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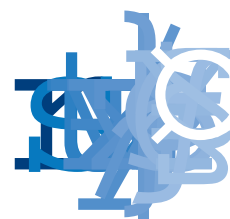
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Fergus D. Cochrane
Clerk
Public Petitions Committee
The Scottish Parliament
Edinburgh
EH99 1SP



16 January 2009

Dear Mr Cochrane

Consideration of Petition PE 1169

Thank you for your letter of 17 December 2008 about Petition PE 1169, which seeks a response to specific points raised during the Committee’s meeting the previous day. I note that the Committee expressed its concern at the lateness of the Scottish Government’s previous letter and would reiterate my apologies for the delay in responding on that occasion.

I attach an Annex which provides a response to the specific points raised in your letter. I hope it is helpful to the Committee.

Yours sincerely

Gery McLaughlin

Consideration of Petition PE 1169

Points made in written submissions

The letter of 31 October from the Commissioner for Children and Young People draws attention to the duty placed on States by Article 17(e) of the UNCRC to “encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well being”. We would agree with the Commissioner that “self regulation is usually preferable to Government regulation” and that “retailers can play their part in ensuring that they behave responsibly in advertising this material”.

The Government’s view is that the responsibility for complying with Article 17(e) in respect of this material is met appropriately through both legislation (which prohibits the publication of obscene material and restricts the display of indecent material to premises which are accessible only to those aged 18 and over) and through industry self-regulation (the code of practice on the display of adult titles and ‘lad’s mags’). While the Commissioner suggests that enforceable regulations might be considered, and the Petitioner’s response agrees with that, I can confirm that the Government have no plans to legislate to introduce such regulation at present.

The letter of 12 November from the Scottish Retail Consortium also supports self regulation and draws attention to the code of practice referred to above as well as other initiatives undertaken by retailers to protect children such as ‘Challenge 21’. The Government supports such positive initiatives and welcomes the investment they represent in voluntary measures designed to protect children which do not demand resources from the public purse and thereby avoid imposing additional burdens on tax payers.

Specific issues raised during the discussion on the petition

- **Why, despite its concern that children should not be exposed to unsuitable material, it has no plan to tackle why such publications are displayed at children’s eye-level or below?**

Legislation currently restricts the display of obscene or indecent material and such material clearly justifies Government intervention of that nature and the expenditure of police and other public sector resources to ensure that those restrictions can be enforced.

Tackling the availability of such material is a priority for the Government and that is why we will legislate in the Criminal Justice and Licensing Bill to introduce provisions banning the possession of extreme pornography, which it is already an offence to publish or display under current legislation.

Where adult material can legally be displayed in public the Government agrees that it should not be displayed inappropriately. The industry code of practice makes clear recommendations to retailers as to how that should be achieved. Those guidelines are supported by the Periodical Publishers Association, the National Federation of Retail Newsagents, the Association of News Retailers and the British Retail Consortium.

The Government welcomes and supports self regulation of the display of such legal material and considers that the code of practice addresses the issues of concern. We are unaware of

evidence that there are substantial numbers of newsagents who ignore this code. In the absence of persuasive evidence that there is such a problem the implementation of a new regulatory regime would not appear to be a proportionate response.

- **How substantial the display of magazines with sexually graphic cover has to be, to be recognised and addressed as a widespread problem?**

As regards display more generally, rather than at children's eye level, the Government would be concerned if there was any indication that magazines being displayed were illegal (either under section 51 of the Civic Government (Scotland) Act 1982 or because they were not displayed in accordance with the terms of the Indecent Displays (Controls) Act 1981). If magazines on display are considered to be in breach of those restrictions then that should be reported to the police for investigation. It is ultimately for the police and the procurators fiscal to decide what action should be taken in individual cases.

- **How the display of magazines with sexually graphic covers at children's eye-level or below is compatible with its policy on child protection, particularly in respect of unsuitable material for young children?**

The Government agrees that such material should not be displayed at children's eye level and supports the industry code of practice which is intended to prevent that.

- **What specific action it is taking to encourage those in the retail industry who do not adhere to the NFRN Code of Practice to do so?**

If there are specific instances where the code of practice is not being complied with we would be happy to bring them to the attention of the NFRN.

