additionally give others the opportunity to view the images in question and decide for themselves. While decisions made by the Classification and Classification Review Boards are done so under Federal legislation, enforcement rests with the states and territories. This means – as outlined in the Introduction and Methodology chapter and Chapter Three – both parameters and penalties are jurisdiction specific. In South Australia for example, the public exhibition, sale or hire of an X18+ or RC film attracts a maximum penalty of \$10,000 (*Classification (Publications, Films and Computer Games) Act 1995 (SA)* ss 30, 38). In all other jurisdictions, imprisonment is sanctioned, although a fine can be substituted. While legislation can never prevent participants from appropriating sites for action, this is a clear example of it being used to regulate how these sites are – or more specially are not – used.

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While such action may have occurred earlier, publicly defying the law became increasingly common in the 1980s, as VHS technology – and the flexibility this afforded – grew in popularity. As one reminiscing fan declared regarding the classic zombie apocalypse film *Day of the Dead* (1985), 'I couldn't believe my eyes when I saw it on a shelf in Brisbane!' (Scott, 2014, p. 1). 'You had to visit 15 video stores to find it though'

replied another (Media Censorship in Australia, 2014, p. 1). This film was banned in the 1980s by the Queensland Films Board of Review;²⁰⁴ despite it being consistently classified R18+ by the national system.²⁰⁵ Today, the unlawful sale and hire of DVDs can still be observed in some mainstream stores. However, it is most commonly witnessed in adult stores located in the Australian states. Indeed, these retailers too are only permitted to sell films classified R18+ or lower. Sparrow (2012) sums the situation up well when discussing his research into the issue.

When I'd first been told that, I thought it must be a mistake. I searched for 'adult shops' on the Melbourne Yellow Pages website, and my computer pulled up a huge list ... Now, it was possible that a business calling itself X Shop sold something other than X-rated DVDs, but you wouldn't want to bet on it. No, the vast majority of the listed businesses – 1000 or more across the country – were breaking the law every day; and what's more they made no attempt to hide it (Sparrow, 2012, p. 41).

Despite this visibility, the challenges that occur in these stores happen quietly, without business owners and staff deviating from their normal tasks. They do not try to attract attention, and this is undoubtedly one of the reasons why penalty is rarely incurred. This situation, however, sends a powerful message to community members that X18+ films should be – and even are – an acceptable feature in Australia's adult entertainment landscape. Indeed, Sparrow's surprise is a testament to its successful dissemination.

In contrast to stores, cinemas are more high profile in their operation. After all, given their capacity to deal with only a relatively small amount of films at a time, the advertising of each one is essential. This would clearly draw attention to their law breaking should they decide to challenge an act of film censorship by screening the film in question, greatly increasing their chances of penalty. Indeed, cinemas are unlikely to purchase a film they cannot lawfully

²⁰⁴ As printed on the featured videotape cover art.

²⁰⁵ *Day of the Dead* (1985) was classified R18+ in November 1988 and March 2007.

exhibit. When it came to *Baise-Moi* (2000), however, the film had already been lawfully screening in cinemas for 16 days before the Classification Review Board refused it classification (Dow, 2002, p. 14; Classification Review Board, 2002, p. 1). This compelled the Valhalla and Chauvel Cinemas in New South Wales, as well the Lumiere Cinema in Victoria, to continue its screening in defiance; communicating their belief that censorship was not warranted. This only stopped at the direction of police officers who themselves only acted after a request was made by the AFA (Morris, 2002). The apparent reluctance of police to act here communicates a perceived trivialness on their behalf. However, the situation also reinforces community perceptions of the Religious Right's influence regarding film censorship matters; a perception which at least some Religious Right members are keen to further (see eg, Refused-Classification.com, 2016f).²⁰⁶

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There have been a number of recorded incidences where film festivals have held unlawful screenings without penalisation; the Melbourne Underground Film Festival's exhibition of Comstock's X18+ film *Damon and Hunter: Doing It Together* (2005) in 2006, providing apt example. It was, however, the prospect of penalty that caused the Sydney Film Festival to cancel its proposed screening of the RC film *Ken Park* (2002) in 2003 (Ken Park won't screen at festival, 2003).²⁰⁷ This is a prime example of Foucault's notion of law

being 'the language of power' (1980, p. 201). Here, organisers submitted the film for

²⁰⁶ This reproduces the media release produced by Fred Nile after the *Ken Park* controversy provocatively titled *The Power of One – Fred Nile strikes again*.

²⁰⁷ This film had already been submitted for formal classification prior to the Sydney Film Festival seeking its screening.

classification review. However, an RC classification again eventuated (Classification Review Board, 2003). This compelled a group called Free Cinema to hold an unlawful screening in the Balmain Town Hall on 3 July 2003 (O'Brien, 2003). As one attendee reminisced:

[t]he first officer arrived even before the protesting film critics. A few minutes after 5pm, he asked volunteers bearing Free Cinema arm bands, who were setting up rows of chairs and organising milk for hundreds of cups of tea what was going on. 'We are showing a film', was the reply. An hour later, the officer was back. By now the cinema screen read 'Ken Park banned!', the protest cry alternating with images of the film's young adult stars provocatively prone (Needham, 2003b, p. 1).

Later in the evening as the film began to play, the police moved to seize the DVD, taking it and one of the organisers – film critic Margaret Pomeranz – to the neighbouring police station (Haynes, 2003). No charges were laid (Arlington, 2003). This police action was also revealed to be an instance of Religious Right retaliation. As *Refused-Classification.com* now declares in an attempt to rally other challengers:

[the screening] would have taken place had it not been for one complaint from Fred Nile! This was despite the event being given saturation media coverage. Five hundred people attended, and countless others were turned away. No one, apart from Nile cared (2016l, p. 1).

Clearly, Nile had the law on his side. However, when it comes to the communication of knowledge, police attendance here can actually be seen as aiding the challengers to disseminate their message outside of the venue, making the event even more newsworthy than before. After all, the juxtaposition of a police raid with such a quaint setting, only adds to its unexpectedness (Brighton and Foy, 2007, p. 18). At least one of the organisers had already seen *Ken Park* (Needham, 2003b), and many also possessed film expertise by

virtue of their professions. This bolstered the credibility of their message. Indeed, all of the organisers held respected positions: a film critic, an author, an academic, a radio broadcaster, a filmmaker and a director (Andreef et al., 2003). Clearly, they risked much to disseminate their message, which also impressed its considered importance. Not only were they susceptible to legal penalty but – for some – perhaps social and professional sanction as well. After all, disgust contamination was also a hazard here. While the screening itself was stopped after mere seconds, stills of some of the film's most controversial images were successfully projected beforehand (Needham, 2003b). Consequently, these individuals were not only associating themselves with disgust eliciting images via the written word but in their visual form as well, both literally and figuratively standing beside them. Pomeranz, however, shrewdly distanced the images – and herself – from at least some of the disgust connections. 'I wouldn't be standing up for this film if I thought it was pornography or a piece of trash' she resolutely declared (Censorship the burning issue at centre of Ken Park debate, 2003, p. 1).

Given the immense publicity it had attracted, Free Cinema anticipated police would shut down its *Ken Park* screening (O'Brien, 2003). Indeed, unlike those responsible for more clandestine events, showing the film was – or at least became – of secondary importance to them (O'Brien, 2003). As Leichhardt's Deputy Mayor – and Free Cinema member – Jamie Parker explained, it is more consequential to 'raise the issue and promote debate' (O'Brien, 2003, p. 1). Eight days after the attempted screening, Free Cinema published its formal aims in *The Age* newspaper, the first one being: 'to uphold the right of adults to read, hear and see what they choose, unless it does demonstrable harm to children' (Andreef et al., 2003, p. 12). Clearly, Free Cinema believes offence elicitation should never be sufficient to trigger a film censorship response. However, this statement also emphasises its support for clauses 1(a) and (b) of the Code, blatantly paraphrasing their text. Free Cinema's other aims then clustered around changing the classification legislation and process in line with this view, including making it less susceptible to Religious Right influence (Andreef et al., 2003, p. 12).

Indeed, this publication was – essentially – a vision for the classification/censorship system's future.

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Free Cinema's publicity seeking actions can be contrasted with those of the Melbourne Underground Film Festival (MUFF) when it unlawfully screened Bruce LaBruce's sexually explicit film *L.A. Zombie* (2010) after classification exemption had been refused. Labelled by MUFF's director Richard Wolstencroft, as a 'public disobedience freedom of speech event' (Quinn, 2010, p. 1), this occurred at the 1000 Pound Bend bar in Melbourne, on 29 August 2010 (Buckmaster, 2010). Evocatively described as 'gay zombie porn' (Griffin, 2010a, p. 1), *L.A. Zombie* 'documents the earthly journey of an alien zombie' who possesses a large pointed penis and a philanthropic gift (Dalton and Schubert, 2011, p. 31). As the film's complete tagline declares, '[h]e came from the sea ... to fuck the dead back to life' (A PPV Networks, 2010, p. 2).²⁰⁸ Here, organisers were wary of police action, only disclosing the screening's location to ticket holders via *Facebook* just prior to the event (Buckmaster, 2010). However, they were clearly not waylaid by fears of festival damage, as the Sydney Film Festival had been eight years earlier. Indeed, while the legal penalty was potentially significant, given MUFF's underground status, such action could only increase the festival's credibility in the eyes of its target audience.

MUFF's *L.A. Zombie* screening occurred without incident; the crowd reportedly having "eewed" and cheered their way through the film's graphic ... scenes of blood, gore and gay zombie sex that included "wound penetration" and "simulated necrophilia" (de Jonk, 2010, p.

²⁰⁸ Ellipsis as featured in the original publication.

1). On 11 November 2010, however, police raided Wolstencroft's home searching for the now infamous DVD (Quinn, 2010). He was later charged – and found guilty – being ordered to pay \$750.00 to the Royal Melbourne Children's Hospital (Quinn, 2011). As Quinn writes, '[w]hen gay porn zombies come to town, it seems sick children are sometimes the winners' (Quinn, 2011, p. 1). From a filmic image response perspective, organisers here communicated many of the same messages that Free Cinema did, although Wolstencroft framed the issue as one of free speech in contrast to Free Cinema's concerted film classification/censorship system challenge (Quinn, 2010). The most obvious difference, however, was that MUFF's action succeeded in permitting the controversial images to screen, allowing patrons to assess for themselves the merits of each institutional, social and private filmic image response that had been presented to them. As Comstock argues:

[w]e see so much ... we just kind of imagine that [for] anything that's suppressed there must be a good reason because you go on the Internet you see some pretty spectacular stuff and you say well if that exists whatever is getting suppressed must be pretty bad (2010).

Many of the films that are censored upon seeking an R18+ classification – or classification exemption – are undeniably extreme when compared to the mainstream fare that saturates the bulk of Australian cinemas today. However, in comparison to that which is lurking in the darkest corners of the Internet – both actual and imaged – their images are decidedly benign; as to which those attending *L.A. Zombie's* illicit screening will now undoubtedly attest, given their reported cheering (de Jonk, 2010). Consequently, sick children were not the only winners here. Those transmitting filmic image response knowledge – and those receiving it – were as well.

Defying the system in private

Individuals in particular can also challenge the classification/censorship system's filmic image response narrative by defying the system in private; obtaining and watching illicit copies of censored films. This too has been occurring since VHS tapes became widespread in the early 1980s; technology that permitted films to be enjoyed in private and easily copied. As one film buff declared regarding the once censored *Salò*, 'I've had a copy on VHS for years that I'd hand out regularly to anyone interested' (Fismilkshake, 2010, p. 1). Almost four decades later, a conversation on *Twitter* between Accent Films and Melinda Tankard Reist revealed that *A Serbian Film* was 'doing the rounds of schools on USB sticks' (Refused-Classification.com, 2016a, p. 1). While technology has changed, behaviour clearly has not.

The local video store is slowly disappearing. However, the traditional methods of accessing a film – public exhibition, sale and hire – remain undeniably popular. Indeed, there are some who stubbornly shun the more modern method of Internet download whether this is from a reputable online store or an illicit pirate site. Nevertheless, advancements in technology now mean that all films can be downloaded onto computers or mobile devices anytime and anywhere; without consumers even leaving their homes if they so choose. A number of films can also be viewed in part – or in their entirety – on *YouTube* where downloading is (in some cases) unnecessary. This includes brief footage like *The Hanging* (2006), as well as feature length films such as *Ken Park* and *A Serbian Film*. Films can additionally be purchased online in DVD or Blu-Ray form. While customs officials still seize purchases they find that are refused classification or likely to be so, it is impossible for them to catch every illicit film entering into Australia. After all, R18+ and RC productions look identical upon x-ray scrutiny. Furthermore, customs is only concerned with international purchases. There is no one policing the X18+ films travelling from Australia's territories to its states. Here, there is open slather on filmic image movement.

While the proliferation of extreme filmic images in Australia was once blamed on intentionally lax customs operations (Joint Select Committee, 1988a, pp. 18-19), the Internet is now being held responsible (Heslin, 2016). Arguments maligning this occurrence, however, continue to draw on notions of letting the other in from outside; that which pollutes and decays the Australian community as an allegedly passively consumer (rodney allsworth of morayfield, 2010).²⁰⁹ Yet the acquisition of a film is never passive. Indeed, even when browsing the Internet it is unlikely individuals could stumble upon a commercially made film, such as the ones with which the classification/censorship system predominately deals. Viewers must actively search for them. This makes the film censorship revealing action at the other appropriated sites so important; it alerts people regarding that for which to look.

While the act of rule-breaking can itself be enticing, action here suggests the alternative filmic image response knowledge communicated at the other appropriated sites is being received and accepted by at least some community members, particularly regarding censorship not being the only valid response. When participants defy the system in private, however, their actions also communicate this – and other alternative filmic image response narratives – to those sharing their private space. Participants can then verbally communicate their views to others before or after the fact, if they so choose. Acting in private, however, means they need not fear legal penalty, or the social detriment that can flow from disgust contamination. Indeed, they can largely control the audience their communication reaches, minimising this risk.

²⁰⁹ This, for example, is evident in the comment left by rodney allsworth of morayfield in the consumer comment forum for an online news article: ‘and we wonder why we have degradation of humanity growing in our societys [sic], garbage in, garbage out’.

Truth and resistance at the appropriated sites

Participants access the appropriated sites with a range of different aims after an act of film censorship has occurred. Many, however, can be seen as challenging the system through its criticism and by disputing the merits of its censorship decisions. Turning to this chapter's examples, this is most overtly evident regarding those who defy the law in public, as permitted by the detailed case study exploration. Drawing on Foucault, the classification/censorship system's power is twofold: that of law and that of truth (1980, pp. 131, 201). However, criticising the system alone is not enough to exact substantive or lasting change (Foucault, 1988, p. 84). As Foucault writes:

[w]hat has to be questioned is the form of rationality at stake. ... The question is: how are such relations of power rationalized? Asking it is the only way to avoid other institutions, with the same objectives and the same effects, from taking their stead (1988, p. 84).

The classification/censorship system formally rationalises the filmic image response of censorship by arguing it is upholding community standards and performing the allegedly necessary function of preventing offence. Caution must of course be taken when speaking generally rather than to specific instances. However, when appropriated site action is analysed from the perspective of filmic image response communication – and actions are considered rather than words – it is revealed that participants are not merely criticising the classification/censorship system here; they are challenging these rationalisations as well. Indeed, just by defying the law in public or the system in private, participants communicate that the community standards the classification/censorship system purports to uphold – as they pertain to filmic image viewing – are not as widely held as the system claims. They also communicate that people need not be offended by these images, and even if they are, such

emotion should be insufficient to trigger classification – and classification exemption – refusal.

In line with Foucault's resistance strategy (1988, p. 84), the messages communicated by participants' actions at the appropriated sites consistently challenge the entire classification/censorship system as it pertains to film censorship. That which is communicated by their words, however, does not. Scicluna and Franco – for example – both employed the classification/censorship system's own rhetoric when advocating the release of *I Want Your Love*, as did Pomeranz and Free Cinema regarding *Ken Park*. The use of this language is perhaps advantageous – even necessary – when acting at the designated sites, given the legal nature of the process and decision. After all, the system's rhetoric is grounded in the classification legislation itself. Through its use here, however, participants can be seen as expressing their support for the system as a whole regardless of whether this is intended. Indeed, by emphasising a film's artistic merit (Scicluna and Franco), or by distinguishing it from pornography (Franco and Pomeranz), participants are communicating that some films should be censored and these are desirable markers; the wrong judgment call was just made in these instances.

In contrast, journalist Frank Moorhouse has declared:

[t]here is nothing wrong with being horrified or sickened [by filmic images,] and nothing terribly bad happens to us when we are. I think it is more likely that something good will happen: we might be moved (2009, p. 1).

With sickened in particular being a hallmark of offence, this is a powerful statement of system resistance. After all, it constructs offence as a positive emotion rather than one which must be avoided. Jane Mills – a Free Cinema member – has also framed challenging image viewing as positive, arguing that film is a 'safe place' to explore difficult issues not only from

a filmmaking perspective but one of community debate (2001, p. 96). While Moorhouse's statement is an apt example of words being used to challenge the system's censorship rationale, Mills' words go further, challenging film censorship regardless of the reasoning behind it. This is particularly advantageous when it comes to film censorship in Australia, as it is not just the system itself challengers must combat but all the participants who act at the designated sites striving for narrower licit image boundaries: law enforcement officials, sex industry representatives,²¹⁰ politicians, and Religious Right and family organisations. Not only do these participants compel the system to communicate, they are the ones Foucault warns about who are at risk of taking over from the classification/censorship system should it be defeated. Consequently, those seeking to eliminate film censorship in Australia must also combat the rationales of these participants' actions. Indeed, for challengers of film censorship in Australia, the classification/censorship system and its offence rhetoric is only part of the battle.

²¹⁰ This is in the context of violence rather than sex.

Chapter Five

Perception

Licit image boundary determination is a practice that both influences – and is influenced by – the society in which it operates (Kuhn, 1988, p. 6). When it comes to the latter, Chapters Three and Four – in particular – provide apt example. Indeed, Chapter Three demonstrated how the Australian classification/censorship system draws on norms pertinent to the society in which it operates when it makes many of its licit image boundary decisions. Chapter Four then explored how society members – as external participants – influence the classification/censorship process by acting on the classification/censorship system itself. Chapter Four also analysed how the system influences society by that which it communicates via its licit image boundary decisions; a topic that will now be explored further here.

