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PE1169/G



The Scottish
Government



23 April 2009

New Fergus

Consideration of Petition PE 1169

Thank you for your letter of 4 March 2009 about Petition PE 1169, which seeks a response to specific points raised during the Committee's meeting the previous day.

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

W. George Burgess

W. George Burgess
Deputy Director

ANNEX

Consideration of Petition PE 1169

Specific issues raised during the discussion on the petition

- **Whether it will meet with Scotland's Commissioner for Children and Young People to discuss the concerns expressed in her letter of 31 October 2008?**

We have received no request for a meeting but Scottish Government officials would be happy to meet the Commissioner to discuss her concerns. We will contact her office to see whether she wishes to meet.

- **Whether it is fully satisfied that its policy in this area is sufficient and fully protects young people and others from such magazines and newspapers?**

Given that the industry has introduced a code of practice that makes clear recommendations to retailers as to the display of these types of magazines and newspapers, the implementation of a new regulatory regime would not appear to be a proportionate response. Legislation currently restricts the display of obscene or indecent material but lesser material does not clearly justify Government intervention of that nature and the consequent expenditure of police and other public sector resources to ensure that such restrictions can be enforced.

- **Whether its position is that ensuring children's welfare by purely relying on retailers to observe a voluntary code of conduct is the most sensible and efficient option?**

The Government agrees that such material should not be displayed at children's eye level. It welcomes and supports self regulation of the display of such legal material and considers that the code of practice addresses the issues of concern.

- **What specific action is it taking in relation to 'lad's mags' displayed at children's eye level and which is the object of this petition other than supporting the retailers' code of practice, which may or may not be followed and may or may not be enforced?**

- If there are specific instances where the code of practice in relation to the display of such magazines and newspapers is not being complied with we would be happy to bring these to the attention of the NFRN.

- **Would requiring publishers or retailers to sleeve such magazines not be a more efficient and practical solution than relying on every retailer to comply with a voluntary code of practice. Yes or no?**

- No. For material which is legal to display, the voluntary code of practice that the industry has in place has operated for many years and we are unaware of evidence that there are substantial numbers of newsagents who ignore this code. If there appears to be a practical solution to the issue the NFRN and the Scottish Retail Consortium are best placed to advise on whether it would in fact be a more efficient

and practical solution to sleeve such magazines as that would place a financial burden on those required to comply with such measures.

Alternatives to regulation should always be considered in the first instance as a balance needs to be achieved between the need for regulation and the burdens such regulation can place on business. The Scottish Government is committed to ensuring that any new regulation is justified, targeted and proportionate to the harm or risk and that any burdens imposed on businesses are minimal and necessary. We have no evidence of any significant failure of the voluntary regulation put in place by the industry. As such there is no justification for the Government to bring forward blanket requirements that might be difficult to define and also enforce.

What factual and statistical evidence does it have that the voluntary code is being adhered to and what is the experience of customers?

Statistics collected centrally by Government relate to criminal offences (including display) relating to obscene or indecent material. There were a total of 74 prosecutions, with 60 convictions, in the years 1989/90 to 2006/07 in relation to offences under section 51 of the Civic Government (Scotland) Act 1982. Over the last 10 years, under the Indecent Displays (Control) Act 1981 one person was proceeded against in 2002/03 and one other in 2003/04 however neither resulted in a conviction.

For material which is legal to display, the voluntary code of practice that the industry has in place has operated for many years and we are unaware of evidence that there are substantial numbers of newsagents who ignore this code.

