

Classification of Publications

(Mandatory Billboard Geographical Classification Zoning)

Amendment Bill 2013

Explanatory Notes

Short Title

The short title of this Bill is the Classification of Publication (Mandatory Billboard Geographical Classification zoning) Amendment Bill 2013.

Policy Objectives and reasons for them

This Bill should be implemented into a broader Government strategy and commitment to regulate billboard advertising and mobile billboard advertising throughout Queensland and change the behaviour of the advertising and marketing industries use of moderate (Mature (M)) or strong (Mature Accompanied (MA15+)) content.

Katter's Australian Party has drafted a policy to determine the geographical placement of billboard advertising based on mandatory classification ratings in compliance with the Commonwealth Act - *Classification – Publications, Films and Computer Games Act 1995*, and the *Queensland Classification of Publications Act 1991*. This policy will also determine a framework for mandatory billboard geographical zoning based on classification ratings. This will reduce the risk of exposing communities to the displaying of moderate (Mature (M)) or strong (Mature Accompanied (MA15+)) content in areas highly frequented by families and children.

A failure to implement this policy will result in negative effects upon society. This is resonated in the following extract from the Victoria's Child Safety Commissioner Submission to the, *Senate Inquiry Into The Sexualisation Of Children In The Contemporary Media Environment (2008)*

Extract (Pages 8-10) :

CHANGE IN MEDIA AND ADVERTISING REGULATION

The need for a child focused approach

The Office of the Child Safety Commissioner believes that whilst it is not possible to protect children from all representations of sexualised behaviour

and sexualising influences within the contemporary media and popular culture, there is a need to focus specifically upon the portrayal of children in a sexualised way in advertising and marketing material. Letting Children Be Children states that “at a minimum, existing codes of practice for advertising, television programming and children’s magazines could be amended to allow for recognition of the fact that sexualising children, whether directly or indirectly, leads to a range of risks for children.” (Letting Children Be Children, Australia Institute, Dec, 2006, p37) In addition there needs to be recognition of the growing role that the mass media is playing in children’s lives and the fact that advertisers and marketers are now targeting children more than ever before.

Of particular concern is the fact that the Advertiser Code of Ethics, which Advertising Standards Bureau (ASB) members use when considering a complaint, contains no reference to the sexualisation of children. We note with interest the proposed changes to the AANA Code for Advertising to Children, which were announced on 16th April, 2008, and which involve the addition of a clause relating to the sexualisation of children. (Previously the AANA Code for Advertising to Children contained no reference to the sexualisation of children.) Whilst the Office of the Child Safety Commissioner welcomes the introduction of any measures which seek to promote the safety and wellbeing of children, the OCSC believes that the proposed amendments do not go far enough in terms of protecting children from premature sexualisation within the advertising and marketing industry. The Office of the Child Safety Commissioner is particularly concerned by the definition of children used within the newly named AANA Children’s Advertising and Marketing Communications Code. Under the code, children are defined as persons 14 years or younger. This definition is clearly unacceptable. Astoundingly, the AANA states that “the majority of the research and evidence we have reviewed points strongly to a definition of 12 years old or younger for the definition of a child.” (AANA, Major Changes to Advertising to Children Code.) As previously identified, Victorian law, under the Child Wellbeing and Safety Act, and international law through the United Nations Convention on the Rights of the Child, define children as persons up to the age of 18 years. The proposed new AANA code states that advertising or marketing communications to children must not include sexual imagery in contravention of “prevailing community standards”. This raises the question of who is the arbiter of community standards, and how are community standards determined and monitored? Given that the AANA’s proposed new requirements will operate as a voluntary code, and in view of its assertion that children are persons of 12 years and under, which is clearly out of step with community opinion and standards, society cannot confidently rely upon

the AANA to effectively regulate the industry.

A more effective regulatory environment requires a specific focus upon the needs and interests of children and is particularly important given the voluntary nature of relevant regulatory codes. This focus needs to be much more encompassing than the current complaints based regulatory system in which individuals are required to make specific complaints about a particular advertisement. This approach does not reflect the reality that harm from premature sexualisation is cumulative, and that sexualised representations of children in advertising effect, and reflect upon, all of us in society.

A new child-focused approach to regulation would be cognizant of the potential effects of premature sexualisation upon all aspects of child development, and that harm caused to children by this process is cumulative, rather than a clear cause-and-effect reaction being discernible from a single advertisement.

A more child-focused approach to regulation is consistent with the United Nations Convention on the Rights of the Child (1989). Australia ratified the Convention in 1990 and in so doing committed to protecting and ensuring children's rights and to being accountable for this commitment before the international community. [Please see Attachment A for specific articles from the United Nations Convention on the Rights of the Child which have applicability to consideration of contemporary media regulation and the sexualisation of children. Articles: 3, 13, 17, 18, 19, 34 and 36] The UN Convention details the responsibility of institutions, administrative authorities and legislative bodies to have the best interests of the child as a primary consideration. (Article 3) Article 17 makes specific reference to the responsibility and power of the mass media. Article 17e states that in promoting the social, spiritual, physical and mental health of the child that State Parties shall:

“e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18”.