Chapter Four identified the Internet as an appropriated site of action, with participants taking to this medium to communicate their own filmic image response narratives. One example of this was news articles and – where available – their consumer comment forums. While appropriated sites are typically only of use to those advocating wider licit image boundaries, individuals with all views contribute here. After all, the consumer comments themselves do not announce an instance – or potential instance – of film censorship. The preceding article has already done just that. By analysing these consumer comments – referred to here as online comments – this chapter will demonstrate how the classification/censorship system's filmic image response narrative is operational in Australian society; how it influences people's perception of the filmic images in question, as well as the associated individuals. This will be from the perspective of third party bystanders, as well as the associated individuals themselves. Chapter Four also identified the participants that act on the

classification/censorship system at its designated sites; each of them peddling a filmic image response narrative in line with their motivations for acting. Online comment analysis, however, suggests only one additional narrative is pervasively at work in Australian society: that of the media effects tradition. Consequently, this chapter will also explore the media effects message and its operation, focussing on the perception of both filmic images and associated individuals.

As gestured to above, the comment forums provided by news outlets are frequented by people with a range of filmic image response views. These are people that have seen the films in question, as well as those who have not but are still planning to, and those who would never after reading the film's premise. This diversity is why comments made in these forums were selected for analysis over those generated on websites catering specifically for film fans. Diversity is then augmented by this chapter's focus on comments sought from well-known online news outlets: *Daily Mail Australia*, *The Age*, *The Sydney Morning Herald*, *The Advertiser* (Adelaide), *The Australian*, and the ABC's *The Drum*. These all cater to both large and broad audiences, rather than niche markets; audiences which comment on more than just the article's thrust. These outlets, however, are also all based in Australia, ensuring – as far as possible – an Australian perspective is provided.²¹¹ The comments selected for analysis were all made by largely anonymous individuals identified only by their onscreen handle. This may – or may not – be their real name. Often it is clearly not. Indeed, honesty is promoted by this anonymity, as the commenters' real life personas need never be associated with the films in question or even their own online comments. This significantly minimises any risk of disgust contamination and resultant social detriment.

Drawing again on the images deemed most problematic by the classification/censorship system, this chapter will examine comments left after online articles regarding the Australian

²¹¹ This reduces the likelihood of international participation, although there is of course nothing to stop those from overseas commenting.

release of *Love* (2015) (one article), and *Donkey Love* (2012) (one article), which both feature actual sex, as well as the classification refusal of *Children's Island* (1980) (one article), which features challenging images of children. For sexually violent images, this chapter will turn to the comments left after articles regarding the classification status of *The Human Centipede II: Full Sequence* (2011) (two articles), *A Serbian Film* (2010) (one article), and *Salò, or the 120 Days of Sodom* (1975) (five articles). *Children's Island* also features images of actual sex, and *Salò* and *A Serbian Film* additionally feature challenging images of children. These articles were all published between 2010 and 2016; the designated timeframe for this chapter's research.²¹² Indeed, as far as can be ascertained, they were the only ones fitting the requisite criteria that were so published.²¹³ This is why images of real death and actual graffiti writing – which have been deemed similarly problematic by the classification/censorship system – are noticeably absent from this chapter. There were no suitable online comments available for analysis.

When it comes to analysing the operation of the media effects message, comments left after two articles discussing Margaret Pomeranz and David Stratton's refusal to review the Australian torture porn film *Wolf Creek 2* (2013) on their television program *At the Movies* will also be explored. *Wolf*

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²¹² Not only does this ensure the most recent data, some news outlets remove their online content overtime, meaning it is not available for analysis.

²¹³ As gestured to in the previous paragraph, the requisite criteria were that they discussed films featuring images that challenged the classification/censorship system's boundaries, and were published by well-known online news outlets with comment forums, catering to both large and broad audiences. The only exceptions were three articles regarding the classification exemption refusal of *L.A. Zombie* (2010) and one gesturing to the classification exemption refusal of *I Want Your Love* (2012). Comments generated by these articles largely discussed topics outside this thesis' scope due to the nature of the articles themselves.

Creek 2's images do not fall into any of the aforementioned categories. However, this film does feature copious amounts of (fictitious) violence; a filmic image category about which media effects proponents are exceedingly concerned. Described as being 'loathsome, detestable and disgusting in all the right ways' (Miraudo, 2014, p. 1), *Wolf Creek 2* follows the sadistic serial killer, Mick Taylor, deep into the Australian outback. With a penchant for torture – and for international backpackers – it is not long before his victim tally rises. *Wolf Creek 2* was classified R18+ in August 2013. However, this was reduced to an MA15+ four months later after 'some very minor tweaks' were made (McLean quoted in Roach, 2014, p. 1); a decision its creator Greg McLean declared 'was not a result of commercial compromise' (Roach, 2014, p. 1).²¹⁴

While guided by legislation, the classification/censorship system's communications are at the mercy of designated site participants; those who submit the films themselves. In a similar vein, this chapter is at the mercy of the articles that have been written, as highlighted by the absence of discussion regarding real death and actual graffiti writing. This is a trade-off for seeking real world examples of filmic image response narratives at play rather than manufacturing them via interviews or surveys. Yet, conclusions can still be posited in the wake of these absences. The lack of articles regarding films featuring images of real death, which challenge the classification/censorship system's borders, can be explained by no such films being submitted for Australian classification since *Faces of Death I-IV* (1978; 1981; 1985; 1990) in 2007. This could be due to distributor awareness

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²¹⁴ *Wolf Creek 2* was then similarly classified R18+ and MA15+ in May 2014.

regarding the classification/censorship system's censorial stance. However, it also reflects that while they are occasionally still made, mondo films have lost the popularity they first enjoyed in the 1960s and then again in the 1980s with the advent of VHS technology (Goodall, 2006, pp. 5-6).²¹⁵ This alone suggests a shift from the community supporting the public exhibition of such images to them being socially relegated to the private.²¹⁶ Today, their lack of commercial viability supports the classification/censorship system's assertion that such images are against community standards at least in the public sphere, although offence is of course not the only reason consumers avoid filmic images.²¹⁷

No articles were written about films featuring images of actual graffiti writing even though three such films were refused classification in 2015, after being submitted to the Classification Board by the Queensland Police's graffiti task force. This suggests journalists were either not aware of their classification refusal – highlighting the importance of appropriated site action – or did not consider it newsworthy. Indeed, history has shown that when it comes to film censorship, journalists strongly favour reporting when films have been submitted to the Classification Review Board by people other than distributors; only one element of which is satisfied here.

This chapter is not only shaped by the articles that are written but by the comments that are made as well. For example, 106 comments were left after the article regarding *Donkey Love*, while only six comments were generated by *Love's* article, and two of these were on matters unrelated to the film itself or the classification/censorship system. However, insight too can be drawn from this lack. While exact numbers are unknown, it may be argued the *Daily Mail Australia* website, which reported on *Love*, perhaps attracts fewer readers – or commenters

²¹⁵ Also known as shockumentaries, mondo films are crafted in the style of sensationalistic documentaries and presented strictly as fact. In reality, however, they are typically a blend of fact and fiction (Weiner, 2007, p. 1001).

²¹⁶ While often featuring controversial images of real death and violence, mondo films are also known for featuring risqué images of nudity and simulated sex (Goodall, 2006, pp. 8, 47).

²¹⁷ They could, for example, simply find them tedious or boring.

in general – than *The Sydney Morning Herald*, which reported on *Donkey Love*. Yet, considering online comments are typically made because readers feel strongly about the article's subject matter,²¹⁸ the comparative lack of comments regarding *Love* suggests readers were unperturbed by its content: non-violent images of realistic actual sex between consenting adults. This is then consistent with the classification/censorship system's declaration via *Love*'s classification exemption and R18+ classification: this film's images do not exceed community standards. However, it also suggests that while images of actual sex push the classification/censorship system's outer limit boundaries – as they currently stand – regarding that which can be publicly exhibited, they do not challenge true community standards in the same way. If they did, the article would likely have sparked more people's ire.

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Similar conclusions can be drawn by the relatively mild language used in the comments left regarding *Love*. Indeed, one commenter was '[n]ot really fussed' by the film (Reboogity Amen, 2015, p. 1), and another referred to it simply as 'rubbish' (Reubenene, 2015, p.1). This is in stark contrast to commenters' impassioned cries against *Donkey Love*'s release.

UGH! ... Words fail me ... this is so perverse, so utterly repugnant and so morally abominable that I'm deeply shocked (Andrew of Mornington, 2012, p.1).²¹⁹

Utter disgust. vile [sic] ... filth. These men ... I want to vomit ... Christ I am so disgusted (disgusted, 2012, p.1).²²⁰

²¹⁸ This is evidenced by the comments themselves.

²¹⁹ Ellipsis as featured in the original publication.

How much more disgusting, depraved and inhumane can humans get!!!? We are the lowest of the low, regarding morals[,] ethics and evolution (Animalw hisperer, 2012, p. 1).²²¹

As perhaps expected, such language, combined with the large number of comments left, suggests that images of actual bestiality are far more of a challenge to true community standards than images of actual sex where only humans are involved.

Offence: the classification/censorship system's filmic image response narrative

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Aside from the comment expressing its maker's indifference (Reboogity Amen, 2015, p. 1), each of the aforementioned comments regarding both *Love* and *Donkey Love* can be seen as employing the classification/censorship system's filmic image response narrative, despite their differing tones. Perverse, repugnant, vile, filth, and disgust itself, are all emphatic disgust references. So too is rubbish in light of Susan Miller's work on the disgusting as 'matter out of place' (2004, p. 21; see also, Douglas, 1966, p.

36).²²² Vomiting is a well-known reaction to extreme disgust, and reference to morality both reflects the legislation's wording and is a nod to moral elicitation, whether this be disgust or anger. Similar language can also be seen in the online comments regarding the sexually

²²⁰ Ellipsis as featured in the original publication.

²²¹ Animalw hisperer is this commenter's handle.

²²² Here, Miller draws on Douglas' work from which this quotation originally comes.

violent films. When it came to *Salò*, for example, one commenter asked, '[h]ow can such a disgusting film be allowed?' (DocP, 2010, p. 1). Another simply wrote '[d]isgusting disgusting disgusting' before also questioning the wisdom of its release (Louise, 2010, p. 1). Every communication the classification/censorship system makes is steeped in nuance. Indeed, by permitting *Love* and *Donkey Love* film festival screening, and *Love* and *Salò* an R18+ classification, the system communicates that while these films – and their *specific* images of actual sex/sexual violence – may be offensive to some, they are not sufficiently offensive to warrant classification refusal. While still using the classification/censorship system's narrative, most of the commenters referenced here clearly did not agree with this assessment. This means what can be witnessed is the culmination of the classification/censorship system's communications over time; the operation of the broad message it transmits. Extreme images of actual sex and sexual violence are offensive, and offensive images warrant censorship.

When it came to *Children's Island* and its challenging images of children, commenters again employed the classification/censorship system's filmic image response narrative to share their views. Here, however, a number used this to champion – rather than denigrate – the images in question, distancing them from disgust elicitation in ways reminiscent of Margaret Pomeranz's appropriated site action in Chapter Four. As one commenter lamented, '[h]ere we have a natural act being performed by a young man ... and it is classified as evil and disgusting' (toto, 2014, p. 1).

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Another proclaimed:

[t]his is just a part of human nature and plainly not depicting pornographic filth. Do we talk about it, or follow the puritan's way (notably undisclosed by AFP) and not discuss it? (Andrew, 2014, p. 1)²²³.

These comments frame the boy's erection as an inevitable part of adolescence rather than a deviant source of titillation and sexual excitement for viewers, which is condemned by the classification/censorship system. However, in so doing, they not only remove the viewer's sexual potential but the boy's as well, quashing the images' links to fluid production, bodily transgression, and the core disgust these both elicit. Both these commenters have rejected the specific message communicated by *Children's Island's* classification refusal, as well as the classification/censorship system's general views regarding images of children and actual sex. Nevertheless, the system's communications have still shaped these individuals' perceptions, providing them with a framework with which to discuss and understand the contentious images in question.

Some commenters directed feelings of disgust not towards the disgust eliciting images themselves but their viewers instead; a clear case of disgust contamination. This is consistent with the disgust emotion's operation (Kelly, 2011, p. 19), and tacitly sanctioned by the system via disgust's legislative inclusion (*Guidelines for the Classification of Films 2012*, p. 16). When it comes to images of actual sex, such feelings are also directly advocated via clause 3(2)(a) of the *National Classification Code (May 2005)* (the Code), especially when the images themselves are explicit and titillating.²²⁴ Returning now to the comments made regarding *Love*, one referred to its viewers as the 'rain coat brigade' (Poppy Donnegan,

²²³ AFP refers to the Australian Federal Police.

²²⁴ Clause 3(2)(a) of the Code states that films will be classified X18+ if they 'contain real depictions of actual sexual activity between consenting adults in which there is no violence, sexual violence, sexualised violence, coercion, sexually assaultive language, or fetishes or depictions which purposefully demean anyone involved in that activity for the enjoyment of viewers, in a way that is likely to cause offence to a reasonable adult'.

2015, p. 1). This conjures visions of deviant social outcasts and out of place bodily fluids; the imagined semen these men leave behind. Another commenter made it clear that he or she would not be seeing *Love*, unlike the ‘few weirdos’ that would (Tasiman, 2015, p. 1), and when it came to *Donkey Love*, one individual even selected the handle ‘It’s Not Me, It’s You’ (2012, p. 1). Not only do these comments – and handle – all clearly attempt to delineate their makers from viewers lest they too become contaminated, they also implicitly assert their makers’ superior social status. In a similar vein, a number of those championing the release of this chapter’s case study films tempered their position with reassurances they still would not watch (see eg, John of Parafield, 2011, p. 1; Ms Naughty, 2011, p. 1). Such is the power of the disgust emotion.

When it came to *Donkey Love*, commenters also directed their feelings of disgust towards another associated individual: the film’s director, Daryl Stoneage. As one commenter proclaimed, ‘[t]here must be something very wrong with this filmmaker, for him to want to go around filming that’ (Belle, 2012, p. 1). Another labelled him nothing more than a ‘deeply immature adolescent with a video camera’ (12358132135, 2012, p. 1). These comments embody two of the three categories identified by William Miller regarding how those who interact with the disgusting are perceived by others: ‘protohuman like children’ and ‘subhuman like the mad’ (1997, p. 11). The absent category here is ‘suprahuman like saints’ (Miller, 1997, p. 11). This is the only one with positive connotations. Indeed, when directed towards adults, the protohuman and subhuman categories are both intrinsically linked with mental lack; with allegations of diminished capacity for understanding, reasoning and foresight embedded in them. The latter especially, is also associated with illness. Either way, these people are seen as less than us. They are not normal.

Similar allegations were levelled at *The Human Centipede II's* director Tom Six. As one commenter explained:

[w]hat sickens and disturbs me is that someone has actually dreamt up this particular idea for a movie. The Human Centipede barely even sounds like a "horror" movie, more of a sick and twisted production. Surely whoever is responsible for producing this movie is mentally unwell? (dmw, 2011, p. 1).

Another commenter even extended this to all those who condone *The Human Centipede II's* release writing:

[s]ick, sick, sick and so is everyone who thinks that not banning films like this is a good thing. No it's not illegal to have an imagination, but sometimes maybe it would be best if you just kept things like that to yourself' (Teresa, 2011, p. 1).

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Had Six chosen to keep his imaginings private, they would not have diminished his social standing, as the release of *The Human Centipede II* clearly has done in the eyes of at least some commenters.

Indeed, disgust – as a social control mechanism – spectacularly failed to regulate Six's behaviour here, even though its workings are patently visible in his detractors' words. For the above commenter, however, individuals need not even interact directly with the film's images to be contaminated by them; the absence of their public condemnation is enough. This echoes the view proffered by the South Australian Attorney-General John Rau, when defending his decision to refuse *A Serbian Film* classification in South Australia.

I think we have to accept as a civilised society that adults should be given a fair degree of latitude to do, say and read and observe whatever they wish. However, I don't think any right thinking person accepts that that principle is completely without boundaries (Colvin, 2011, p. 1).

When asked of his response to viewing *A Serbian Film*, Rau then replied, '[w]ell revolted as any decent thinking person would be' (Colvin, 2011, p. 1). Rau's comments embody the notion of those who wilfully interact with the disgusting as being mentally incompetent. However, the Code too reinforces this with its use of 'a reasonable person' as the threshold for determining offence levels worthy of censorship via X18+ or RC classification (clauses 3(1)(a)-(b), 3(2)(a)). This is an area of the classification/censorship system's communications,

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which this thesis has not explored. A reasonable person is a commonly used legal construct (Butt, 2004, p. 365). However, turning again to the *Macquarie Dictionary*, this source defines "reasonable" as that which is 'agreeable to reason or sound judgment' (2015). These are characteristics that protohumans (the childlike) and subhumans (the mad) both lack (Miller, 1997, p. 11). Indeed, the Code's inclusion of a reasonable person threshold communicates that the censorship arm of the classification/censorship system exists solely in response to these individuals. After all, those who are reasonable – as so deemed by the system itself – would automatically censor themselves when it comes to the images the classification/censorship system deems unacceptably offensive, either as a direct disgust response or out of fear of social detriment stemming from contamination. From this perspective, film censorship can be understood as existing solely for the few. However, it can also be seen as striving to elevate the standing of the entire community through the

enforced gentrification of its errant members, even though in reality such action all but guarantees the opposite.²²⁵

Returning again to *Donkey Love*, it was not simply Stoneage's interaction with the disgusting that commenters objected to but his advocated reaction to it as well. This was because Stoneage was quoted in the preceding article as declaring, '[i]f you don't think a country full of people having sex with donkeys is funny then maybe there's something wrong with you' (Taylor, 2012, p. 1). A number of commenters responded directly to this quotation, with one – for example – writing, '[n]o, that's not when something's wrong with you – it's when you make a documentary about it and think that it's funny rather than creepy' (Mel, 2012, p. 1). Another echoed these sentiments declaring, '[e]rrr ... no Mr Stoneage, nothing wrong with me, but you definitely have issues if you think bestiality is funny or entertaining' (It's Not Me, It's You, 2012, p. 1).²²⁶

The distinction between appropriate and inappropriate reactions to the disgusting has been made particularly obvious via the teaser trailer created by Monster Pictures for the Australian release of *The Human Centipede II* (Monster Pictures, 2011b). Posted on *YouTube*, this trailer depicts unwitting individuals – both men and women – climbing into the back of a small food truck before being confronted with some of the film's most heinous imagery, the details of which those viewing the trailer can only imagine. The majority of the individuals – who spanned a wide range of adult ages – sat or stood tensely in front of the screen, before their hands swiftly moved across their eyes or mouth. Startled looks of shock, horror and revulsion rapidly ensued, which were accompanied with much squinting, squirming and nail biting. Two viewers vomited. From changes in heart rate, temperature and facial expression, to gustatorial distress, feelings of uneasiness and the urge to withdraw, these are all well-known – and well accepted – disgust reactions, as sanctioned by the literature (Miller, 1997;

²²⁵ This is because censoring a film typically makes it more popular (Dalton and Schubert, 2011, pp. 45-46; Vnuk, 2003, p. 212).

