1. I want to talk about censorship of literature today, because the censor’s office just has classified *Fifty Shades of Grey*, by EL James. This is the book that started life as a piece of fan fiction based on that other classic series of books, the Twilight Saga by Stephanie Meyer. *Fifty Shades of Grey*, which none of the publishing houses wanted to touch until it took off virally online and became known as ‘mommy porn’. *Fifty Shades of Grey* is the acceptable book about BDSM (bondage and discipline, dominance and submission and sadism and masochism) sexual practices. It has been suggested the book is so popular because although it is about atypical sexual practices, it is able to be hidden on the kindle, no need to let anyone know you are reading it or the two sequels *Fifty Shades Darker* and *Fifty Shades Freed*.

2. Books like these create a bit of a problem for the censorship system. Classics like *Lady Chatterley’s Lover*, *Lolita*, De Sade’s *Justin*, have been around for years, there are lots of them about, and they are accepted to be classics. *Fifty Shades* is what could be described as an instant classic. The series has sold 350,000 copies here, and it’s been voted Number 5 in Whitcoulls’ top 100 list for 2012-2013. It has sold 40 million copies around the world. Yet on the face of it, the book looks objectionable in terms of our censorship legislation.

3. Under the legislation, we have a streamlined, comprehensive classification system enforced and administered from the office of Film and Literature Classification (the Office), under the empowering legislative umbrella of the Films, Videos and Publications Classification Act.

4. The Office consists of a Chief Censor, a Deputy Chief Censor and such classification officers as are required. Review of Office decisions is undertaken de novo by a Film and Literature Board of Review, administered by the Department of Internal Affairs. A reviewed decision can be appealed to the High Court on a point of law, and after that, there is an appeal to the Court of Appeal on a point of law. The legislation provides that a publication is objectionable if it describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good. But a publication is deemed objectionable if it promotes or supports, or tends to promote or
support a list of activities that includes the use of violence or coercion to compel any person to participate in, or submit to, sexual conduct, or the exploitation of children, or young persons, or both, for sexual purposes.

5. Even if a publication does not fit into this category, it might be banned or restricted if it describes, depicts, or otherwise deals with physical conduct in which sexual satisfaction is derived from inflicting or suffering cruelty or pain.

6. In this case, Fifty Shades was referred to the Classification Office by Internal Affairs following one complaint.

7. *Fifty Shades of Grey* is actually a pretty classic staple romance about the aloof dangerous male who is unavailable emotionally, and how he is domesticated and tamed up to a point by a young and inexperienced female. But this is not quite 'Reader, I Married Him' because it comes with lashings (excuse the pun) of mild BDSM sex, described reasonably explicitly.

8. The story is seen through the eyes of Anastasia "Ana" Steele, a 22-year-old college student who has to interview 27-year-old Christian Grey, an incredibly successful and wealthy young entrepreneur with a square jaw, designer stubble, impossibly long eye lashes and a grand piano. Ana is instantly attracted to Grey - she knows this because she feels 'an odd exhilarating shiver' run through her when they shake hands.

9. She is surprised when Grey later appears at the hardware store where she works. He purchases various items including cable ties and rope, and leaves Ana with his phone number. Later, having coffee, she learns that Grey is single, but is not "a hearts and flowers kind of guy". This intrigues her, especially after he pulls her out of the path of an oncoming cyclist.

10. Thereafter, the pair have various encounters after Grey reveals that he would like to have sex with her and that he is a Dominant and likes to do unorthodox things. And so it continues throughout the book, with this deadly chap mesmerising Ana with his good looks, immaculate trousers, immense wealth and unusual needs. So far, so Mills and Boon.

11. There is actually an unusually high level of legal content in the book, which is not typical of either erotica or romantic fiction. This is because of the highly formalised approach within BDSM to safety issues - not surprising given that these practices involve giving and receiving forms of
pain. So Grey constantly asks Ana to fill out paperwork before sexual activity of any kind. For example, he insists that she sign a non-disclosure agreement forbidding her to discuss anything that they do together. Later he delivers to her an immense pile of paperwork which is a detailed version of a dominant/submissive contract. The terms of the contract are set out in immense detail in Chapter 11, and the pace of the book drops right away at this point. I think this is meant to be the most racy part of the book as it discloses various BDSM practices, although hardly any of them are actually carried out in the book. But reading the contract is pretty tedious even for contract lawyers like me!