Articles 19, 34, and 36 refer to the responsibility of State Parties to take all appropriate administrative, legislative, social and educational measures to protect children from all types of abuse and exploitation, including sexual abuse and exploitation.

A more child focused approach to regulation of the advertising and marketing industries would also be consistent with Victorian legislation regarding the protection and wellbeing of children.

The Charter of Human Rights and Responsibilities Act (Vic) 2006 states that:

“Every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child.” (17:2) [See Attachment B]

The Child Wellbeing and Safety Act (Vic) 2005, under which the Child Safety Commissioner was established, states that:

“The development and provision of services for children and families should be based upon the fundamental principles that-
(a) society as a whole shares responsibility for promoting the wellbeing and safety of children.” (5:1a) [See Attachment C]

End of Extract

Katter’s Australian Party has drafted a child and family focused policy framework based on mandatory billboard geographical classification zoning. This Bill amends the *Classification of Publications Act 1991 (COPA)* to allow the Government to mandate a regulatory framework for billboard advertising, governed by the introduction of the Billboard Geographical Classification Zoning policy, as part of the classification of publications and protection of children and families by conditions for displaying certain unrestricted publications.

- The *COPA* regulates the classification of publications and protection of children and families by conditions for displaying certain unrestricted publications. Currently in Queensland there is no mandatory legislation requiring publishers to submit applications for classification of a publication. In the present *COPA*, the Director or the Publications Officer may issue a written notice to the publisher by their own initiative or on the complaint of a person. This limited legislation appears to be failing community expectations of regulating inappropriate billboard advertising. The failing of community expectations are reflected in *The Advertising Standards Bureau 2012 Community perceptions research*, stating:
 - “the community is in general more conservative than the Board regarding themes of strong language and sex, sexuality and nudity. With regards to language there was widespread concern over the exposure of children to strong language. This is an area where community views appear to have become more conservative since 2007;
 - the highest level of community unacceptability for any advertisement shown in the research was 54%;
 - the mediums of advertisements potentially providing children access to advertisements were a substantial source of concern for those ads with the highest levels of unacceptability.

A power under the *COPA* for the Minister to implement the Billboard Geographical Classification Zoning policy will provide it with the power to enforce mandatory regulation to meet the concerns of a community which views conservative values in their society above the commercialisation and sexualisation of families and children by the advertising and marketing industries. The Queensland State Government can

lead the way with the implementation of the Billboard Geographical Classification Zoning policy and develop a framework that can be implemented into other States and Territories.

As part of this policy, Katter's Australian Party has developed the Mandatory Billboard Geographical Classification Zoning Framework that will ensure Queensland families and children a mandated regulatory process limiting inappropriate billboard advertising in public spaces highly frequented by families and children.

Below is a brief overview of the framework.

Establishment of a State Billboard Geographical Classification Zoning Panel

Stakeholders will include Families and Children's advocacy associations, Australian Medical Association, Industry groups and Government.

The role of the Panel will be to:

- regulate billboard advertising content;
- determine the geographical classification zoning for billboard advertising; and
- community Consultation

State Billboard Geographical Classification Zoning Branch

The role of the Branch will be to:

- manage the application process for the Panel;
- handle complaints;
- administer the geographical classification zoning scheme;
- administer monitoring and compliance of the geographical classification zoning scheme;
- make decisions regarding applications for review;
- administer the geographical classification zoning database;
- administer the billboard geographical classification zone levy;

Geographical Classification category zones:

In accordance with the Commonwealth Act - *Classification – Publications, Films and Computer Games Act 1995*, and to be enforced by the *Queensland Classification of Publications Act 1991*.

General (G)



The content is very mild in impact.

The G classification is suitable for everyone. G products may contain classifiable elements such as language and themes that are very mild in impact.

General (G) classification will be used on billboards and mobile billboards that are geographically zoned in areas that are highly frequented by families and children such as schools, bus stops, train stations; hospitals, religious centres, community parks, shopping centres, theme parks, popular coastal areas, sporting facilities, community swimming pools and holiday areas. The **General (G)** classification zone will have a radius of 10km from the impact area.

The use of **General (G)** classification will not incur a billboard geographical classification zone levy.

Parental Guidance (PG)



The content is mild in impact.

The impact of PG (Parental Guidance) classified films and computer games should be no higher than mild, but they may contain content that children find confusing or upsetting and may require the guidance or parents and guardians. They may, for example, contain classifiable elements such as language and themes that are mild in impact.

Parental Guidance (PG) classification will be used on billboards and mobile billboards that are geographically zoned in areas that are moderately frequented by families and used as thoroughfares to schools, bus stops, train stations religious centres, community parks, shopping centres, theme parks, popular coastal areas, sporting facilities, community swimming pools and holiday areas. The **Parental Guidance (PG)** classification zone will have a radius of 15km from the **General (G)** zone impact area.