²²⁶ Ellipsis as featured in the original publication.

Kelly, 2011). Laughter, however, is noticeably absent from this list. Indeed, while laughter can in fact be used as a defence mechanism to 'ward off revulsion' (Miller, 1997, p. 118; see also, Menninghaus, 2003, p. 10), as William Miller writes, '[I]aughing habits turn out to be one of the crucial clues we use to get a fix on a person's moral and social competence' (1997, p. 83). Like disgust, it tells us where they belong in the social hierarchy.

Similar to the articles selected for this chapter's analysis, *YouTube* too provides consumer comment forums. However, in contrast to Stoneage's advocated laughter, no one here questioned any of the sanctioned disgust reactions, suggesting it is the operation of the disgust emotion itself, which determines what reactions are considered appropriate.²²⁷ Indeed, mention was only made that vomiting was perhaps too extreme (Bobby Chan, 2012, p. 1), although patrons were given sick bags at *The Human Centipede II's* Melbourne preview (Horrorshow, 2011, p. 1). While this was simply a marketing gimmick, it further highlights the acceptability of this physical reaction.

The desire to share disgust experiences with others is also sanctioned by the literature (Kelly, 2011, p. 23), and a number of online commenters did just this. As one wrote regarding *The Human Centipede II*:

there was a review of this film on this site a year or so ago, and against the advice of the reviewers I watched the preview – I was traumatised ... I have no idea if it has any artistic merit, but it is seriously sick ... I feel sick just thinking about it again – I am sorry I read this article ...blehh (Person, 2011, p. 1).

Another similarly recalled the unpleasantness of watching *A Serbian Film*, writing, '[s]een it, and yes, it is sick. only [sic] got half way through though, but even then it was too much' (?,

²²⁷ Some did, however, pan the actors' performance, accusing them of overacting (see eg, Lloyd Duff, 2013, p. 1; TheHulkster1234, 2014, p. 1).

2011, p. 1).²²⁸ For this individual, the desire to withdraw from the disgust elicitor was clearly so strong that gaze averting proved insufficient; he or she had to stop watching altogether.

As with the sanctioned disgust reactions featured in *The Human Centipede II's* teaser trailer, no one questioned the reactions of these individuals, even though commenting on other people's comments – as opposed to the article itself – is rife within these forums. Indeed, by expressing sanctioned disgust reactions, commenters can be seen as largely avoiding being labelled mentally deficient and perhaps even circumventing disgust contamination altogether. This is especially true when the comments convey regret for interacting with the disgusting images, as the aforementioned ones do. Here, the first comment openly acknowledged its maker viewed the disgusting images against the advice of others and duly apologised. The act of walking out – as expressed in the second comment – also implies regret; that the individual did not fully appreciate the images he or she was about to see until it was too late. Both of these individuals could have kept their viewing secret, guaranteeing their social standing would remain unscathed. However, public confession here can be seen as an act of social absolution, cleansing the commenters of their inner disgust. It may even have garnered them a sympathetic nod from some readers in reference to their distress, as well as disgust's alluring nature, which while also sanctioned by the literature (Miller, 1997, pp. x, 11), is largely ignored in this context. Yet, public confession can only be socially beneficial when reactions accord with those that are considered appropriate and are at least tinged with regret. Of this, Stoneage would have become acutely aware, although perhaps he already knew, intentionally courting the ensuing controversy.

While *The Human Centipede II's* teaser trailer predominately features viewers displaying appropriate disgust reactions, the behaviour of two individuals was blatantly incongruous. Indeed, partway through, one young man can be seen implicitly masturbating off screen and later, a middle aged man is shown grinning, clearly enjoying what he sees. Here, the former

²²⁸ ? is this commenter's handle.

– in particular – roused the interest and even incredulity of many, sparking comments such as:

WTF?! There was a guy masturbating at 0:29! (Frank Lithiumz, 2011, p. 1).

Cheeky wank at 0:29 aawwwwhhhhhh you sick bastard! (Jack Boddy, 2011, p. 1).

THAT GUY AT 0:29 WAS JERKING OFF I SWEAR!! (Akeem313, 2011, p. 1).

This one guy is definitely masturbating. Damn, how can they even show that as a reaction for a trailer, are they insane?! (DraculaCronqvist, 2012, p. 1).

Clearly, it is not only laughter that is considered to be an inappropriate reaction to disgusting imagery but sexual arousal as well. Indeed, this was echoed by Melbourne International Film Festival director Richard Moore, who declared *A Serbian Film* to be ‘beyond the pale’ (Carey, 2011, p. 1). ‘There are enough perverts and weird sadists out there who’ll just get off on this sort of material’ (Moore quoted in Carey, 2011, p. 1).

The inclusion of the teaser trailer’s masturbation scene may well have been an insolent nod to the Religious Right. After all, this reaction was an express concern of FAVA’s Roslyn Phillips, who resolutely declared only ‘people who are obsessed with masturbating to torture would be disappointed’ at *The Human Centipede II*’s classification refusal (nocensorshipaus, 2011). While torture porn does not equate to pornography that features torture, this label can only fuel such views, given that the term pornography is most commonly associated with material intended to sexually arouse (nocensorshipaus, 2011).²²⁹ The trailer’s masturbation scene, however, could also have been a reference to *The Human Centipede II*’s protagonist Martin, who is depicted in the film as masturbating to its predecessor: *The Human*

²²⁹ The previously cited 2011 interview conducted by Rhett Bartlett – aka nocensorshipaus – shows this was clearly the case with Phillips.

Centipede: First Sequence (2009). Martin is a mentally challenged man, which accords with how society views many who interact with the disgusting, especially when they react in inappropriate ways. Indeed, Six may well have been intentionally preying on this component of the community's psyche.

Both laughter and sexual arousal can themselves be norm transgressing depending on the context of their occurrence. This means they both have the potential to elicit moral disgust, especially when this reaction is directed towards a core disgust elicitor or even another norm transgression. Moral anger elicitation is also a possibility. Laughter at core elicitors, however, is undoubtedly far more conducive to acceptance than that directed towards their moral counterparts. As Susan Miller writes:

[o]ne can inject humour and frivolity into one's response to what is physically "yucky"... But in the sphere of morality, where absolutes of good and bad enter, disgust is a serious business and indictment of something as "disgusting" is humourless and rigid (2004, p. 65).

Unlike laughter, sexual arousal can also be a core disgust elicitor by virtue of its bodily fluid production. This provides for twofold disgust elicitation; an intensity that cannot be reached by laughter regardless of context. Unlike laughter, sexual arousal is also a behaviour that is relegated to the private, meaning there is further disgust associated with it being made public. Here, it truly is 'matter out of place' (Douglas, 1984, p. 36). These factors combine to explain why more viewers felt compelled to comment on the masturbation scene than the laughter: there is far greater emotional intensity associated with it. There were also times when commenters divulged their laughter reaction to some of the case study films – after the news articles – without challenge from other commenters. At the prospect of *The Human Centipede II's* Australian release, for example, one commenter declared, '[a]wesome, bring it on matey!!!! The first one was hilarious we still have a laugh about it' (cicccone, 2011, p. 1).

Another – on his own admission – ‘was torn between groaning and giggling’ as he watched *Salò* (Andrew, 2010b, p.1). This is in stark contrast to the comments vehemently condemning Stoneage’s advocated laughter regarding *Donkey Love*.

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copyright restrictions*

The Human Centipede II, Salò and Donkey Love all deal with different – albeit disgust eliciting – subject matter, as does *The Human Centipede II*’s teaser trailer. However, perhaps the most significant distinction is that while the first two films and the teaser trailer are fictitious, *Donkey Love* is a documentary; the bestiality it features is real. This realness also led to outrage in some commenters; an emotion advocated by the classification/censorship’s filmic image response narrative, even though it was not specifically mandated in this instance. One commenter

described *Donkey Love* as depicting ‘grown men forcefully raping animals’ (Belle, 2012, p. 1). Framing bestiality in this way clearly references harm, as well as unfairness and the violation of rights; the cornerstones of anger elicitation (Rozin and Haidt, 2013, p. 368). While laughter remains an unsanctioned reaction to disgusting images, it was undoubtedly the presence of outrage elicited by the images themselves, which heightened commenters’ objections to it here; a combination lacking regarding *The Human Centipede II, Salò* and the teaser trailer.

As anticipated, sexual arousal was also perceived by commenters as an inappropriate reaction to the naked images of the pubescent boy in *Children’s Island*. However, just like many commenters used the disgust framework to defend the film, some also downplayed the likelihood of this viewer reaction. As one commenter wrote:

[t]here are probably some perverts out there that might see this film as an opportunity to see an 11 year old boy naked for a few seconds but 99.9999% of Australians wouldn't. Apparently we must all surrender our rights to see a film that is not banned elsewhere in the world because a minuscule fraction of our society might be titillated by a few seconds of its content (Jessica, 2014, p. 1).

Taking a different tack, another commenter suggested:

[t]hey should show it at select cinemas, then just after that scene turn on lights and make all the men who came alone stand up to check for paedophiles – a honey trap as it were (the Truth, 2014, p. 1).

Being sexually aroused by images of children and paedophilia are distinct concepts. However, this comment – like the raincoat brigade tag – assumes that transgressors are always socially outcast males, furthering the notion that sexual arousal via images in public is isolated to this demographic. With this in mind, it is clear the contaminating relationship between disgusting images and viewers flows both ways. While viewers become disgusting

from associating with disgusting images, images also become disgusting – or at least their disgust is heightened – by association with certain viewers.

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Indeed, perceptions of Comstock's *Damon and Hunter: Doing it together* (2005) cannot help but shift when thoughts of the chic film festival crowd flocking to its screening – as discussed in Chapter Three – are replaced with visions of the raincoat brigade doing the same thing. When it comes to the latter, the film is undeniably sullied.

Viewer reaction is not the only factor, which shapes the level of disgust contamination flowing from association with disgusting images, or the accompanying allegations of mental lack. The reasons viewers cite for watching these images are also influential. This too is implicit in the raincoat brigade tag. After all, these are individuals who view sexually explicit films intending to experience inappropriate sexual arousal. Such foresight undeniably increases their behaviour's disgusting nature. However, intention need not provide further offence. Indeed, this is highlighted by one of the comments regarding *Donkey Love*:

this documentary seems to be just that – a record of something that happens. Sure you can pretend it doesn't exist and 'ban' people being told about it but I'm glad to live in a country where the truth isn't censored (Peter, 2012, p. 1).

For this commenter, *Donkey Love's* viewing is justified by the seriousness and higher purpose afforded by the film's documentary status. This too is advocated by the classification/censorship system's filmic image response narrative not simply via its disgust focus but through the legislative inclusion of educational merit as mitigation as well; although it is unclear whether this assisted *Donkey Love* itself without a Classification Board report. The above comment frames learning about the factual occurrence of a cultural practice as an acceptable reason to interact with this film's disgusting images of bestiality. However, this situation goes beyond neutralising the contaminating effects of disgust association, which can also happen when viewers exhibit appropriate reactions, especially when this is accompanied by remorse. Returning to William Miller's categories, individuals who interact with the disgusting for their own pleasure or enjoyment are considered 'protohuman like children' or 'subhuman like the mad' (1997, p. 11). Yet, interaction with the disgusting for educational purposes arguably elevates viewers towards 'suprahuman' – or saint – status (Miller, 1997, p. 11); an unpleasant act for the greater good.

Harm: the media effects filmic image response narrative

The filmic image response narrative communicated by the classification/censorship system is clearly evident in the online comments regarding the case study films featuring images of actual sex, sexual violence, and challenging images of children. This signals its adoption as truth by these commenters, whether this be truth regarding the responses with which these images should be met, or simply the way they should be discussed and understood. When it comes to the sexually violent images, however, a protective response can also be seen in a number of comments; their makers expressing concern over harm resulting from the images themselves. This response was advocated by FAVA's Roslyn Phillips regarding *The Human Centipede II*, as discussed in Chapter Four.²³⁰ It can also be seen reflected in *The Human Centipede II*'s teaser trailer, as the trailer's images are interspersed with written phrases such as 'harm is likely to be caused to potential viewers', as well as 'depraved sexual fantasy', 'degradation, humiliation, mutilation, torture', and 'objects to be brutalised' (Monster Pictures, 2011b). Indeed, the trailer makes it patently clear which of *The Human Centipede II*'s images are allegedly dangerous.

These quotations came from the Classification Board's British counterpart: the British Board of Film Classification (BBFC). Sourced largely from its classification report and press release regarding its rejection of *The Human Centipede II* (British Board of Film Classification, 2011b; British Board of Film Classification, 2011a),²³¹ this is an apt example of a film's censorship in one jurisdiction being used to promote its release in another.²³² Britain – and the entire United Kingdom – has a particularly infamous film censorship history; a legacy of

²³⁰ Here she was quoted as saying 'it's not a case of whether you like it or are offended by it, the really basic issue is does this film have the potential to cause harm', and '[t]his is ... the point of our objection. That there is harm ... It is not to do with offence, it is to do with harm' (nocensorshipaus, 2011).

²³¹ In this jurisdiction classification refusal is referred to as rejection.

²³² The BBFC later released *The Human Centipede II* after 32 cuts were made (British Board of Film Classification, 2011c).

the “video nasties” moral panic (Petley, 2011, p. 1). Indeed, the “video nasties” label – which was coined in the early 1980s – has remained a ‘public presence in Britain’, long after the controversy itself dissipated (Egan, 2007, p. 2). Like Australia, Britain did not have legislation in place to regulate the dissemination of VHS tapes upon their release (British Board of Film Classification, 2005). This led to the circulation of previously censored titles ‘of the horror variety’ (British Board of Film Classification, 2005, p. 1), which in turn spurred moral campaigners and the media to incite panic ‘over the supposed harmful effects of these videos, and their easy access to children’ (Egan, 2007, p. 1). As a result, the Director of

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Public Prosecution released a list featuring up to 69 of these “video nasties”; works which were deemed likely to be obscene, and as such, potentially able to be prohibited under alternative legislation (British Board of Film Classification, 2005).²³³ This list – which preceded the enactment of the *Video Recordings Act 1984* (UK) – included *Cannibal Holocaust* (1980), *Faces of Death* (1978), and *I Spit On Your Grave* (1978; Petley, 2011, pp. 1, 213-215); case study films that featured in Chapter Three of this thesis.

Unlike the Australian classification/censorship system, today’s BBFC sanctions a harm response in the context of adult viewing via the *Video Recordings Act 1984* (UK) and the *BBFC Guidelines* (2014; see also, Cronin, 2009; ²³⁴ Petley, 2013, p. 136).²³⁵ Indeed, section 4A of the *Video Recordings Act 1984* (UK) demands classifiers have ‘special regard ... to

²³³ Not all of the titles were necessarily on the list at the same time (Petley, 2011, p. 213).

²³⁴ Speaking to the British system, Cronin has turned to online film reviews here to elucidate people’s views regarding filmic images in light of the media effects narrative.

²³⁵ For further discussion see, French and Petley (2007, pp. 68-71). While this and the other cited articles were written when the preceding *BBFC Guidelines* (the 2009 version) were operational, their findings remain relevant today.

any harm that may be caused to potential viewers or, through their behaviour, to society'.²³⁶ The *BBFC Guidelines* then reiterate that the BBFC 'may refuse to classify a work, in line with the [above] objective', before further emphasising 'a sustained focus on sexual or sadistic violence' as being particularly problematic (2014, p. 28). The teaser trailer was made for *The Human Centipede II's* Australian release. This means the BBFC's position has now inadvertently become part the melange of knowledge being circulated regarding filmic image response in Australia. After all, the trailer presented these views as being relevant to Australian citizens at least in this limited context.²³⁷ Furthermore, FAVA based its own reasoning on the BBFC's report when it successfully argued to the Classification Review Board that *The Human Centipede II* should be refused classification (nocensorshipaus, 2011). Indeed, a harm narrative clearly helped to shape the classification/censorship system's decision in this instance.

When it comes to the online comments, concern regarding harm can be seen directed towards the sexually violent images. However, it was also directed towards *Wolf Creek 2's* violent images, which do not feature a sexual component. Indeed, the harm based views expressed in the consumer comment forums towards sexual and non-sexual violence are largely identical. Consequently, in this section, any reference to violence includes sexual violence unless otherwise stated.

In light of their harm based concerns, Phillips, the BBFC, and these commenters can all be understood as proponents of the media effects tradition, at least in this limited context. Indeed, such proponents have long warned of harm caused by so called 'dangerous' cultural

²³⁶ In full this reads, 'The designated authority shall, in making any determination as to the suitability of a video work, have special regard (among the other relevant factors) to any harm that may be caused to potential viewers or, through their behaviour, to society by the manner in which the work deals with – (a) criminal behaviour; (b) illegal drugs; (c) violent behaviour or incidents; (d) horrific behaviour or incidents; or (e) human sexual activity'.

²³⁷ This trailer was created when the preceding *BBFC Guidelines* (the 2009 version) were operational. The 2009 version, however, reflects the principles discussed earlier in this paragraph regarding the current (2014) version, meaning it similarly advocated a harm response.

products (Barker, 2001, p. 41). Barker sums up the trajectory of this tradition well when he writes:

[I]n the nineteenth century, when such objections first reached full flood, the charges were brought against 'penny dreadfuls' (in Britain) and dime novels (in America). By the turn of the century, music halls (Britain) and vaudeville (America) were the objects of dismay. Then cinema. Then radio. Then comic books. Then television, video, video games, computers, and most recently the Internet (2001, p. 41).

As this excerpt clearly shows, the media effects tradition predates filmic images and moving images more generally. Indeed, by the time such images were introduced in Australia in 1896, media effects proponents around the world had already been active for decades, and the tradition itself had proven capable of evolution. This not only ensured there were individuals primed to spread its message of harm yet again, but there was a familiar audience ready to receive it. The distribution of moving images en masse began with the cinema (Barker, 2001, p. 41). However, since then, moving images have been a constant presence in the media effects debate; reinvigorated with the introduction of television, video, and the Internet respectively (Barker, 2001, p. 41). Indeed, when it comes to filmic images specifically, both the media effects tradition and the classification/censorship system have been communicating their respective messages to the Australian community for approximately the same length of time; the system itself being haphazardly established in its state based form from the early 1900s onwards (Bertrand, 1978, pp. 9-10).²³⁸

During this time, the media effects message has arguably been more consistent than that of the classification/censorship system given the system only became offence focussed in the late 1960s and nationally unified on 1 January 1996. Yet, as Barker notes, many of the facets about which media effects proponents have objected, possess a contradictory flavour

²³⁸ As Bertrand notes here, this was born out of legislation primarily concerned with managing and preventing fire in the theatres themselves, as well as prohibiting Sunday trading.

