



Communications Law Centre, UTS

Submission to the National Classification Review Discussion Paper

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Communications Law Centre, UTS

Executive Summary

1. The CLC supports a mix of direct regulation and co-regulation and a statutory regulatory body ('the Regulator'). Direct regulation is warranted in the public interest.
2. Classification decisions made by the Board should be subject to review by a Classification Review Board.
3. Industry classification codes of practice should be developed in consultation with the Regulator.
4. Where a code of practice relates to media content that must be classified or access to which must be restricted, the Regulator should have power to enforce compliance with the code.
5. Influential media content should be classified.
6. All content that is likely to be X18+ and content that is likely to be refused classification ('RC') should be classified.
7. The CLC supports the current guidelines for the RC category.
8. A list of all material that has been refused classification should be published.

1. Introduction

- 1.1 The Communications Law Centre, UTS (CLC) is an independent, non-profit, public interest centre specialising in communications, media and online law and policy. We appreciate this opportunity to respond to the ALRC's National Classification Review Discussion Paper.

2. Regulatory system for classification

- 2.1 The CLC supports a mix of direct regulation and co-regulation and a statutory regulatory body. It is a practicable approach in a converging communications environment. Direct regulation should be used where it is warranted in the public interest.
- 2.2 We submit that all classification decisions be subject to review by a Classification Board. This ensures that all media content classified by industry is subject to independent scrutiny. In the case of repeated erroneous classifications by industry assessors, the Regulator should have the power to administer sanctions.¹
- 2.3 Decisions of the Classification Board should be subject to review by a Classification Review Board. There should be a right of appeal to the Review Board as a matter of fairness.

¹ [National Classification Scheme Review Discussion Paper](#) (ALRC DP 77, 2011) at para. 7.102, p. 125.

- 2.4 Industry classification codes of practice should be developed in consultation with the Regulator and against statutory classification obligations, categories and criteria.² The CLC supports the ALRC's proposal that where a code of practice relates to media content that must be classified or access to which must be restricted, the Regulator should have power to enforce compliance with the code.³
- 2.5 The Classification of Media Content Act (The Act) should provide for criminal, civil and administrative penalties where appropriate, similar to the operation of the *Broadcasting Services Act*.⁴

3. Content that should be classified

- 3.1 The CLC agrees with the proposal to classify influential media content such as feature-length films, television programs and MA15+ video games.⁵ Because the proposed Act is platform-neutral, both online and offline content is captured, which is important in a converging environment. The classification system should be reviewed every five years as the types of media content which are the most influential are likely to change over time.
- 3.2 We also agree with the proposal that all content that is likely to be X18+ and content that is likely to be RC should be classified.⁶ This requirement should extend to all media content.

4. Refused Classification category

- 4.1 The CLC supports the current guidelines for the RC category. Criteria should continue to reference both community standards and offensiveness. It should continue to be illegal to create, possess or deal in media content that has been refused classification.
- 4.2 A list of all material that has been refused classification should be published, with broad category descriptors explaining why the media content has been refused classification (e.g. 'sexual violence'). Such media content should be compulsorily filtered at the ISP level.

² Proposal 11.3, Ibid at p. 200.

³ Ibid at para. 11.59, p. 199.

⁴ Proposal 14.4, Ibid at p. 231.

⁵ Proposal 6.1, 6.2, Ibid at p. 98.

⁶ Proposal 6.4, 6.5, Ibid.

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