

**A response to the Home Office/Scottish Executive consultation on the possession of extreme pornographic material
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Question by question response:

1. Do you think that the challenge posed by the internet in this area requires the law to be strengthened?

No. Your choice of the word 'challenge' in the question clearly illustrates the fear that this Government has of the internet. I know of no other western regime that fears the distribution of ideas and views as much this government -to the extent that it now wants to further restrict what images UK adult citizens can access in the privacy of their own homes.

Government censorship is an insidious activity in any form. This proposed legislation lays the foundation for creeping censorship in the adult sector of the media and arts / pornography this can readily be extended to the written word.

2. In the absence of conclusive research results as to its possible negative effects, do you think that there are some pornographic material which is so degrading, violent or aberrant that it should not be tolerated?

Tolerated by whom? Access to the images referred to in the consultation document requires active and deliberate actions by an individual. Accidental viewing of material that an individual considers offensive is a hazard of the internet. In the case of minors, the argument then turns to parental control and the installation of filtering software. Non accidental viewing of images is also controlled by the need to pay to download material in quantity.

An individual accessing the images will do so because:

- He/she is curious, in which case if he/she does not like them will not take the trouble to source them again
- He/she enjoys the imagery and will see no personal harm in continuing with the exercise

I do not need, or want, a government to prescribe to me what is tolerable in this area. You acknowledge that there is no evidence of negative affects; importantly, you do not even ask whether there might be positive effects.

3. Do you agree with the material set out (in paragraph 39)?

39. We propose restricting the offence to explicit pornography containing actual scenes or realistic depictions of: i) intercourse or oral sex with an animal; ii) sexual interference with a human corpse; iii) serious violence in a sexual context, and iv) serious sexual violence.

I believe I am right in stating that all of the acts described are covered by existing UK legislation. I surmise that similar legislation, protecting unwilling third parties, exists elsewhere. This legislation should be used to cover illegal activity. I notice that acts

which even 'appear' to depict these images (i.e. simulations) are included in list. The government's insistence on controlling the actions of consenting adults is once again clear and unwelcome.

For a mentally healthy individual, government has no business in dictating what private activities should not be undertaken. Likewise the government has no right to control the depiction and viewing of these activities. There is no need for a list of imagery which this government deems unsuitable for adult viewing.

4. Do you believe there is any justification for being in possession of such material?

Justification to whom? A censorious and intrusive government? On the basis that it does no harm to the individual and does not infringe the rights of the performers, individuals have every right to build up collections of imagery to suit their tastes and its justification is not necessary. Your consultation paper proposes legislation to deny citizens these rights and free choice on how to conduct their private lives.

5. Which options do you prefer?

Option one – adding a general offence of possession of “obscene” material to the Obscene Publications Act 1959 and in Scotland, the Civic Government (Scotland) Act 1982;

Option two – adding a possession offence limited to the category of material we have set out but under the umbrella of the OPA and in Scotland, the CG(S)A;

Option three – a new free standing offence in respect of the category of material we have set out; and

Option four – do nothing.

Option four – do nothing.

6. Why do you think this option is best?

Your paper makes the assumption that 'there is considerable public concern about the availability of extreme pornographic material featuring adults'. This is unproved and this consultation paper is the government's response to lobbying from a small group of campaigners. In cases where criminal acts are undertaken the matter should be dealt with by the authorities appropriate to where the offence took place. The serious press (Financial Times, 1 September 2005) states 'There are much greater threats to the lives and wellbeing of the public that governments should focus on'.

7. Which penalty option do you prefer?

The penalties proposed are out of all proportion to the 'offence' as it is perceived in the consultation paper.

The collection and viewing of these images in a private environment by adults poses no threat to the individual and there is no conclusive evidence that such images encourage violent behaviour. The maximum penalty for possessing such images (assuming that their definition can be adequately defined) which might be 3 to 5 years, underscores this government's determination to restrict of the freedom of the individual in conducting his or her private life.