(2001, p. 41). Penny dreadfuls, for example, were attacked for being sourced 'on the streets' (Barker, 2001, p. 41). While cinema brought people inside, this then exposed them to the dangers allegedly lurking in the auditorium's darkness (Barker, 2001, p. 41). Television took people from the public into the private (Barker, 2001, p. 41). However, it was attacked for bringing the danger into the home, and even though cinema was further criticised for its unstoppable images, video was condemned for its ability to pause and rewind, allowing viewers to dwell on select images (Barker, 2001, p. 41). These considerations are undeniably incongruous. Yet, all of these cultural products are comparable in that they are affordable, readily available, and appeal to the lower classes (and often children). They also all deal – or have the capacity to deal – with violence and sex, as well as crime, social outcasts and all things debauched. It is this, which lies at the heart of their dangerousness (Trend, 2007, pp. 21-22).

Professional researchers began studying filmic images in the 1930s, and this work grew in popularity in the mid-1950s with a television focus (Australian Law Reform Commission, 2012, para. 4.106). As the above paragraphs indicate, such research was, therefore, born out of a climate where a problem was already assumed, and many of its detractors still consider this to be a significant flaw (Australian Law Reform Commission, 2012, para. 4.116). In the case of moving images themselves, this problem – both then and now – primarily clusters around violence; that its onscreen presence inevitably translates into its real life existence (Australian Law Reform Commission, 2012, para. 4.106). This concern is evident in both Phillips' and the BBFC's utterances. From a research perspective, however, preoccupation with this assumption risks not only closing studies to the possibility that violent images are not problematic but it also precludes them from looking for positive effects (Australian Law Reform Commission, 2012, para. 4.114).²³⁹ This quest for negativity is something that media effects research, classification, and censorship all share.

²³⁹ This is something that some media effects researchers are starting to remedy.

Whether via direct copying or more general inspiration, one of the ways that media effects proponents allege real life violence is caused by onscreen violence is that it gives would-be perpetrators ideas (Barker, 2001, p. 31). This view was clearly evident in the online comments. Indeed, in the case of *Salò*, one commenter declared:

[o]h yes, and just wait till someone goes 'over the edge' after watching this and acts out some of the scenes, harming someone vulnerable, perhaps even a child! Will the classification board be sued, locked up or otherwise punished for ignoring all the studies that show that these works promote terrible crimes? (Carol of Melbourne, 2010, p. 1).

When it came to *Wolf Creek 2*, similar sentiment was expressed, with one commenter writing:

[n]o wonder we have psychotic nut cases running around our streets attacking people. This junk would make a great training video for these fruit cakes (Curaeus, 2014, p. 1).

Another commenter then concurred, warning *Wolf Creek 2*'s supporters:

[d]on't try and fool any of us into thinking what happens on screen remains there. Troubled, ill and impressionable people see the reactions such offensive material generates and some, predisposed to seeking attention by any means necessary, copy what they witness (Noodle, 2014, p. 1).

Each of these comments clearly link onscreen violence with real life violence. However, they also all reference a mental illness or deficiency of some kind. While the first comment suggests this is caused by the images themselves, the latter two both imply such diagnosis predates image exposure, perhaps in an effort to tacitly explain why not everyone who

witnesses violent imagery is noticeably affected. Indeed, the online comments repeatedly show individuals nuance their own arguments to make sense to them, regardless of the broad truth to which they subscribe. Mental lack is a focus, which the offence (disgust) and harm narratives both share. From this perspective, the latter can even be seen as an extension of the former. After all, community members perceive individuals who wilfully interact with the disgusting as mentally less or sick, especially if they enjoy the experience or react to the elicitor in another similarly inappropriate way. Here, both the wilful interaction and the inappropriate reaction are seen as indicators of their sickness; although it is awareness of these two factors that brings about diagnosis, rendering them at once symptomatic and causal. It is people with such a diagnosis who are then said to be inspired by violent images to commit violent acts. Interestingly, the previously cited comments regarding *Wolf Creek 2* both include disgust references, namely 'garbage', 'junk' and 'offensive material', even though their makers were primarily warning against harm (Curaeus, 2014, p. 1; Noodle, 2014, p.1). These are apt examples of the offence and harm narratives working together; a melding which will repeatedly be seen throughout this chapter.

Another way that media effects proponents claim onscreen violence causes real life violence is by giving would-be offenders the approval and support they allegedly need.²⁴⁰ This view was clearly articulated in the case of *A Serbian Film*, where one commenter wrote, '[w]e need to protect our kids from the sick individuals who will see this and think it's some kind of endorsement of the practice' (Finallysomeactiononclimate, 2011, p. 1). When it came to *Salò*, another commenter similarly declared, '[h]ow can such a disgusting film be allowed? This will encourage even more violence and sick acts in our crime ridden society' (DocP, 2010, p.1). Roslyn Phillips too endorsed this view regarding *The Human Centipede II*, arguing the film 'legitimatised' the depraved acts it features, making those predisposed to such an 'obsession' 'more likely to act it out on others' (nocensorshipaus, 2011). Legitimation here implies a widening of the boundaries regarding permissible conduct; an

²⁴⁰ As evidenced by the online comments. See also, Barker (2001, p. 31).

act which then influences what is viewed as normal. The creation of a new normal is then closely linked to desensitisation. This is another way media effects proponents warn onscreen violence leads to real life violence.²⁴¹ Indeed, its detriment was specifically addressed in the case of *Salò*, where one commenter wrote:

working with people whose lives are damaged by desensitisation, to the point they are no longer able to function in usual social relationships, is extremely distressing. To deprive you of your preferences for the benefit of these others is a fair deal (Jan 1st, 2010, p. 1).²⁴²

A second commenter also expressed his or her 'deep concern' over the issue for 'young adults' regarding the same film (Andrew, 2010a, p. 1). Psychologists have 'defined desensitisation as the diminished emotional responsiveness to a negative or aversive stimulus after repeated exposure to it' (Wienke Totura and MacKinnon-Lewis, 2011, p. 122). It is this need for repeated exposure of an undefined amount, which makes such arguments particularly conducive to explaining why some viewers may appear unaffected. The reference to 'young adults' in the previous comment may well have been a nod to the mental lack of protohumans (Andrew, 2010a, p. 1), as a "young" brain is still developing. However, in line with the first comment, desensitisation is typically presented as a risk for healthy viewers rather than the mentally deficient (see eg, Egan, 2013). As the first comment shows, allegations of desensitisation can be used to warn of individual demise. Yet, its lack of reliance on prior mental illness means it is conducive to warning of societal demise as well. It is the perfect catch all argument.

With media effects proponents espousing concern regarding real life violence, it is perhaps unsurprising that a number also spoke not only of wanting to conceptually distance themselves from violent image viewers, but physically as well. Indeed, when it came to *Wolf*

²⁴¹ As evidenced by the online comments. See also, Carter and Weaver (2003, p. 1).

²⁴² Jan 1st is this commenter's handle.

Creek 2's consumers, one commenter declared, 'I certainly wouldn't want you in my life or around my family' (Fat Cat, 2014, p. 1). Another reiterated this stating, '[i]f you think Wolf Creek 1 & 2 are "a bit of fun" then I am very glad I am not your neighbour' (So-called expert, 2014, p. 1). In the case of *The Human Centipede II*, a commenter also wrote, 'I wouldn't want to be caught alone with anyone who'd choose to watch it' (Caser, 2011, p. 1). A desire for distance is another attribute shared by both the harm and offence (disgust) narratives, although it is employed for different reasons. While the former fears physical harm flowing from those who view violent images, the latter fears social detriment stemming from associating with these contaminated – and contaminating – individuals. This distinction is particularly evident in the last comment, which references not wanting to be alone with violent image viewers (Caser, 2011, p. 1). After all, in this situation the commenter would be vulnerable to personal attack, with no ready assistance. However, from a disgust perspective, being alone would have beneficially decreased the risk of contamination via association as others would not have been aware. Therefore, even though *The Human Centipede II* is a case study film for both the harm and offence narratives, it is clear this commenter holds the former as truth.

Offence, harm and the self

Online comment analysis has revealed the filmic image response narratives communicated by the classification/censorship system and the media effects tradition are both operational in Australia today. Indeed, their respective rhetoric of offence and harm has provided community members with two largely distinct vocabularies and frameworks about which to talk – and think – about certain images, and the people that view them. They also, however, similarly inform those who undertake the viewing experience. Such is the cultural landscape amidst which these films are consumed. As previously discussed, an offence (disgust) narrative is evident in the way viewers who regretted their viewing experience spoke about

themselves. Yet, there are also viewers who employ this framework that are content with their actions. Indeed, this can be seen in the remarks of Dan Barrett, a horror film fan who was interviewed for *ABC News* regarding *The Human Centipede II's* Australian release.

I'm sure I'll sit in the cinema and I'll be laughing and cheering and being completely grossed out all at once, and I'll feel dirty for it on Sunday morning, but I'm still going to embrace it (Barrett quoted in Faraker, 2010, p. 1).

These post viewing feelings of self-disgust may be genuine, or perhaps he feels the need to socially atone for the inappropriate reactions to the disgusting imagery that he advocates. However, regardless, Barrett has clearly internalised the disgust framework as a way to understand and articulate his viewing experience.

Returning now to the online comments and the harm narrative, some viewers felt the need to defend themselves against the warnings of media effects proponents, albeit it largely in jest. As one commenter wrote:

I downloaded Human Centipede 2 over a month ago, thanks to those evil Swedes at The Pirate Bay. I watched it once, was reasonably entertained, then deleted it ... I have yet to feel a need to eat poo or sew people together, but I'll keep you apprised of the situation, lest there be any scatological or surgical developments (Adrian Luca, 2011, p. 1).

Another commenter expressed similar sentiments regarding *Wolf Creek 2*, writing:

Ill [sic] step up and say I really enjoyed the film. I am a 44 year old male who took his girlfriend to watch this film. We both really enjoyed it. I havnt [sic] dashed out and re-enacted any parts of the film yet so relax (Film Fan, 2014, p. 1).

In the case of *Wolf Creek 2*, a second commenter also challenged the media effects message declaring:

I like some filth and morbid stuff sometimes. Doesn't mean Im [sic] a devious mass murderer. I love gardening and sipping Iced Tea too (Heavy Flower, 2014, p. 1).

All three of these commenters clearly reject the master status of sick and – as such – dangerous, that the media effects tradition thrusts upon them. Indeed, the last commenter even offers other replacement identities: lover of gardening; lover of Iced Tea (Heavy Flower, 2014, p. 1). For these commenters, being a viewer of extreme images clearly holds a different meaning than it does for those espousing the media effects message. When it comes to the last comment, however, 'devious mass murderer' is a clear harm reference, while the consumption of 'filth and morbid stuff' aligns more closely with the disgusting (Heavy Flower, 2014, p. 1); another example of the offence (disgust) narrative informing and then merging into that of harm.

While implicit in some online comments, wider observation confirms not all viewers choose to defend themselves against being labelled sick (offence and harm) and dangerous (harm), or the connotations of abnormality associated with this. Instead, they choose to revel in it. Indeed, in a blatant act of linguistic reappropriation,²⁴³ Monster Pictures has repeatedly referred to its supporters – who are also likely to be its actual and potential customers – as 'freaks', 'fiends' and 'weirdos' (Monster Pictures, 2014b, p. 1; Monsters Eye, 2014, p. 1; Monster Fest, 2016, p. 1). Clearly, it would not be using these otherwise derogatory labels if it thought these individuals would be insulted. This is not to say, however, that Monster Pictures believes its supporters are genuinely sick for watching or enjoying the extreme

²⁴³ This thesis employs Galinsky et al.'s definition of linguistic reappropriation, which is otherwise known as linguistic reclamation: 'the process of taking possession of a slur previously used exclusively by dominant groups to reinforce another group's lesser status' (2013, p. 2020). While this is typically one word or phrase, filmic image viewers instead have the opportunity to reappropriate any word or phrase linked to the harm or offence narratives.

images it distributes, as those subscribing to the harm and offence messages appear to. Indeed, its consistently jovial tone suggests if anything it is mocking the beliefs of these factions. Harm and offence proponents use such labels as an act of exclusion, delineating themselves from that which they are not. Here, however, these same labels are used to signal inclusion, inviting individuals to conceptually join a collective of accordant viewers, although the act of inclusion too inevitably involves delineation and rejection. As Susan Miller argues, by saying what I am, I inevitable say what I am not (Miller, 2004, p. 14).

The way the language of harm and offence (disgust) has seeped into the broader lexicon via linguistic reappropriation is also illustrated by the taglines chosen for Monster Pictures' annual film festival Monster Fest. In its inaugural year – 2012 – the tagline selected was *Movies to melt the mind* (Monster Pictures, 2012, p. 1), which clearly draws on the fears of media effects proponents that patrons will be mentally damaged by viewing the images this festival exhibits – whether or not they were formerly healthy. In 2015, the tagline was *Transform your head* (Aza, 2015, p. 1), clearly tapping into similar fears. Indeed, this was accompanied by an animated picture of a purple monster grinning with glee as it forces itself out of an exploding skull. *Feed your beast* was selected in 2013 (Monster Pictures, 2013, p. 1). Beasts – both human and otherwise – feature in all the films that Monster Fest exhibits. Such creatures are renowned for being uncontrollable. They lack the mental capacity to be rational or reasonable, thus possessing many of the characteristics also attributed to sick and dangerous individuals. However, here 'your beast' could also refer to that which media effects proponents assert lies dormant inside of viewers, waiting to be unleashed by the consumption of dangerous images (Monster Pictures, 2013, p. 1). Indeed, organisers are not simply providing such images but encouraging patrons to use them in this reckless manner, adding to their complicity. The need for nourishment of unknown quantities then aligns with observations that viewers do not react identically to such images. It is not known how much nourishment each beast needs to overpower its host, meaning there is no safe level of consumption.

The tagline *A feast of depravity* accompanied Monster Fest in 2014 (Monster Pictures, 2014a). The *Macquarie Dictionary* defines “depravity” as ‘moral corruption’ (2015), and morality is one of the central themes in the offence (disgust) framework, as well as being expressly included in the classification/censorship system legislation. More generally, however, the word feast implies excess, and excess – via a lack of self-control – can lead to disgust elicitation in both core and moral contexts (Miller, 1997, p. 95). Feasting is traditionally linked with food, and while food itself is necessary for the body’s existence, in excess it becomes damaging. The act of eating is also perpetually on the brink of disgust elicitation, fraught with opportunity to offend on both core and moral levels (Miller, 1997, p. 106). Susan Miller, however, frames the situation differently writing, ‘[e]ating results in a literal internalization of concrete substances, which cross the body and self boundaries and become self’ (2004, p. 12). From this perspective, offering something for internal consumption is a truly intimate act. The *A feast of depravity* tagline may well have referenced the decadency of the images Monster Fest organisers had provided on which patrons could gorge, restricted only by their time and desires (Monster Pictures, 2014a, p. 1). After all, the act of filmic image viewing is also an act of internal consumption involving the eyes – and ears – rather than the mouth. However, the fear that the world will inevitably descend into its own feast of depravity should offensive images not be regulated is what drives at least some who advocate film censorship via the offence (disgust) framework (see eg, Brett Eden of Latrobe Valley, 2010, p. 1); a modern day Sodom and Gomorrah.

Harm and the resistance

As the online comments show, communication of the media effects message has been immensely successful throughout the community, undoubtedly aided by its long and largely consistent history. Indeed, the media effects tradition is clearly an influential voice in the apparatus of filmic image response, which rivals that of the classification/censorship system.

This is despite the system having unparalleled opportunity to spread its own message, doing so not only through strategic publicity but with every classification decision it makes. The media effects message, however, is not subject to the classification/censorship system's jurisdictional boundaries. International proponents – like the BBFC – and those residing in Australia are presented as equally relevant. It is also not restricted by having its official message originating from one central source, as occurs with the classification/censorship system. Indeed, this is why the chapter has referred to it as the media effects tradition: its message today is an accumulation of its past. This label, however, was also necessary to distinguish the existence of the media effects message from those discussed in this chapter who hear it and then (potentially) aide its proliferation: the commenters themselves.

The online comments also indicate that the filmic image response narrative advocated by the media effects message has been adopted by many as truth. The classification/censorship system has the authoritativeness of law and government on its side. However, the issue of media effects has attracted the attention of various scientific and academic disciplines, and as Foucault argues it is science in the West which elevates credibility above all else, propelling any assertion towards truth status (1980, p. 210). Indeed, while her concern may have been genuine, this also perhaps explains why FAVA's Roslyn Phillips focussed on harm rather than offence or religion when objecting to *The Human Centipede II's* release: it was an attempt to boost her authoritativeness. The immense influence of the science label has led Foucault to advocate wariness towards those who use it. As Foucault writes:

[t]he question or questions that have to be asked are: "What type of knowledge are you trying to disqualify when you say that you are a science? What speaking subject, what discursive subject, what subject of experience and knowledge are you trying to minorize when you begin to say: 'I speak this discourse, I am speaking a scientific discourse, and I am a scientist.' ..." (2003, p. 10).

While media effects proponents are not themselves claiming to be scientists, these are pertinent questions for the resistance to ask regarding their utterances.

Foucault has declared that when resisting power relations:

[w]hat has to be questioned is the form of rationality at stake. ... [This] is the only way to avoid other institutions, with the same objectives and the same effects, from taking their stead (1988, p. 84).

This rationality was explored in Chapter Four in the context of the classification/censorship system and those seeking to challenge it. However, Chapter Four also flagged for questioning the rationalities used to motivate those who act on the classification/censorship system at its designated sites, striving for narrower licit image boundaries. This includes the Religious Right and family organisations. Indeed, these are two participants that not only compel the classification/censorship system to communicate via their participation, but are at risk of taking over from the classification/censorship system should it be defeated. The system's communications were discussed in Chapter Four. However, further to this, the participation of the Religious Right and family groups is most prolific at the Classification Review Board. Therefore, they – at least partially – set the national agenda regarding the images that are formally deemed, and subsequently communicated as being, the most problematic of all: the ones which have escaped quarantine and are worthy of retrieval. This also inevitably puts the classifier/censors on notice regarding the decisions, which are most likely to be challenged. The Religious Right in particular are renowned for attempting to impose their morality on others, motivated by religious duty (Marr, 1999b, pp. xii-xiii). Nevertheless, at least some of its members – and those of family organisations with similar ideals – are driven to seek classification refusal by the media effects message. Of this, Roslyn Phillips provides apt example. Consequently, the utterances these groups compel the classification/censorship system to make can be seen as communications based on

harm that are masquerading as offence. Indeed, media effects proponents are not only at risk of acting upon the classification/censorship system's demise, they are acting now.