12. Here’s an example of a typical clause – ‘Adherence to the above warranties, agreements, and undertakings (and any additional limits and safety procedures under clause 3 above) are fundamental to this contract.’ However, I’ve decided Grey must have failed his Contract law exams, because in spite of all these negotiations that go on, ultimately he forgets to get Ana to actually sign the contract!

13. *Fifty Shades of Grey* has been passed by the Censor as unrestricted. That means the office believes its availability is not injurious to the public good.

14. The book certainly got through that subject matter doorway I’ve already described, since it contains fairly explicit descriptions of sexual activity. However, the Office says it cannot be deemed to be objectionable because although there is a short discussion between the main characters which suggests Grey was sexually abused while still a minor, this passage does not promote or support sex with young people.

15. The book could still have been banned, however, under the other provisions which require full weight to be given to context. Overall, the Office finds the book does not deal with sexual violence or coercion – any of the force used is consensual. There is no degradation and any pain involved is generally mild. The focus is on the emotional reactions of Ana, not the infliction of pain in a dehumanising way. The BDSM activities, which are not extreme, are conducted within what the Office describes as a consensual loving relationship.

16. The office is also required to take into account things like the dominant effect of the book. It was found to be an erotic/romance novel aimed at women. The impact of the book is also assessed and this was seen as offensive because the book has a bland cover, and it is available in mainstream outlets everywhere. The large number of pages – 533, is
suggested as off-putting for children. The character of the publication also has to be weighed and here the book's status as a phenomenon is noted, as well as the fact that it is embedded in popular culture. It is noted to have limited literary merit being an 'overwrought romance' but a certain level of social merit, and the office suggests it has allowed women to talk about sex in a socially permissible manner. This latter statement strikes me as rather old fashioned.

17. Ultimately, the Office accepts that there is really no evidence that the 40 million copies that are out in the world at the moment have done anyone any harm. In a sense, the fact that the book is already out there and is immensely popular means trying to censor it is almost pointless. I think the decision recognises that.

18. A diverse range of art and literature has been referred to the Office in the years since the legislation was passed in 1993. However, it appears that referral of works of this kind is rare - books are not often referred, in part, I think, because words are seen as having less impact than images. New Zealand appears to be a reasonably tolerant society and as a liberal society, our laws must recognise the value of preserving art and literature. That is actually one of the matters to be taken into account under the act.

19. One of the early decisions illustrated vividly the problems which can arise in relation to censoring artworks or literature. In 1995, the Classification Office made three decisions about photographic works of Robert Mapplethorpe. The photographs in question depicted various identified participants engaged in sado-masochistic activities. The works showed various aspects of gay and sado-masochistic sexual subculture, in a manner which the Office stated it found both confronting and difficult. The conduct was clearly within the 'deemed objectionable' category I have described. However, the Office found that the Act did not apply because it was the art of Mapplethorpe being supported in the photographs, not the activities. The works were classified as objectionable except if availability was restricted to persons of eighteen years and over.

20. Other decisions of the Office display a serious concern to preserve art and literature, and rightly emphasise freedom of expression. Of course, most of the Office's work time is taken up with the plodding task of viewing and classifying standard pornography and computer games, produced purely for commercial gain. However, in 1998, it dealt with an annotated version of Nabakov's controversial book, Lolita, first published in 1955 in Paris and in 1958 in America. The story, told from the point of view of
an amoral older man who kidnaps and sexually assaults a young girl during a journey across America, has been the subject of renewed controversy in recent years because societal concerns about paedophilia have increased. The Office passed the work unrestricted. The novel was not seen to promote or support acts of paedophilia because there was a clear distinction between the behaviour of the main character, Humbert Humbert, and the stance of the novel, where Humbert ultimately meets a tragic end. The approach in this decision is quite similar to that taken with *Fifty Shades*.

21. In the same year, the Office classified a version of De Sade's *The 120 Days of Sodom* as restricted to those over 18 years of age. The volume contained explicit sado-masochistic descriptions including of sex with children, and academic essays. If considered in isolation, the novel would have been subject to the deeming provision. However, the novel was only part of the publication, and the academic essays which came with the novel were found to give context to, and not support, the activities in it. Therefore, the Office treated the publication as a serious and scholarly work, the impact of which was limited but disturbing.

22. So although some might not see *Fifty Shades of Grey* as great literature, it has been treated as literature at least and passed unrestricted by our censors. They do suggest, however that the book is clearly more suitable for a mature audience of 16 years and over, though this classification is not actually imposed on the book.

Ursula Cheer