The use of **Parental Guidance (PG)** classification will not incur a billboard geographical classification zone levy.

Mature (M) and Mature Accompanied (MA 15+)



The content is moderate in impact.

Films and computer games classified M (Mature) contain content of a moderate impact and are recommended for teenagers aged 15 years and over.

Mature Accompanied (MA 15+)



The content is strong in impact.

MA 15+ classified material contains strong content and is legally restricted to persons 15 years and over. It may contain classifiable elements such as sex scenes and drug use that are strong in impact.

Mature (M) and Mature Accompanied (MA 15+) classification will be used on billboards and mobile billboards that are geographically zoned in areas that are least frequented by families and children. The **Mature (M) and Mature Accompanied (MA 15+)** zone will have a radius of 20km from the **General (G)** zone impact area.

The use of **Mature (M) and Mature Accompanied (MA 15+)** classification content will incur a billboard geographical classification zone levy acting as a stimuli for advertising and marketing industries to change their use of **Mature (M) and Mature Accompanied (MA 15+)** content in billboard advertising campaigns.

Billboard geographical classification zone levy

The use of the geographical classification levy is based on the State Governments Social Marketing model, which is utilised to change and direct societal behaviour. The levy acts as a stimulus to encourage advertising and marketing industries to change their **Mature (M) and Mature Accompanied (MA 15+)** classification approach to the selling of a product or service. This will encourage advertising and marketing industries to creatively plan their approach towards attaining a **General (G)** or **Parental Guidance (PG)** classification.

This levy stimulus is not only financially driven but also geographically driven. Due to the market demand for prime positioning of billboard advertising, advertising and marketing industries will compete for the greatest exposure to the public. For the advertising and marketing industries to access these prime positions they must abide by the geographical classification zoning of **General (G)** and **Parental Guidance (PG)** classification. Demand for prime advertising positions should assist in changing

behaviour of advertising and marketing industries to use appropriate classifications content. The prime geographical positions of advertising space are generally situated where there is a high exposure to families and children.

Achievement of policy objectives

To achieve the policy objectives, the amendments to the COPA will:

- broaden the objectives and principles of the COPA to encompass the importance of Billboard Geographical Classification Zones;
- create a State Billboard Geographical Classification Zoning Board consisting of Stakeholders including Families and Children's advocacy associations, Australian Medical Association, industry groups and Government;
- create a State Billboard Geographical Classification Zoning Branch.

Alternative ways of achieving policy objectives

There are no effective ways of achieving the stated policy objectives.

Estimated cost for government implementation

- Administrative costs associated with the implementation of the State Billboard Geographical Classification Zoning policy will be absorbed within existing departmental resources.

Consistency with fundamental legislative principles

The amendments support the *United Nations Convention on the Rights of the Child* (Articles; 3,17,18,13,19,34,36); Commonwealth Act - *Classification – Publications, Films and Computer Games Act 1995*; *Charter of Human Rights and Responsibilities Act (Vic) 2006*; *Child Wellbeing and Safety Act (Vic) 2005*. The Bill is consistent with fundamental legislative principles.

Consultation

Consultation undertaken during development of this Amendment Bill included the Australian Christian Lobby, Australian Family Association, and Katter's Australian

Party all of which indicated strong community support to implement a mandatory Billboard Geographical Classification zoning policy regulating and enforcing Billboard Geographical Classification Zone standards.

Notes on provisions

Part 1 Preliminary

Clause 1 sets out the short title of the Act as the Classification of Publications (Mandatory Billboard Geographical Classification Zoning) Amendment Act 2013.

Clause 2 provides that the Act will commence on proclamation.

Part 2 Amendments of the Classification of Publications Act 1991

Clause 3 provides that the Act amends the *Classification of Publications Act 1991*.

Clause 4 amends section 3(a) to include billboards and mobile billboards. Section 3(a) is amended to provide that the objects of the Act are achieved by regulating billboard and mobile billboard content by the Department.

Clause 5 inserts in section 3 to include the meaning of **geographical zones** as demarcated areas.

Clause 6 inserts in section 3 to include the meaning of **geographical classification zone levy** as a demarcated area that imposes an amount payable to the Department.

Clause 7 inserts in section 3 to include the meaning of **panel** as stakeholders including Families and Children's advocacy associations, Australian Medical Association, Industry groups and Government.

Clause 8 inserts in section 3 to include the meaning of **mandatory geographical classification zones** as authoritatively ordered; obligatory; compulsory.

Clause 9 amends section 9A to include mandatory geographical classification zones be applied to all billboard and mobile billboard advertising throughout Queensland in accordance with the Commonwealth Act - *Classification – Publications, Films and Computer Games Act 1995*.

Clause 10 amends section 9B to include mandatory billboard and mobile billboard applications by publishers to be submitted for approval by the geographical classification zone panel.

Clause 11 inserts a new section in Part 4 to include a geographical classification zone levy relevant to **Mature (M) and Mature Accompanied (MA 15+)** classification content to impose an amount payable to the Department.