The media effects tradition is also at risk of surreptitiously converting the current offence based system into one of harm. If the classifiers/censors themselves were willing, this task would be easy given the elasticity of the classification/censorship legislation and the discretion of those who apply it. After all, while violence alone appears never to have been refused classification under the current legislation, such action is formally permitted. The Code also permits films to be refused classification if they 'promote, incite or instruct in matters of crime or violence' even though – as far as can be ascertained – this has never occurred (clause 3(1)(c)). Extreme images of sexual violence have repeatedly been refused classification, and these images – as established in Chapter Three – are the only ones so classified without a link to a real life norm transgression cementing the unacceptability of their offence. Indeed, perhaps the media effects message is already surreptitiously operational within the classification/censorship system here. After all clause 1(d)(i) of the Code states that classifiers/censors must 'take account of community concerns about depictions that condone or incite violence, particular sexual violence'. This provides a sanctioned in for the media effects message. It also means the classification/censorship system inevitably communicates that such concern is worthy of filmic image response influence. Therefore, it is with urgency that the rationalisations behind the media effects message will now be explored.

As expected in light of Foucault's work (1980, p. 210), one way that today's media effects proponents rationalise their arguments is by declaring they are supported by science. In its 2011-2012 inquiry into the National Classification Scheme, the Australian Law Reform Committee (ALRC) noted the immensity of this body of research, which spans from the 1930s to the present (2012, para. 4.106). However, not all studies allege a causal link between onscreen and real life violence (see eg, Ferguson, 2014), and many studies focus

solely on children, making their conclusions largely irrelevant to adult viewing (see eg, Coker et al., 2015). In addition to the topic's problem based origins (Australian Law Reform Commission, 2012, paras 4.114, 4.116), the ALRC identified these studies' main limitations as clustering around: the conditions under which the data can be gathered; the complicated relationship between human nature, mental capacity and behaviour; and the broad spectrum of violent moving images that are available (Australian Law Reform Commission, 2012, paras 4.111-4.113, 4.115).

Barker and Petley have also observed the presentation of onscreen violence as an all-encompassing category – like that seen in some of the online comments – is a major error (2001b, pp. 3-7). After all, these are images that can be real or fictitious, or a blurring of the two. They can also be presented in a way that is realistic, clearly stage, or animated (Barker, 2001, p. 42). Young's (2010b, pp. 21-42) work has gone further, exploring variations in violent images of crime, which are presented in broadly comparable ways, namely in action and crime films. This has permitted her 'to identify difference in how violence appears in a crime-image and in the concomitant address of that crime-image to the spectator' (Young, 2010b, pp. 22-23). As the work of these scholars shows, this means that which is alleged regarding one category of violent images cannot automatically be attributed to another (Barker and Petley, 2001b, pp. 3-7). While the classification/censorship system too refers to violence as an all-encompassing category, it has concertedly tried to address these nuances through the wording of its Guidelines.

In a research setting, deficiency is further risked if the case study images are used outside of the context in which they were intended, and if meaning is given to the viewing experience without reference to the individual's prior history and predilections (Barker and Petley, 2001b, pp. 3-7). Indeed, even the BBFC cautions that media effects research 'can be inconclusive or contradictory', and assures consumers its classifiers/censors will 'keep in mind the inherent difficulty of using behavioural research to draw conclusions about real

world risks' (*BBFC Guidelines*, 2014, pp. 3, 28). The ALRC also held this research to be 'sufficiently ambiguous' as to not influence its recommendations (2012, para. 4.119).²⁴⁴ However, despite this and the aforementioned limitations, reference to scientific research can still be seen in the online comments. Indeed, when it came to *Wolf Creek 2*, a commenter specifically referred to the 'many studies' he or she has read 'linking desensitisation to violence via movies to real life violence' (chris, 2014, p. 1). Two commenters challenged the science's validity (Jon, 2014, p. 1; Dr Bill the Film Scholar, 2014, p.1). However, as Barker argues, it is the seductiveness of the issue's common sense nature, which dissuades many from questioning the research's validity (Barker, 2001, p. 27). Murdock too has noted this, writing:

[t]he attraction of these 'many studies' is not simply that they offer the illusion of strength in numbers, but that they fit perfectly with the common sense assumption that, since 'it stands to reason' that there must be a link, responsible research is simply confirming what reasonable people already know, and that refusing to accept this is patently unreasonable (2001, p. 152).

Belief in this link which 'stands to reason' inevitably predates the research, spurring on the early media effects campaigners just as it does today (Murdock, 2001, p. 152). Indeed, the strength of this belief is undoubtedly one of the reasons why researchers were attracted to the topic in the first place. This quotation also highlights the use of unreasonableness as an indicator of those who disagree, much like that employed by the classification/censorship system, further convoluting linguistic differences between the harm and offence narratives.

²⁴⁴ Its recommendations focussed on platform neutral classifications.

Another way that media effects proponents evidence their views is by citing the use of moving images in advertising (Young, 2010b, p. 21).²⁴⁵ This too can be seen in the online comments regarding *Wolf Creek 2* with one commenter contending:

[w]e show very violent films all the time at the movies and on TV and then we expect young people to behave themselves after they have had a few drinks. If advertising works then films must be equally powerful in their influencing of behavior (Rod, 2014, p. 1).

This perspective also presents the issue as one of common sense. Yet as Barker argues, it erroneously assumes 'the materials they judge to be "harmful" can only influence us by trying to make us be the same as them' (2001, p. 38); that:

horrible things will make us horrible – not horrified. Terrifying things will make us terrifying – not terrified. To see something aggressive makes us feel aggressive – not aggressed against. And the nastier it is, the nastier it is likely to make us (2001, p. 38).

Indeed, when it comes to advertising, promoters overwhelmingly use positive images as it has long been established that negatives ones are unlikely to achieve the desired aim of compelling action (Barker, 2001, p. 38). One exception to this is political advertising; a product of its adversarial context (Johnston, 2014, p. 46). The other is educational advertisements, like those created for road safety and public health campaigns (Barker, 2001, p. 38). These are commonplace on Australian television screens today, addressing issues such as speeding, drink driving and smoking. Yet, perhaps the most iconic example is the Grim Reaper advertisements of the 1980s warning of the dangers of AIDS (Grim Reaper, 1987). Here, the imagery that was employed can even be likened to that of a classic horror

²⁴⁵ As evidenced by the online comments. See also, Carter and Weaver (2003, p. 5).

film: the eerie billowing fog, the decimation of innocent people, and the half shrouded face of the desiccated reaper warning viewers that they would be next. Educational advertisements – such as this – however, are not used to cause current and future behaviour but stop it by compelling viewers to consider the potentially harmful consequences (Barker, 2001, p. 38). This is the opposite of what media effects proponents allege.

Returning to the case study films, those which evoked online comment arguments regarding idea-giving and encouragement for would-be offenders were: *Salò*, *Wolf Creek 2*, *A Serbian Film*, and *The Human Centipede II*. In each of these films, the offenders are depicted as enjoying the violence they are committing, and none of them show any remorse. This is aside from Milos whose violent acts in *A Serbian Film* are undeniably coerced; he is at once a victim and an offender. Viewers are privy to the downfall of the four sadistic libertines in *Salò*, as well as Milos from *A Serbian Film*. Martin also receives a fitting – albeit temporary – comeuppance in *The Human Centipede II*. *Wolf Creek 2*'s violent protagonist, however, was never stopped or reprimanded, and neither were those who orchestrated Milos' demise. These films all boast different plots. Yet, they consistently provide a harrowing presentation of victims' agony, as well as horror and disgust in those left to assist in the offenders' wake. With awareness of advertising tactics, this suggests that – if anything – these films should dissuade people from committing similarly violent acts, not compel them.

Given the operation of the disgust emotion, the copious use of realistic disgust elicitors in these four films – blood, gore, and corpses – can also be seen as a mechanism guarding against viewer emulation. After all disgust demands distance: from certain things, certain people, and certain acts. Indeed, arguments contending onscreen violence leads to real life violence necessarily implies viewers' personal morality is shaped by filmic images alone or that they are – at least – a dominant influence. Alternatively, such arguments posit 'the spectator as actually or potentially vulnerable and reactive, a Pavlov's dog with a DVD player' (Young, 2010b, p. 40). Viewer morality, however, is inevitably shaped by multiple

factors; a creation itself worthy of assessment via apparatus. This coincides with another limitation identified by the ALRC: that media effects research risks providing ‘an oversimplified position’ (Gunter quoted in Australian Law Reform Commission, 2012, para. 4.116). The ALRC also noted, this ‘can lead to political misrepresentation’ (Gunter quoted in Australian Law Reform Commission, 2012, para. 4.116); an occurrence which inevitably diverts attention – and resources – away from violence’s true causes. Indeed, the impact of the media effects narrative can be experienced far beyond filmic images.

The third way that media effects proponents support their arguments is by providing anecdotal evidence of instances where onscreen violence has allegedly caused an instance of real life violence (Barker, 2001, p. 29). This may be an occurrence they have read or heard about, or perhaps a firsthand experience, which others are now free to repeat in the future. The previously cited comment where its maker refers to the desensitised people he or she works with provides apt example (Jan 1st, 2010, p. 1).²⁴⁶ However, so too does this comment regarding *Salò*’s release:

I suppose at least it's rated R. My big hope now is that some intellectually impaired adult who is over the age of 18 will not be influenced by it- Don't forget that it was Martin Bryant who was turned on by Rambo films (Alex, 2010, p. 1).

As discussed in Chapter One, Martin Bryant shot and killed 35 people at Port Arthur in 1996. It is well documented that Bryant suffers from mental illness, making him the perfect candidate to link with the media effects message. Furthermore, when authorities later visited his home they reportedly found 2000 VHS tapes, although this figure is said to exceed reality by 800 units (Stockwell, 2006, p. 127; Turnbull, 2001, p. 118). While his collection included three copies of *The Sound of Music* (1965), much was made about Bryant’s fascination with

²⁴⁶ Jan 1st is this commenter’s handle.

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copyright restrictions*

the violent horror film *Child's Play 2* (1990; Turnbull, 2001, pp. 117-118). This was alleged by his girlfriend shortly after the massacre (Turnbull, 2001, pp. 117; Thomas, 1996). Bryant himself, however, is said to have cited his favourite film as Disney's animated classic *The Lion King* (1994; Turnbull, 2001, p. 118).

Child's Play 2 follows the exploits of Chucky; a demented doll who is possessed by the spirit of a deceased serial killer. Relentless in his pursuits, he is determined to continue his murderous ways. Reference to this film led some in the media to link Bryant's actions with those of Robert Thompson and Jon Venables; conduct which in turn has been connected to the film *Child's Play 3* (1991; Young, 1996, p. 134; Turnbull, 2001, p. 117). These individuals beat James Bulger to death in 1993, in Liverpool, England (Young, 1996, p. 113). They were ten years old, while Bulger was only two (Young, 1996, p. 113). Here, connection was made to *Child's Play 3* even though it was unclear whether it had been seen by Thompson or Venables (Young, 1996, p. 134; Turnbull, 2001, p. 117, Petley, 2009, p. 91). However, when it comes to Port Arthur, connection is even more tenuous as *Child's Play 2* and *Child's Play 3* are different films – albeit from the same franchise – and the 1993

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offenders were children, while Bryant was a 29 year old adult at the time of the massacre.²⁴⁷

Events such as the Port Arthur Massacre and James Bulger's murder are frequently used by media effects proponents to further their message. They are also known to stimulate media effects research, which in turn provides proponents with further evidence (Australian Law Reform Commission, 2012, para. 4.107; Young, 2010b, p. 21). Indeed, the fact these events are linked to filmic images at all can be seen as the sum total of media effects proponents' efforts to date. In the case of Port Arthur, connection ensued because Bryant was mentally ill, the link stood to reason, there was science to ostensibly back it up, and similar occurrences had allegedly happened elsewhere (Turnbull, 2001, pp. 17-19). All of these factors combined to make it appear unnecessary – and unreasonable – to question violent filmic images as the root cause (Turnbull, 2001, pp. 17-19). The media effects tradition also

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guided reports to focus on a film fitting within the media effects narrative – rather than the other family-friendly titles – and perhaps even embellish the truth regarding the number of VHS tapes found, further feeding the media effects message (Turnbull, 2001, p. 17-18).

Returning to the online comment regarding Martin Bryant, this also referenced 'Rambo films' (Alex, 2010, p. 1); a four volume action franchise, which documents the violent exploits of Vietnam War veteran John

²⁴⁷ In Australia, *Child's Play 2* was classified M upon submission in 1990, as was *Child's Play 3* in 1991.

Rambo.²⁴⁸ As far as can be ascertained, the viewing of these films has never before been linked to Bryant.²⁴⁹ However, in this unquestioning culture, one unsupported reference is all that is potentially required for them to become enshrined – at least for some – as part of this heinous event. It is this culture, which the resistance must ultimately strive to change.

The resistance must target those who subscribe to the media effects message. Indeed, while only addressing one facet of the reasoning espoused by the media effects tradition, Young (2010b, p. 39) herself has declared she ‘would take issue with any attempt to elide the fact that real violence sometimes *resembles* cinematic violence with the assertion that cinematic violence *causes* real violence’.²⁵⁰ The resistance, however, must also be wary of viewers who reappropriate the media effects language, turning its use from a slur into a celebration. Linguistic reappropriation itself has a number of potential benefits. This has been linked with empowerment from both personal and third-party perspectives (Galinsky et al., 2013, p. 2028). It also dilutes the hurt these words can cause, as well as the associated stigma (Galinsky et al., 2013, p. 2028). Such action here, however, ultimately keeps the media effects narrative alive. It is at odds with the resistance’s aim.

As media effects research emerged from an assumed problem, the potential benefits of violent image viewing have largely been neglected (Australian Law Reform Commission, 2012, para. 4.114). However, after challenging the rationalisations underpinning the media effects message, the resistance can still replace this narrative with their own. Indeed, in the context of filmic violence specifically, they could again draw on Mill’s notion of film as a ‘safe

²⁴⁸ *First Blood* (1982) was classified R18+ for public exhibition when it was first submitted in 1982. An M rating has consistently been given for its sale/hire since 1985. *Rambo: First Blood Part II* (1985) and *Rambo III* (1988) have consistently been classified M since they were first submitted in 1985 and 1988 respectively, and *Rambo* (2008) was classified R18+ upon submission in 2008. The Rambo character was also connected in the media to the Hungerford massacre, which occurred in England on 19 August 1987. Connection began after a witness erroneously declared the offender, Michael Ryan, had been wearing a Rambo-style headband (Webster, 1989, p. 175). Ryan was also alleged to own violent VHS tapes, even though in reality ‘he probably didn’t own a video’ (Adie quoted in Webster, 1989, p. 175).

²⁴⁹ Some, however, have compared Bryant himself to the Rambo character.

²⁵⁰ Italics as featured in the original publication.

place' for exploration (2001, p. 96). After all, filmic image viewing permits investigation of the feelings, practicalities, and consequences associated with the commission of violence from different perspectives: the offender, the victim, and other third parties. Indeed, no other medium allows such an in depth examination, all without the real life commission of violence against another.

Offence revisited

The filmic image response narratives espoused by the classification/censorship system and the media effects tradition respectively are not the only perspectives circulating within the Australian community. As the online comments show, however, not only are they both deeply entrenched throughout Australian society, they are the only narratives that can boast this status. Indeed, while nuanced to suit the individual speakers, no other narratives are evident in such a repeated and consistent manner. In the case of images of actual sex, children and sexual violence in the case study films, an offence response can clearly be seen in many of the online comments, as advocated by the classification/censorship system. So too can a harm response regarding images of violence – with or without a sexual component – as advocated by the media effects tradition. When it comes to violence without a sexual component, however, an offence (disgust) narrative can also be seen. Indeed, one commenter referred to *Wolf Creek 2* as 'Australian Garbage, trash, horse waste' (Reviewer, 2014, p. 1), while another simply wrote, '[s]ick minds find pleasure in these types of movies. Gutter film. Where it belongs' (Andy, 2014, p. 1). Such responses are not advocated by the classification/censorship system here as this film is classified MA15+.

When it comes to the media effects tradition, the message of harm it advocates in the context of moving images is largely categorical: onscreen violence leads to real life violence. While the ways individual proponents believe this occurs may differ, the message itself is

presented without grey areas. Indeed, while a lack of definition regarding violence has proven problematic for past researchers (Barker and Petley, 2001b, pp. 3-7), it is perhaps the tradition's greatest strength when it comes to unity of message and supporters. In contrast, the classification/censorship system is predicated on decision making, with classifiers assessing the impact of different images in situ and placing them into categories. This creates the possibility of people accepting as truth the system's overarching filmic image response message, while still disagreeing about where the classificatory line was drawn in certain instances. Indeed, this occurrence can be seen in a number of online comments referenced in this chapter. It can also perhaps explain commenters' offence responses to *Wolf Creek 2*'s violent images. However, while increasing the film's classification from MA15+ to R18+ would have sanctioned the possibility of an offence response in at least some people, the classification/censorship system in general does not communicate violent images as being overly offensive. After all, as established in Chapter Three, no films have been refused classification under the current legislation for images of violence alone. Consequently, disagreement over classificatory line placement is unlikely to be the whole story here.

Imagine there was no media effects tradition and there never had been. This may be difficult because of the seductiveness of its common sense allure but without the media effects tradition there would be no harm response to violent images. Indeed, the tradition itself is the response. The same, however, cannot be said for the classification/censorship system. The act of state sanctioned censorship would of course be non-existent but the emotions that sustain an offence response – disgust and/or anger – would still be operational. This too would explain commenters disgust responses to *Wolf Creek 2*'s violent images. After all, as a torture porn film, its violent images abound in realistic blood and gore, both of which are well known disgust elicitors. This may also mean at least some of the commenters who responded with offence to the images of actual sex, children, and sexual violence were not doing so because they had adopted the classification/censorship system's filmic image

response per se. They were instead merely voicing their base instincts. Such an allegation could be seen as casting doubt on the success of at least some of the classification/censorship system's communications. Indeed, from the online comments it is clear that at least some people are oblivious to the system's offence basis (see eg, Hamjeegreen, 2010, p. 1; Jan 1st, 2010, p. 1). Even knowledge of its aim to uphold community standards does not guarantee such awareness. These observations, however, only serve to elucidate the classification/censorship system's communications even further. They reveal the system does not create the response narratives of disgust and anger; it merely sustains and nuances them.

