



**Australian
Competition &
Consumer
Commission**

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Professor Terry Flew
Commissioner
Australian Law Reform Commission
GPO Box 3708
SYDNEY NSW 2001

By email: classification@alrc.gov.au

Dear Professor Flew,

Re: National Classification Scheme Review Discussion Paper

The Australian Competition and Consumer Commission (ACCC) welcomes the review by the Australian Law Reform Commission (ALRC) of the National Classification Scheme (NCS). The ACCC looks forward to having the opportunity to consider the views of market participants in their public submissions to *the National Classification Scheme Discussion Paper* (Discussion Paper).

The ACCC considers that a number of the ALRC's proposals have the potential to provide market participants and consumers with further clarity in relation to content classification. For example, introducing a single set of statutory classification categories and criteria applicable to all media content that must be classified is likely to promote enhanced consumer understanding and trust in the classification system. The ACCC noted in its submission to the Convergence Review's *Framing Paper*¹ that it may be appropriate to ensure consumers have sufficient information about the characteristics of content services to make their own informed decisions about what to access. An effective and consistent classification system is one possible tool to

¹ ACCC, *ACCC submission to the Convergence Review Framing Paper*, June 2011 available at: http://www.dbcde.gov.au/digital_economy/convergence_review/submissions_received_on_the_convergence_review_framing_paper

achieve this. The availability of adequate information for consumers to make informed choices is an important characteristic of a competitive industry.

The ACCC also observed in its submission to the *Framing Paper* that the media and communications industry continues to undergo considerable change, with emerging platforms and the online environment growing in significance. The ALRC notes similar themes in the Discussion Paper. Media consumption habits are evolving as new services and applications are developed that take advantage of emerging platforms. These changes give rise to a significant opportunity to achieve a much greater degree of competition in the media and communications industry than has existed in the past.

The ACCC notes and supports the proposal to extend classification requirements for feature-length films and television programs produced on a commercial basis to online end-user content suppliers. However, the ACCC agrees with the ALRC that any definitions would need to be carefully drafted to ensure that other types of online audiovisual content (such as user-generated, semi-professional content and short-duration clips) are not inadvertently captured by the proposed Classification of Media Content Act (the new Act).

The ACCC suggests that any extension of the classification regime to online content should be managed carefully to ensure that emerging platforms and services are not stifled by regulatory burdens, which in turn may lead to reduced consumer choice and competition. The ACCC suggests that the ALRC remains mindful of the interests of all industry participants when recommending how any regulatory obligations and requirements to classify 'feature length films and television programs produced on a commercial basis' should be applied in practice.

The ACCC notes the ALRC's proposal that the new Act should provide for the development and operation of industry classification codes of practice, consistent with the statutory classification obligations. The ACCC would like to draw the ALRC's attention to guidelines it has produced for developing effective voluntary industry codes of conduct, which are available on the ACCC website.² Some of the information in the guidelines might be useful to the NCS Review when considering the framework for the drafting of industry codes of practice.

Yours sincerely



Michael Cosgrave
Group General Manager
Communications Group

² ACCC, *Guidelines for developing effective voluntary industry codes of conduct*, August 2011 available at: <http://www.accc.gov.au/content/index.phtml?itemId=783178>