Offence and the resistance

The classification/censorship system formally rationalises the filmic image response of censorship by arguing it is upholding community standards and performing the allegedly necessary function of preventing offence. This – and what it means for those seeking to resist the censorship arm of the classification/censorship system – was explored in Chapter Four. This chapter, however, provides augmentation. While disgust is an inherent part of today's classification/censorship system, it also operates independently. This means that even if film censorship was abolished in Australia via the elimination of the RC classification and the X18+ classification's location restrictions, disgust would continue to regulate the images with which these classifications currently deal. Indeed, while everyone has their own nuanced disgust response, this emotion would continue being tasked with distancing people from that which offends them on both core and moral levels. The social control function of disgust via social hierarchy creation would keep regulating that which is viewed in public, and self-disgust – as well as the fear of being found out – would still constrain private viewing. Indeed, if film censorship was abolished in Australia today, the result would be a

true reflection of community standards, rather than the classification/censorship system's current representation of them.

Without the censorship arm of the classification/censorship system, disgust and anger would also continue striving to prevent harm caused by image production, and that alleged to result from image viewing, even though such occurrences would continue being punishable under criminal law. Indeed, the operation of disgust and anger can be used by the resistance against those arguing the community would be flooded with both harmful and offensive images should state sanctioned censorship be abolished. It also demonstrates, however, that disgust and anger are not filmic image responses, which the resistance should be fighting. Even if they did they would never be successful. Instead, the resistance should strive to educate people regarding how these emotions operate, and implore them to question why they feel disgust and anger towards certain images – and people – in light of this. Such introspection would be particularly worthwhile in the case of disgust. Unlike anger, this emotion does not invite reflection, meaning its elicitation – and the resultant consequences – are typically accepted as warranted without question (Russell and Giner-Sorolla, 2013, p. 344). While disgust and anger underpin film censorship in Australia today, as the body's innate reactions to offensive filmic images, they are also the key to its demise in the future.

Chapter Six

Conclusion: towards an ethical filmic image response for viewers

In 1970, Australian filmmaker Aggy Read declared that 'the only fate befitting the Commonwealth Censorship Board would be for its Imperial Arcade escalator shaft to be poured full of concrete' (*The Naked Bunyip*, 1970).²⁵¹ He had good reason to feel this way. The year before Read had planned to send David Perry's short film *A Sketch on Abigail's Belly* (1968) – which Read himself had produced – to the Oberhausen Film Festival in West Germany (Mudie, 1997, p. 211). This film, however, was refused registration for obscenity, and as such its export permit was also refused (Mudie, 1997, p. 145). While Read launched an appeal, he sent the film before this was heard, and was duly fined for his transgression (Mudie, 1997, p. 211).

While there are undoubtedly some who still agree with the sentiment of Read's declaration, vast changes have been made to Australia's classification/censorship system since 1970. Read was able to witness many of them before he passed away in 1998. This included the overturning of *A Sketch on Abigail's Belly's* registration refusal by the Federal Minister for Customs and Excise Don Chipp, in March 1970 (Mudie, 1997, p. 238). Additionally, he saw the introduction of making public the names of films refused registration and then classification; the ceasing of censorial cutting by the state; and the creation of what is now the Classification and Classification Review Boards. He also observed the long and convoluted road leading to Australia's current national classification/censorship system; and

²⁵¹ As mentioned in Chapter One, the members of the Commonwealth Censorship Board worked out of the lower ground floor of Sydney's Imperial Arcade meaning their entry – and exit – was via this escalator.

the gradual honing of the classification categories that Australia employs today, including the creation and evolution of the R18+ and X18+ classifications. Read was privy to the commencement of the *Classification (Publications, Films and Computer Games) Act 1995* (Cth), as well as that of the classification guidelines and *National Classification Code* in their earlier incarnations. However, he was unable to witness the gradual permission of limited images of actual sex in the R18+ classification, and the most recent legislative change discussed in this thesis, namely that film festivals are no longer required to seek the classification exemption of unclassified films.

The system has evolved significantly since 1970 when it comes to legislation and procedure. However, so too has the image generating technology with which it must contend. While the system began haphazardly prior to 1970 – as a response to cinema – VHS and then DVD technology provided new challenges by allowing filmic images to be viewed privately with the additional options of pausing, fast-forwarding and rewinding, as well as illicit copying and sharing in order to circumvent the traditional market. Computer technology and the Internet has now increased the ease of this copying and sharing, as well as provided greater access. Indeed, individuals now have the potential to access filmic images from around the world without leaving their homes, regardless of the images' classification status. Furthermore, the increasing popularity of Internet-capable smartphones and tablets means that unchecked filmic images²⁵² can not only be accessed anytime but anywhere, completing a curious cycle of the public becoming private becoming public. Despite its accuracy, this is – of course – a devastatingly simple description, ignoring the many nuances and boundaries of the three stages, as well as the fact that the original vehicle for public exhibition – the cinema – has never ceased operation, despite some fearing its eventual demise (Video matters: overview, 1987, p. 28).

²⁵² Images that have not been submitted for classification.

When viewing the current classification/censorship system as one of modern quarantine, it largely achieves its aims, namely to detain, observe and classify all unexempted images intended for commercial release in Australia. However, when viewing it as one of quarantine via isolation – the model first envisaged in biblical times (Bible, 2016, Leviticus, ch. 3) – it is unequivocally failing. Indeed, filmic images that transgress the licit image boundaries established by the classification/censorship system – whether in essence or by formal declaration – can now easily be obtained via methods that circumvent the system’s reach. No longer are they relegated to life outside of Australia’s walls. The national classification/censorship system of quarantine via isolation only began to experience mass failure when filmic images ventured outside of the cinema and viewers were given the power to choose not simply what they watched – which they were always free to do – but also where, when and how this would occur. This can most noticeably be seen in the choices first afforded by VHS technology. However, the situation is perhaps best highlighted by the fact that one of the first technologies the original state and territory based system had to contend with was unrelated to the image per se but viewer transportation. Indeed, as time went on, advances in automobile technology allowed viewers to travel – within reason – to see the images, which had been haphazardly prohibited at that time (Murray, 1979a, p. 489). This situation remains today on an international level with the increasing ease of global travel, although such lengths for image consumption are now likely to be incidental rather than causal.²⁵³

Extreme disgust, outrage, and the classification/censorship system

One of the most significant changes to the classification/censorship system began even before Don Chipp’s concerted 1970s revolution, namely the changing of the acceptability

²⁵³ One might happen to see a film whilst overseas that is refused classification in Australia.

threshold from that which was likely to deprave and corrupt to that which offended against community standards (*Crowe v Graham*, 1968, para. 9, Windeyer J). Images so deemed offend not only in the sense of transgression but through the elicitation of offence as well. These concepts, however, are inherently intertwined as it is the transgression itself that elicits the offence; it is this which provokes extreme disgust and outrage – an extreme form of anger (*Guidelines for the Classification of Films 2012*, p.16). Disgust, and anger, can both be divided into core and moral elicitation (Kelly, 2011; Salerno and Peter-Hagene, 2013, p. 2069; Russell and Giner-Sorolla, 2013, p. 329). In the case of anger, core elicitation stems from a violation of fairness or rights, and from harm causation (Rozin and Haidt, 2013, p. 368), while moral anger is elicited by norm transgression (Batson et al., 2007, p. 1273). In both instances, the degree of elicited anger – and whether it reaches the level of outrage – is then determined by context (Russell and Giner-Sorolla, 2013, p. 340).

In contrast, core disgust – from a largely biological perspective – is elicited by certain potential and actual foods (due to ingestion’s capacity to poison) (Kelly, 2011, p. 52), as well as that which has the potential to penetrate the body, either by itself or through pathogen emission (due to penetration’s power to infect) (Kelly, 2011, p. 52). Moral disgust, similar to moral anger, is then elicited by norm transgression, especially – although not exclusively – when the norm is linked to the previous two categories (Kelly, 2011, pp. 119-120; Chapman and Anderson, 2012, p. 65). Consistent with the detriment focus of poisoning and infection, norm transgression has the power to damage individuals by diminishing their social standing (Rozin and Haidt, 2013, p. 368). From a psychological position, however, disgust can be understood as an act of self-creation; a declaration via rejection of that which I am and am not (Miller, 2004, p. 14). It can also be conceptualised as a response to ‘matter out of place’ (Douglas, 1966, p. 36; see also, Miller, 2004, pp. 20-21). Unlike anger, disgust elicitation is largely unswayed by context (Russell and Giner-Sorolla, 2013, p. 328; Chapman and Anderson, 2012, p. 71).

Both disgust and anger are largely – although not completely – taught (Rozin and Haidt, 2013, p. 367; Shweder et al., 1997, p. 142). They also both share a role in social control (Russell and Giner-Sorolla, 2013, p. 329; Rozin and Haidt, 2013, p. 368; Averill, 1982, p. 124). In the case of anger, this occurs through people striving to avoid having anger directed towards them regardless of whether it is of core or moral origins, and whether it emanates from themselves or others (Rozin and Haidt, 2013, p. 368; Averill, 1982, p.124). Disgust evokes a similar response. However, disgust itself is also especially contaminating (Kelly, 2011, p. 19). It is at risk of polluting whatever it touches (Kelly, 2011, p. 19). This further dissuades people from interacting with both core and moral elicitors lest they too become disgusting to others and duly avoided (Kelly, 2011, p. 19). Consequently, disgust is an influential social hierarchy determinant (Rozin and Haidt, 2013, p. 368).

As the legally defined basis for offence in their extreme forms, the operation of disgust and anger reveals much about how the current classification/censorship system distinguishes between the images that fall within the ambit of the R18+ classification and those that exceed it. Past decisions have shown that images of violence, sex, children, sexual violence, and graffiti writing all have the potential to exceed the R18+ classification in certain guises. Indeed, aside from images of sex and graffiti, the *Classification Guidelines for Films 2012* (the Guidelines) expressly flags this as a possibility when the images are themselves offensive, signalling that scrutiny of both core and moral elicitation is warranted (p. 15). When it comes to images of sex and graffiti, moral elicitation is of sole legal relevancy, although core elicitation can be used to help determine a conclusion when relevant.

Images of violence and its results have the potential to elicit anger and disgust on both core and moral levels, especially when they are extreme. However, to date, no films have been refused classification under the current classification/censorship system for images of fictitious violence alone. Indeed, the only violent images that have been refused classification are those where the violence is real and culminated in the actual death of a

person. This link to reality – of which the viewer is inevitably aware – enhances feelings of disgust and anger, although it alone is still insufficient to warrant classification refusal. Indeed, the images also need to be presented in a way that disrespects the pictured deceased, transgressing deep-seated societal norms around showing respect for the dead. This increases not only the intensity of the elicited offence but the breadth of its elicitation throughout the community as well, inevitably raising levels from acceptable (R18+ classification) to unacceptable (RC classification).

Like fictitious images of violence, simulated images of sex are also impervious to classification refusal even though they have the potential to elicit disgust, and occasionally anger, on both core and moral levels. Indeed, images of simulated sex are commonplace in the R18+ classification, while images of actual sex are largely prohibited. As with actual violence, the linking of these images to reality intensifies any feelings of disgust and anger. However, there are also societal norms that are operational here, namely those prohibiting sex and sexual arousal in public. Both of these norm clusters must be considered in tandem to explain the small number of images of actual sex that are permitted R18+ classification, as well as the routine R18+ classification of sexually titillating images of simulated sex even when viewers know actual sex is occurring off screen.

When it comes to images of children, there are two broad image categories that have the potential to attract classification refusal: children presented as sexual objects for adult consumption, and children presented as sexual beings. Both have the potential to elicit core and moral disgust and anger. Here, norms prohibiting the consumption of child pornography are of most concern, although norms which govern the sexual activity of minors are also relevant. Unacceptably offensive images of children – as so deemed by the classification/censorship system – are void of the link that ties real death and actual sex to reality because they do not actually feature children performing sex acts. If they did they themselves would clearly be child pornography – or child exploitation material as it is legally

referred to in many Australian jurisdictions – and as such, a police matter. Norms, however, are not bound by jurisdictional lines and neither are social constructs such as the child pornography label today.

The presentation of children as sexual objects for adult consumption aligns most closely with the ethos of child pornography. Such images are, therefore, only permitted when they are presented in a way that furthers its distinction. Images of children depicted as sexual beings do not conceptually accord with notions of child pornography. As they do not share this link, such images in their simulated form have not – to date – been refused classification. However, when considering hypothetical situations varying the actors' ages and what they are required to simulate, it is easy to imagine a situation where an alternative link to child pornography could arise that might support classification refusal. The only time such images have been refused classification is when the sex itself was real. This clearly accords with child pornography's conception even though these films do not meet the legal threshold for criminal prosecution. Here, it is not only norms prohibiting child pornography consumption that come into play but those forbidding sex and sexual arousal in public as well.

Images of sex and violence can offend on both core and moral levels but for them to elicit the requisite level of offence to trigger classification refusal, the images need to be *real*. To attract classification refusal, images of children must be unacceptably – albeit legally – tethered to child pornography, which itself is a *real life* connection. While few examples exist, all of the graffiti writing images that have attracted classification refusal have also been similarly positioned. They depict the commission of *real* crimes. When it comes to sexual violence, however, all the images that have been refused classification to date have been *simulated*. Indeed, it is hard to imagine a situation where real sexual violence – like real death – could be captured on film and then used in a production intended for commercial

distribution.²⁵⁴ This means, however, there are no real life norms operational in decisions to refuse such images classification. When presented with images of sexual violence, the classification/censorship system differentiates between R18+ and RC films by considering aspects such as production techniques, artistic merit and humour. The media effects message may also be surreptitiously influential. However, without a real life norm transgression to tether the RC images to reality, these decisions inevitably appear arbitrary and indefensible. This is then compounded when films refused classification for sexual violence are then classified R18+ with only a few seconds excised.

Participation in the classification/censorship process

Analysis of how the classification/censorship system uses the emotions of disgust and anger to differentiate between R18+ and X18+ or RC images provides an example of how the system itself acts (Kuhn, 1988, p. 6). However, the system is also something that is 'acted upon' (Kuhn, 1988, p. 6). Indeed, there are five designated sites where people can access the classification system for this purpose: the Classification Board, film festivals, the Classification Review Board, the South Australian Classification Council (SACC), and the Federal Court. It is at these sites that the licit image boundaries are created. While not every submission challenges these boundaries, the Classification Board is the site that is most frequently accessed. Here, all community members are permitted access, although it is predominately only used by distributors. Law enforcement personnel, however, also make a relatively small number of submissions. If anything, law enforcement personnel seek a narrow construction of the licit image boundaries to protect the community in line with their vocational aims. In contrast, distributors have a financial interest in the outcome. Therefore, if anything they seek to widen the licit image boundaries so they can distribute their films to the widest possible audience.

²⁵⁴ Like mondo films and shockumentaries.

Like the Classification Board, first instance decisions are also made by film festivals themselves. Previously determined by the Director of the Classification Board, decisions here pertain only to the films scheduled to screen at the film festivals in question. Like distributors, film festivals – if anything – seek to widen the licit image boundaries to satisfy their commercial interests, although replacement films can always be substituted. They also have a genuine interest in bringing worthy films to their patrons in line with their respective ethos. Indeed, some film festivals – like some distribution companies – pride themselves on the boundary pushing material they provide.

The Classification Review Board is the only national site where the merits of classification and censorship decisions can be challenged. Here, the relevant decision is remade with the addition of oral and written submissions from interested parties. Becoming an interested party is one way that organisations and individuals can act at this site. Here, participants can – and do – strive for both narrower and wider licit image boundaries, acting with a range of different motivations. The only restriction here is that they challenge the specific decision in question. They cannot use this forum to dispute the system more generally.

Participants can also act at the Classification Review Board by initiating classification review. Here, the Censorship Ministers are guaranteed access, as are the distributors of the film in question. However, all others must prove themselves to be aggrieved persons. To date, the Australian Family Association (AFA) has been the only successful applicant. This reflects the narrowness of the aggrieved person provisions' scope. As a Religious Right organisation, the AFA seeks to narrow the licit image boundaries, inevitably acting in accordance with members' religious principles.

The other way participants can access the Classification Review Board is by lobbying a Censorship Minister to act at their behest. All community members are permitted to do this but again it has been religious – and family – organisations that have been most successful.

These groups are seasoned lobbyists who are able to swiftly mobilise their members, increasing the chances of their target taking notice (Johnson, 2004). Their requests are also more politically palatable than those seeking to widen the licit image boundaries. Indeed, given the potential for X18+ and RC images to elicit extreme disgust and outrage – as well as disgust’s contaminating power – it is easy to understand why Censorship Ministers have never accessed the Classification Review Board under the current legislation, in an attempt to widen the licit image boundaries.

In contrast to the Classification Review Board’s gated process, anyone can potentially instigate classification reassessment at the SACC. Indeed, there are no barriers aside from the Council’s discretion to act, which is then mandated upon the South Australian Censorship Minister’s request (*Classification (Publications, Films and Computer Games) Act 1995 (SA) s 16(1)(a)*). Decisions made at this site, however, only apply in South Australia, meaning it is of little use to today’s nationally minded distributors. Past decisions show the SACC is willing to act on requests arguing for both wider and narrower licit image boundaries. It has also acted with as little as one request. This truly is a site where community members can – and do – take a stand.

The Federal Court is the final designated site of action. Here, there are significant monetary costs involved, effectively barring access to the majority of individuals and groups. Furthermore, the Court is only permitted to assess whether the correct legal procedure was followed, not the merits of a decision itself (*FamilyVoice Australia v Members of the Classification Review Board*, 2011, para. 46).²⁵⁵ Given the elasticity of the classification considerations, this leaves little scope for inquiry. The Federal Court has only been accessed twice under the current system: once by those seeking to widen licit image boundaries and once by those advocating their narrowing. Both cases, however, were

²⁵⁵ This is also reflected in section 5 of the *Administrative Decisions (Judicial Review) Act 1977 (Cth)* under which the cited action was brought.

unsuccessful,²⁵⁶ furthering perceptions of this site as largely ineffectual in the struggle over licit image boundaries.

In the context of film censorship struggles, participants act at these designated sites seeking to influence the films that Australian adults can and cannot see. However, aside from this practical application, the classification/censorship system is also an authoritative – and ubiquitous – voice in the apparatus of filmic image response due to its institutional and legal backing (Foucault, 1980, p. 194), as well as the sheer volume of its communications. Therefore, by influencing the course of the licit image boundaries, participants are also influencing the message that the system communicates, effectively aligning it with their own as far as the system's ambit will allow. This not only has the potential to affect how community members approach commercial films but all moving images. Some participants, however, instead – or also – appropriate other sites at which to act. These are individuals who advocate wider licit image boundaries and are either prevented from accessing the classification/censorship system directly via legislation or practical realities, or have exhausted at least some of its options. Action here has no bearing on the legal status of the film in question but it does communicate an alternative filmic image response narrative to that proffered by the classification/censorship system. This predominately occurs in three forms: voicing opinions in public; defying the law in public, and defying the system in private. Opinions voiced in private are also relevant but fall outside the scope of this thesis.

While voicing opinions in public was once the domain of printed newspapers and town meetings, this now also takes place on the Internet via a myriad of different websites and social media outlets. Indeed, the Internet currently affords individuals the potential to reach more people – both nationally and internationally – than ever before. Defying the law in public involves screening – or attempting to screen – an X18+ or RC film, or offering an RC

²⁵⁶ These cases were *Adultshop.com Ltd v Members of the Classification Review Board* [2007] FCA 1871 (29 November 2007) and *FamilyVoice Australia v Members of the Classification Review Board* [2011] FCA 1014 (31 August 2011).

film for sale or hire. Offering an X18+ film for sale or hire in an Australian state is also effectual. These actions alone communicate that the film in question does not warrant censorship, but when successful, they also allow individuals to make up their own mind regarding the validity of any advocated filmic image response based on the images themselves rather than someone else's description. Action via these two public avenues is functional on a communicative level. However, it also supports those who defy the system in private on a practical level by raising awareness regarding the censorship act and the film's title. This not only allows them to obtain the film in question via illicit download but often drives them to do so. Consequently, interaction with the appropriated sites is risky for those advocating a film's suppression.

Those who instigate action at the appropriated sites typically do so to challenge an act of film censorship. However, not all of these participants are resisting the classification/censorship system itself, arguing instead that it erred in the specific instance. This is especially evident when participants champion what they see as the film's redemptive qualities such as artistic merit, or contrast it with that which they believe deserves to be censored such as pornography. To challenge the censorship arm of the classification/censorship system with a view to its abolition, participants must instead combat the message that the system is communicating in its entirety, replacing it with an alternative truth where censorship is redundant (Foucault, 1988, p. 84). In so doing, it is imperative that challengers reveal to those who are unaware, the true basis of film censorship in Australia, and explain why this is undesirable. Much should also be made of the current system's failure on a practical level due to Internet technology. Challengers must then additionally contest that which drives participants who use the current system for censorial purposes lest they fight the system's abolition or attempt reconstruction. Success demands a multifaceted approach.

Perception: images, other viewers, and the self

Film censorship is a practice that both influences – and is influenced by – the society in which it operates (Kuhn, 1988, p. 6). This is evident in the ways the Australian system both acts and is ‘acted upon’ (Kuhn, 1988, p. 6). The system’s influence, however, can also be seen when community members adopt and perform the filmic image responses that it advocates. These responses shape not only how individuals experience certain images but also how they experience themselves and others, and how others experience them in turn.

Acceptance of the classification/censorship system’s advocated responses of offence and censorship is evident in the online comments left after the news articles that discussed the films featuring images of actual sex, children and sexual violence. No comparable articles were available for analysis regarding images of real death or actual graffiti writing. Upon more targeted scrutiny, a disgust response – while not advocated by all commenters – can clearly be witnessed in each of these cases. This can be seen in the adjectives used – such as “disgusting”, “revolting” and “repugnant” – as well as words signalling a desire to withdraw or separate oneself. Indeed, even when commenters expressed disagreement over *Children’s Island’s* (1980) classification refusal, many still conveyed the validity of a disgust response as well as the censorship of images in other circumstances. Consistent with its contaminating power, disgust can also be seen directed towards individuals who choose to watch these images. In addition to them being seen as disgusting, this also manifests in them being perceived as childlike or mad (Miller, 1997, p. 11), unless the viewing is considered to be for the greater good, such as when education is involved. Here, the viewer is instead thrust towards saint status as a reward for subjecting themselves to the disgusting and its inherent risk of social detriment (Miller, 1997, p. 11).

The online comments show that disgust directed towards viewers can – to an extent – be minimised if the viewers themselves respond to the aforementioned images with disgust, communicating a desire to ‘purge and withdraw’ (Royzman et al., 2014, p. 904). It also has the potential to be neutralised when this disgust response is coupled with remorse for the viewing decision. Disgust towards viewers, however, is duly heightened if their reaction to the images runs contrary to the disgust emotion, culminating – for example – in laughter or sexual arousal. Indeed, not being disgusted by the disgusting can itself be norm breaking (Miller, 1997, pp. 11-12), and this then has the potential to elicit the anger of third parties towards them as well. Such anger, however, may have already been elicited depending on the circumstances. Indeed, anger was particularly evident regarding the images of actual sex featuring bestiality in *Donkey Love* (2012), which can be construed not only as depicting but orchestrating real life harm and rights violations.

The classification/censorship system is an authoritative voice in the community regarding filmic image response, supported by its legal and institutional foundations (Foucault, 1980, p. 194). It also has unprecedented opportunity to communicate its views via the decisions it makes. However, when it came to the sexually violent images the system’s advocated response was not the only one evident en masse in the online comments; so too was concern regarding harm as espoused by the media effects tradition. This was also present in comments regarding the images of (fictional) violence without a sexual component. The harm alleged by media effects proponents is distinct from that flagged by the system regarding paedophilia promotion. These proponents argue that onscreen violence causes real life violence (Barker and Petley, 2001a). The media effects tradition boasts a lengthy history which predates film, adjusting its message to fit each new medium that it targets (Barker, 2001, p. 41). In the case of film, however, it can also now be framed as being backed by science, significantly bolstering its acceptance as truth (Foucault, 1980, p. 210).

The media effects proponents in the online comments alleged three main ways real life violence can be caused by its onscreen presence: that viewing violence causes healthy individuals to become mentally impaired and enact violence on others; that viewing violence compels individuals who are already mentally impaired to enact violence on others; and that the presence of violent images in society desensitises community members to all violence inevitably leading to its real life increase. Like those who interact with the disgusting, mentally impaired individuals too have been (insensitively) conceptualised as childlike or mad (Corrigan, 2002, p. 17). People – in general – also want to separate themselves from individuals which they believe may harm them. This leads to an overlap in the harm and offence narratives. Indeed, for those alleging that mental impairment precedes viewer violence, the harm narrative can even be seen as an extension of that of offence (disgust). The appropriateness of disgust reactions can also be influential here as those considered inappropriate are often construed as evidence of mental impairment regardless of its cause.

Media effects proponents earnestly warn of the harm they allege violent images cause. However, film promoters have now seized this rhetoric, capitalising on the allure of the dangerous as well as the forbidden and the disgusting, safe in the knowledge that media effects allegations can never be conclusively proven or disproven. Here, Monster Picture's teaser trailer for *The Human Centipede II: Full Sequence* (2011) provides apt example (Monster Pictures, 2011b). This is but one instance of the media effects narrative and vocabulary being absorbed by – and utilised in – Australian culture.

Harm and offence narratives influence how people perceive certain images and those who view them. However, these narratives also influence how people perceive themselves. This was evident in the online comments where individuals constructed themselves as normal in comparison to the childlike and mad viewers present in both the harm and offence narratives (Miller, 1997, p. 11; Corrigan, 2002, p. 17). Indeed, film censorship advocates hailing from both the harm and offence camps consistently see censorship as necessary for others rather

than themselves. Harm and offence narratives also influence how viewers perceive themselves and give meaning to the viewing experience. These individuals are acutely aware of the media effects message, and that some people will judge them accordingly. They also know these images elicit disgust in others and that this can then be directed towards them. The online comments confirm at least some viewers react with disgust to these images. However, while disgust is traditionally a negative experience, for these viewers it is often construed as pleasurable, rendering even an outwardly appropriate disgust reaction inappropriate. This can lead to disgust being turned inward. However, while some public expressions of this are undoubtedly genuine, others are perhaps falsified in an attempt to retain social standing. This demonstrates how the offence (disgust) narrative and vocabulary can be – and is – exploited for personal gain.

While the labels given to viewers by harm and offence proponents – such as “sick”, “weird” and “disgusting” – are intended as social slights, some viewers have reappropriated these words, proudly using them to reference themselves and other likeminded people. This is clearly observable in the way Monster Pictures and Monster Fest routinely interact online with their clients and patrons respectively. Harm and offence proponents use these labels to communicate what they themselves are not (Miller, 2004, p. 14). However, here they are employed to denote a positive identity (Miller, 2004, p. 14), as well as a network connection wider than the individual. This reveals yet another guise under which harm and offence language is operational – and consequently reinforced as valid – in Australia.

Both of the classification/censorship system’s advocated response avenues – offence and censorship – were evident in the online comments linked to the films featuring images of actual sex, children and sexual violence; although not all who expressed the former advocated the latter. Concern about harm was also evident in the online comments regarding sexually violent images, as well as images of (fictional) violence without a sexual component, consistent with that advocated by the media effects tradition. Here, some also

encouraged the censorship of these two image categories. Yet, when it came to the images of non-sexual violence an offence response was additionally evident, which is not advocated by the classification/censorship system. This could simply reflect disagreement over where the licit image boundary was placed. However, it also presents the more likely possibility that these offence based comments – and even some of those pertaining to the other image categories – were expressions of people’s innate emotional responses of disgust and anger rather than a reflection of what the system advocates. This indicates that even if the censorship arm of the classification/censorship system was abolished, the images it currently jettisons – and more – would still be regulated by these emotions.

Continued regulation via disgust and anger is an important argument for those seeking to abolish state sanctioned film censorship in Australia. It also demonstrates why they should not seek to abolish disgust and anger as filmic image responses. Such efforts would in any event be futile, as while these emotional responses are primarily taught, they are larger than film itself. It is, however, still beneficial for challengers to implore community members to question why certain images elicit disgust and anger within them, as well as the consequences that flow from this. As previously mentioned, those seeking to abolish state sanctioned film censorship must address the motivations of those who use the classification/censorship system for censorial purposes, as well as those of the system itself. However, they must additionally challenge the media effects message lest its supporters move to prevent abolition. Indeed, the current system does in practice partially support their position by refusing to classify some extreme images of sexual violence, as well as by flagging fictional violence as at least potentially problematic. It also permits some media effects proponents – especially those who are simultaneously Religious Right members – to influence that which the classification/censorship system communicates via their designated site participation. Furthermore, media effects proponents may seek to re-establish the system if abolition should occur, significantly aided by their message’s ostensible science backing and common sense allure. Therefore, challengers need to debunk this science, as

well as address the role of moving pictures in advertising and the alleged anecdotal evidence that media effects proponents use to further evidence their claims (Barker, 2001, p. 29). Indeed, even if media effects proponents do not move to retain or rebuild the current system, challenge is still necessary otherwise they will continue to strive to influence people's filmic image responses, willing them to self-censor along their advocated lines.

The classification/censorship system's aims revisited

While few have questioned the merits of classifying films in Australia, many have called for the abolition of their censorship, arguing it is this arm of the system which is irrevocably floundering in the Internet's wake (see eg, Grieg, 2003; Fitzgerald, 2011). Indeed, the ease at which censored images are now able to be accessed online can be seen as rendering the censors' work ineffectual. In today's world, this work can also be seen as counterproductive because censorship not only attracts attention to the targeted film informing people of its existence, but it also provides them with incitement to view (Vnuk, 2003, p. 212). There is no doubt that censored films – and more – can be accessed via the Internet, and the censorship system is – in a practical sense – powerless to stop their dissemination. However, this is also true in a jurisdictional sense. Indeed, the system is not tasked with eradicating every image that slithers out from the Internet's dark corners. It is only concerned with those that are formally submitted to it.

Aside from some of those submitted by law enforcement personnel, the images that the classification/censorship system is permitted to censor are those intended for public exhibition and sale/hire in Australian cinemas and stores respectively. With this in mind, perhaps the act of censorship is better understood as a means to an end rather than an end in itself. Indeed, from this perspective, the system is not tasked with regulating images per se but the locations which act as their public face: cinema screens and store shelves. This

means that in evoking the ancient quarantine model of isolating the healthy, the system is not attempting to protect Australia as a whole, but merely these two areas. It is here that viewers and shoppers alike need not be perpetually on the lookout for abject images. In these spaces they are permitted to let down their guard and rest. Reports are rife alleging the states' laxity in preventing the sale of X18+ and unclassified DVDs in sex shops (see eg, Sparrow, 2012, p. 41; Nguyen and Tomazin, 2004), so distinction must be drawn between these and other more mainstream outlets. Cinema screens and store shelves have also at times been appropriated as sites for challenge. However, aside from these anomalies, the quarantining of these locations is a task that the system can – and does – perform with undeniable success.

The system's performance can also be gauged by the defensibility of its censorship decisions. As established in Chapter Three, defensibility is lacking regarding how the system determines images of sexual violence as warranting an R18+ or RC classification. Consequently, this is a practice that cannot be endorsed. Its decisions to classify or censor images of real death, actual sex and children, however, can all be clearly and rationally justified. The same can tentatively be said for images of actual graffiti writing, although decision numbers are lacking. Therefore, while views regarding the merits of these decisions may differ, this also speaks to the system's success. Images of real death, actual sex, children and actual graffiti writing are censored when they contravene certain norms that are widespread and strongly held in Australia: norms against speaking ill of the dead; norms prohibiting sex and sexual arousal in public; norms linked to the condemnation of child pornography; and norms averse to celebrating and profiting from crime. There is no denying these norms are operational in Australia today, and when deep-seated norms are transgressed – especially in public – they are known to elicit that which the system is tasked with preventing: extreme disgust and outrage. This logic too embodies success. Film censorship does not boast unmitigated support within the Australian community. However, one cannot help but marvel at the system's ability to achieve so many markers of success

after operating for over 45 years with the same focus, especially considering the changes in images, technology and social climate with which it has had to contend.

Norm transgressions are undoubtedly more powerful – and ramifications more significant – when they occur in public. However, transgression still inevitably occurs when offending images are illicitly viewed in private. This is not formally of the system's concern. Yet, when contrasting the private viewing of images of real death, children and actual graffiti writing with those of actual sex, it becomes apparent there is no norm transgression when it comes to the latter. Indeed, here the norms themselves are predicated on the public nature of the viewing location. Remove this and there are no norms to break. From this widened viewpoint, the system's response to images of actual sex can be seen as its most successful censorial pursuit today. Yet, paradoxically, it is also the area that is actively being weakened by the system itself. This began in 2000 when it first permitted a film featuring images of actual sex an R18+ classification. Numerous others have followed, and the trend continues with Gaspar Noé's *Love* (2015). This film is one of the most sexually explicit R18+ films to date. Indeed, not only is the sex act at times visually explicit but it is also realistically presented and arguably titillating (Lyttelton, 2015). These are characteristics that have traditionally been associated with X18+ images, although decision still rests – as it always has – on a matter of degrees.

Perhaps these acts of self-sabotage committed by the system itself are in recognition of the fact that a significant number of filmgoers want to be able to view images of actual sex publicly in cinemas. Indeed, the prohibition of these images is the area of film censorship that has been challenged most by those outside the system. Films featuring actual sex have frequently been scheduled to screen at Australian film festivals, even though this was then typically cancelled at the behest of the Classification Board's Director in accordance with the pre-September 2015 rules. Such scheduling can itself be seen as a sign of unrest regarding the status of these images in the community, as film festivals and distributors alike will only

source films they believe their target audience wants. The overflowing illicit screening of *Damon and Hunter: Doing It Together* (2005) in 2006 is testament to their astuteness in this area. Many of the other appropriated site actions identified in Chapter Four were also instigated in response to classification exemption refusal. Here, the 2003 attempted screening of *Ken Park* (2002),²⁵⁷ and the successful – albeit reprimanded – 2010 screening of *L.A. Zombie* (2010) provide apt example. Classification exemption refusal also led to the 2013 creation of the online petition imploring that *I Want Your Love* (2012) be permitted public screening, which attracted 2,853 supporters (Scicluna, 2013).

These acts of challenge would of course be unthought of – and indeed impossible – without the creation of films that feature images of actual sex intended for public exhibition. While they all have their detractors, many of these films are created by filmmakers who are well known and well respected in mainstream circles such as Michael Winterbottom (*9 Songs*), Catherine Breillat (*Romance*), and Larry Clark (*Ken Park*) to name a few. These are professionals whose works are not considered to be sex films but explorations of narratives left untold but for the inclusion of the actual sex act. *L.A. Zombie's* creator Bruce La Bruce, however, challenges this position, priding himself as much on his hard core titles as his softer works (Griffin, 2010b). Both *L.A. Zombie* and *Baise-Moi* (2000) also feature actors who are well known in pornography circles further blurring this distinction (Griffin, 2010; Sharkey, 2002). Indeed, Bruce La Bruce and *Baise-Moi's* co-creator Coralie Trinh Thi have even themselves respectively participated in actual sex on film, adding to their transgressive mystique (Sayej, 2015; Sharkey, 2002). Yet, it is Tony Comstock (*Damon and Hunter*, and *Ashley and Kisha: Finding the Right Fit* (2007)), who is most vocal about his desire to resist the pornography/mainstream distinction (Comstock, 2008). This is a filmmaker who wants his sexually explicit films to be screened in public and in private, and for them to sexually arouse viewers in both locations (Comstock, 2006a).

²⁵⁷ This film also features challenging images of children.

The public viewing experience is undoubtedly different to that undertaken in private. As Comstock writes:

the power of the cinema can transform a house full of strangers into an audience. There is something magical about being in the dark, with a bunch of people you don't know, all responding as one to the film. It's amplifying and affirming of one's own emotions (2006d, p. 1).

This is a view shared by film critic Mark Kermode, who writes:

the fact that I don't want to hear people eating in the cinema (or talking of their mobile phones) doesn't mean that I don't want to hear them laughing or shrieking or crying, or doing whatever else it is that movies are meant to make people do. Isn't that a crucial part of the cinema-going experience: enjoying being in an auditorium full of people sharing the same emotions en masse? (2011, p. 34).

So why do viewers want to repeatedly partake in this sharing of emotion – and of vision – regarding images of actual sex? Why do they not find the experience unacceptably offensive, as norm operation suggests they should? Is the allure of the disgusting so strong as to overcome the influence of these norms? It is after all the disgust emotion that is primarily operational here, not a concerted mix of disgust and anger as is the case regarding images of real death, children and actual graffiti writing. Perhaps it is a combination of disgust's allure, a penchant for rebellion, and the strength of viewers' sordid sexual desires and curiosities that keep them coming back for more. Yet, maybe the screen is for them an inoculating force, being at once that which facilitates the viewing experience and that which provides a barrier between the viewer and the sex act proper. Viewers also have the ability to stifle or hide their sexual arousal – at least to a certain extent – if they so choose, essentially rendering their public reaction private with less opportunity to offend. Indeed, the

cinema, whilst a public place, can itself be seen as providing a certain level of privacy: the cover of darkness and the partition of walls. These are viewing conditions demanded by the images themselves for without them projection would fail.²⁵⁸

Perhaps the issue here is not one primarily concerned with the privacy norms surrounding sex and sex arousal at all but instead a struggle over the way sex – via filmic images – is permitted to enter into, and participate in, discourse in Australia. From this perspective, the system can be seen as using these norms not to prevent transgression but to exact a conclusion. Indeed, Figgis has referred to the images that are presented in silent films as a ‘universal language’ (Kermode, 2001, p. 150). ‘For Figgis, the moment film became verbal, rather than a visual and musical experience, it also became a slave to the boundaries of language – its scope no longer universal, but national, perhaps even regional’ (Kermode, 2001, p. 150). When it comes to images of actual sex, however, this universality inevitably remains. Palpably steeped in emotion and physicality, these images deftly convey their meanings. Uninhibited by linguistic barriers, they effortlessly express what words cannot. Indeed, images of actual sex connect with one of the most fundamental drives for humans everywhere. While not all are equally conducive, they also have the potential to speak to the future of our world and to that which has permitted us all passage here.

An aesthetics of existence

The classification/censorship system and the media effects tradition both provide models of thought and action in the context of filmic images. Foucault’s work on ethical living by way of an aesthetics of existence, however, can be seen as providing an alternative (Foucault, 1994, p. 207). Here, decisions are made not simply in adherence to a set of prescriptive rules but with a view to turning the subject’s life into ‘a form that answers to criteria of

²⁵⁸ Here, drive in theatres and outdoor cinemas provide exception. However, these locations still demand their own elements of privacy.

brilliance, beauty, nobility, or perfection' (Foucault, 1987, p. 27): a life that becomes 'a work of art' (Foucault, 1994, p. 261).

According to Foucault, the first step in becoming an ethical subject – regardless of what this looks like for the individual in question – is to identify the areas of life which have become problematized, and as such, in need of reflection (Foucault, 1987, pp. 23-24). In the context of not only extreme filmic images²⁵⁹ but extreme moving images in general,²⁶⁰ Chapter Five has revealed that the problematized areas cluster around the impetus for viewing; the act of viewing; reaction to the images; other viewers; and truth. Choices made here begin with the images individuals decide to watch and to avoid. Indeed, as a potential spectator, how do you make this decision? Are you guided by a desire for entertainment, pleasure, or education, or to be physically or psychologically challenged? Perhaps you seek – or avoid – images that elicit certain emotions, or specific bodily reactions. Does your position change if the images are of vivid blood, gore and death resulting from extreme acts of sadism, cruelty or brutality? What if the victim is particularly undeserving or vulnerable, or their life and death are both mocked and trivialised? Where do you stand on images of sex involving adults, children or animals, perhaps with the addition of inanimate objects, bodily waste, or violence?

Once the decision to watch or abstain is made, choice then focusses on how this is performed. Upon deciding to watch, do you confidently stride towards the counter to obtain your cinema ticket or DVD, or wait for an opportunity when patronage wanes, hiding your purchase as quickly as possible? Rather than in person transactions, perhaps you favour the ease of films streamed – or DVDs purchased – online, or maybe it is the anonymity this affords. While limited somewhat by the classification/censorship system itself, are there certain images you will only watch in particular locations and on specific screens? Perhaps,

²⁵⁹ Images that challenge the classification/censorship system's licit image boundaries.

²⁶⁰ Images that would challenge the classification/censorship system's licit image boundaries if they were submitted, regardless of whether they are eligible for submission.

there are images you will only watch with certain people or when alone. When the act of watching occurs, do you strive to suppress any bodily reactions, or let them all flow freely in an unadulterated fashion? Maybe this depends of your location or the identity of other viewers. In any event, do you inform others of your viewing decisions or do you strive to keep them secret?

Choice also focusses on the treatment of third party viewers. Are your perceptions of people influenced by awareness of the images they watch, their reasons for watching, or their reactions to certain images? Does this influence manifest only in thought or is it reflected in your actions? Perhaps there are certain people you avoid sitting next to in the cinema. Do your views change depending on how these people label themselves?

The next step in creating an aesthetic of existence is to identify that which currently drives your behaviour (Foucault, 1987, p. 27). Drawing on this thesis' research, are your answers to the above questions guided by the communications of the classification/censorship system or the media effects tradition? Perhaps they are influenced by the emotions of disgust and/or anger, the Religious Right, or a force that has not been examined here. As Foucault explains regarding his own inquiries:

[w]hat they do ... is to bring out how up till now social mechanisms had been able to operate, how the forms of repression and constraint had acted, and then, it seems to me people were left to make up their own minds to choose, in the light of all this, their own existence (1988, p. 50).

Such revelation is also invaluable to those seeking to resist social mechanisms via their abolition. Indeed, as Huijer argues, 'we should conceive of Foucault's genealogical analysis as a genealogical critique, as a weapon against that power that divests it of all its masks and takes it to pieces' (1999, p. 64). This thesis performs a similar function through its concerted

examination of how the classification/censorship system acts and is 'acted upon' not only in the context of film censorship but filmic image response as well (Kuhn, 1988, p. 6). Striving to enact an aesthetics of existence, however, does not necessarily preclude the actions advocated by others. Here, they are posited not as the only option but one in a suite of many (Foucault, 1987, p. 27). Indeed, it is the ability to choose, which lies at the heart of Foucault's conception of ethical living; a pursuit realised not simply by the outcomes themselves but the reasons leading to decision (Foucault, 1987, p. 27). Do they support your version of a 'beautiful life'? (Foucault, 1994, p. 254). For Foucault, it is through this practice of ethical living that freedom is achieved (Foucault, 1988, p. 50). No longer is subjectification a passive occurrence, as presented in Chapters Four and Five of this thesis (Foucault, 1994, p. 291). It has been transformed into an active pursuit (Foucault, 1994, p. 291).

The next step towards realising a 'beautiful life' is 'ethical work'; the conduct required to accomplish this achievement (Foucault, 1994, p. 254; Foucault, 1987, p. 27). Foucault's research looked to the past, meaning it observed action already taken (Huijer, 1999, p. 62). However, looking forward, 'ethical work' in the context of extreme filmic/moving images invariably requires more of that which this section has already discussed: research and reflection (Foucault, 1987, p. 27). This thesis has examined in detail the thoughts and actions promoted by the classification/censorship system, the media effects tradition, and the emotions of disgust and anger, allowing viewers to assess their behaviour with this in mind and determine whether it evokes personal satisfaction. Even if the answer is yes, awareness can still be augmented with other research. After all, the quest for a 'beautiful life' is ongoing (Foucault, 1994, p. 254), and the re-creation of subjectivities continual (Foucault, 1987, p. 28). The personal and societal ramifications of viewing moving images of sex (see eg, Attwood, 2011; Montgomery Graham et al., 2015) and those pertaining to crime (see eg, Rhineberger-Dunn et al., 2016; Hayward and Presdee, 2010), as well as the history of violence's appeal both onscreen and elsewhere (see eg, Pizzato, 2005), are all topics of

academic interest; although inquiries for the purpose of ethical realisation need not be limited to academia.

Another avenue for investigation revolves around the role of film in society. While its status as art has long been debated (Thomson-Jones, 2008), Bordwell et al. resolutely declare it to be 'an energetic and powerful art form' (2016, p. 1). For Marcuse (1978), art is a tool of revelation.

[It] breaks open a dimension inaccessible to other experience, a dimension in which human beings, nature, and things no longer stand under the law of the established reality principle. Subjects and objects encounter the appearance of the autonomy which is denied them in their society. The encounter with the truth of art happens in the estranging language and images which make perceptible, visible, and audible that which is no longer or not yet, perceived, said, and heard in everyday life (Marcuse, 1978, p. 72).

Embracing a broad definition of censorship which goes beyond that sanctioned by the state, film (as art) can – from this perspective – be seen as unveiling and freeing that which has been suppressed by the confines of language itself. Film censorship then inevitably dashes this transcendent opportunity.

Another area which has not been explored by this thesis is perceptions of the uncensored voice. Indeed, speech which evades the censors' reach is easily presented as being more open and honest than that which is censored; a brave and admirable voice standing up in the face of its oppressors. It is important to remember, however, that such utterances are still influenced by the culture in which they were formed, as well as the speaker's own 'interests, passions, wounds, loyalties, hopes and ambitions' (Curry Jansen, 1988, p. 182). This has

led Curry Jansen to argue, '[t]he views of the censored are not more "objective" than your view or mine, they are just more dangerous' (1988, p. 184).

Those who attract the attention of censors are a strategic category of outlaws. They are epistemological criminals: cosmological mess-makers who dirty the discrete (sacred) presuppositions in which the prevailing order is secured. Their power (or potential for power) derives from their capacity to spoil the terms of the bargain which has made a viable version of social reality possible (Curry Jansen, 1988, p. 184).

From this perspective, the filmic images that challenge the licit image boundaries are dangerous because they threaten the order established by the classification/censorship system. This danger is then augmented when it comes to offensive images of real death, actual sex, children, and actual graffiti writing because they also defy the societal order, which is expressed via norms. Traditionally, power has been seen as residing in the censor (Kuhn, 1988, p. 2). Censorship is after all the ultimate act of 'no-saying' (Kuhn, 1988, p. 2). However, as Curry Jansen's words reveal, power is inverted by the act of censorship (Curry Jansen, 1988, p. 184). No longer does it reside with the censor but with the censored product (Curry Jansen, 1988, p. 184). It is the dangerousness established via the censorship act, which makes this so (Curry Jansen, 1988, p. 184). Such thinking can be used to inform a 'beautiful life' in the context of filmic image response (Foucault, 1994, p. 254). However, it can also be used to augment the arguments of those seeking to resist – and abolish – the censorship arm of the classification/censorship system. Remove the system and its borders, and you remove one layer of these images' power;²⁶¹ power which they need not have.

For some striving to enact their 'beautiful life' (Foucault, 1994, p. 254), notions of film as a 'safe place' for beneficial exploration may temper the belief that certain images should not be

²⁶¹ Images of sexual violence do not transgress norms. Therefore, for them, this is the only layer.

watched (Mills, 2001, p. 96) It may even counter the most basic of all reasons for not watching extreme filmic/moving images: I do not like them. Indeed, viewers are consistently safe from the events onscreen. They will never be injured no matter how violent the protagonist is. However, viewers are also protected from the bodily fluids they encounter, whether fictitious or otherwise. These substances can never poison or infect viewers; the very outcomes that core disgust is striving to prevent (Kelly, 2011, p. 52). Given the reflex-like nature of the disgust emotion (Kelly, 2011, p. 141), there is little that can be done regarding its elicitation at first instance. The validity of this elicitation, however, can be questioned and any resultant actions modified accordingly. Disgust is after all concerned with the very nature of our humanness (Miller, 1997, p. 202). It is something, which connects us all (Miller, 1997, p. 202). Just like disgust at first instance, there is also little control over the disgust elicited in third party observers. Indeed, even if they were persuaded to reconsider their position in an ethical way, there is no guarantee that their disgust will be altered. For some, the behaviour of third parties will be inconsequential. However, for those who find the beauty of their existence in the views of others, anticipation of this will inevitably guide their choices. Life as art can be a propagandist's tool.

Ethical decision making via an aesthetics of existence can be used by individuals to determine the lines along which they self-censor; how they choose to govern themselves. This is a timely consideration given that technological advancement has effectively rendered filmic/moving images themselves ungovernable. However, perhaps the censorship arm of the classification/censorship system can itself be converted to use this model. After all, much like the effects of filmic image decisions on the individual, the upper level classification and censorship choices the system makes influences the way Australia perceives itself via its citizens and the way it is viewed internationally (Murphy, 2003). Ethical decision making via an aesthetics of existence relies on the decision maker's ability to re-establish their position as needed; to change their behaviour as their awareness evolves in order to craft their 'beautiful life' (Foucault, 1994, p. 254; see also Foucault, 1987, p. 27). While structural

reformation can only occur via legislative amendment (*Adultshop.com Ltd v Members of the Classification Review Board*, 2007, para. 124),²⁶² the opportunity for change is present each time the classification/censorship system makes an upper level classification decision: R18+, X18+ or RC. Indeed, history has revealed the immense elasticity of the system's lawful operation. In 1969, while still tasked with prohibiting obscenity, the system's focus transitioned – without legislative change – from preventing that which was likely to deprave and corrupt to that which offended against contemporary community standards (*Crowe v Graham*, 1968, para. 9, Windeyer J).

Today, the system has similar capacity for transformation. After all, while offence must – in some way – be referenced, the upholding of community standards need not equate to the prevention of the sources of offence it currently does. Indeed, the 'morality, decency and propriety generally accepted by reasonable adults' could just as easily be found in the creation of a beautiful nation, however this may be defined (*National Classification Code (May 2005)* clause 3(1)(a)). A beautiful nation may well be considered one where certain forms of offence are prevented as they are now, and even if an alternative definition is crafted, its pursuit could still follow this path. However, depending on this definition, a path could also be forged via harm prevention or an avenue unexplored by this thesis, as long as it was pursued with beauty in mind. It must, after all, culminate in satisfaction; a film censorship system of which Australia can be proud.

Ethical decision making via an aesthetics of existence relies on the decision maker's drive and ability to reflect on their current practices, as well as research them and their alternatives. In the context of filmic images specifically, the Classification Review Board can be seen as doing this on an individual level when it calls for interested party submissions before making a classification decision. However, the system as a whole also undertakes

²⁶² Here, the Court was agreeing with the Classification Review Board's assessment of the situation, as outlined in their report 2006 regarding *Viva Erotica*.

this process via the market research it routinely performs (Australian Classification, 2016). While currently conducted with a view to honing that which is already considered best practice rather than canvassing the possibility of substantial change, this need not be the case. Indeed, the current system is not averse to re-evaluating its assumptions, commissioning others in the past to compile and assess external research (Australian Classification, 2016). Past inquiries have also revealed scope for involving Parliamentary Committees and the Australian Law Reform Commission to assist in knowledge gathering (Australian Classification, 2016). Furthermore, Censorship Ministers' meetings routinely provide a forum where matters can be raised and debated, and change enacted (Australian Classification, 2015). Indeed, the current system has many avenues in place that can be used to inform ethical decision making.

Changing the censorship system's prohibitive focus to one of ethical decision making via an aesthetics of existence would be beneficial in the sense that the latter strives to create something positive rather than to simply say no. Yet even with this change, the system would still inevitably impose moral decisions on citizens, making it fundamentally incompatible with Foucault's decision making model. Indeed, the ability for individuals to reach their own ethical decisions via collective means is what lies at the heart of this model's greatness. Not only is diversity permitted in the conclusions that are reached but in the methods used to achieve them. Foucault describes '[t]he search for a form of morality acceptable for everyone in the sense that everyone would have to submit to it' as 'catastrophic' (Foucault quoted in Dreyfus and Rabinow, 1986, p. 119). This catastrophe is realised each time the classification/censorship system censors a film via X18+ or RC classification. Here, the classification/censorship system imposes moral decisions on us all regarding the filmic images we can and cannot watch in cinemas or obtain from Australian stores; the norms with which we must abide in public and how this is to occur; and the methods with which we are permitted and forbidden to discuss sex. These are choices that the classification/censorship system has taken away.

A film censorship system can never realise an aesthetics of existence as envisaged by Foucault. However, realisation is possible via a system of classification alone, especially one that privileges the sharing of information, as Australia's does via its consumer advice provisions.²⁶³ An existence transformed into beauty via the assisting of others to do the same. As individuals with the capacity for moral decision making via ethical means, the thieving of choice should underpin the most compelling of all arguments on offer to those resisting film censorship in Australia. Yet film censorship is never considered necessary for those advocating on its behalf, championed instead for imagined third parties. Changing this focus, therefore, is where the resistance's real challenge lies.

This thesis has revealed the knowledge that the Australian classification/censorship system, and others, are communicating regarding how community members should respond to the filmic images that challenge the classification/censorship system's borders and the people who associate with them. It has also demonstrated how this revelation should be used by those seeking to abolish the censorship arm of the classification/censorship system. Indeed, one of the most powerful arguments available to the resistance – as discovered and evidenced by this thesis – is that the system's censorship arm, which artificially replicates the job that disgust and anger are already tasked with doing, is superfluous. This does, however, need to be followed up with other arguments speaking to the motivations of participants who act at the system's designated sites arguing for narrower licit image boundaries, as well as a narrative that challenges the act of film censorship itself regardless of the rationale behind it.

Chapter One has aptly shown that while significant change has occurred, the censorship arm of today's classification/censorship system remains a vestige of the outmoded colonial model. This model is predicated on a nanny state mentality; a mindset that is reflected in

²⁶³ Consumer advice refers to the warnings printed near the classification symbol on DVD and Blu-Ray covers, informing viewers – and others – of the film's contentious images.

clause (1)(c) of the *National Classification Code (May 2005)*: 'everyone should be protected from exposure to unsolicited material that they find offensive'. Yet, the Internet now means the ability to educate oneself regarding the films with which the Australian classification/censorship system deals, has never been easier. Indeed today, potential spectators have numerous interviews, reviews, and blogs at their fingertips – as well as *Wikipedia* – and this is not an exhaustive list. It is technological advancement, which has made this possible. However, the notion of technology as progress presents a give and take situation for there are things that flee in the digital age (Massumi, 1987, p. xvi), unimpeded by distance, time or sovereignty (Virilio, 2000, p. 65). This speaks not only to moving images more generally but filmic images as well. This thesis has advanced a model of ethical filmic image response in line with Foucault's concept of an aesthetics of existence (Foucault, 1994, p. 207); a model that Australia's classification/censorship system too can employ if it ceases to censor films, becoming one of classification only. In the current digital age, when the immense accessibility of filmic – and moving – images is in stark contrast to the censors' limited reach, all we can do now is turn to the ethical. The ethical is all we have.

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