

9. Classification Categories and Criteria

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Summary

9.1 This chapter considers the classification categories and criteria used to classify content across different media, formats and platforms in Australia. The ALRC proposes that these be consolidated and harmonised, and that the Classification of Media Content Act should provide for the following set of classification categories:

- C (Children);
- G (General);
- PG 8+ (Parental Guidance);
- T 13+ (Teen);
- MA 15+ (Mature Audience);
- R 18+ (Restricted);

- X 18+ (Restricted); and
- RC (Refused Classification).¹

9.2 The ALRC also proposes that classifiers must assign consumer advice (such as ‘Strong violence’ or ‘Moderate coarse language’) to all content they classify, except content classified C or G. Classifiers operating under the proposed new National Classification Scheme should also use the one set of statutory classification criteria to make classification decisions, although industry codes of practice may describe the criteria in more detail and explain their application to specific media. The statutory criteria and their elaboration in industry codes should be reviewed every five years in consultation with stakeholders and the community and in light of relevant research.

The existing classification categories

Films, computer games and publications

9.3 There are currently seven classification categories for films and five for computer games:

- G (General);
- PG (Parental Guidance);
- M (Mature);
- MA 15+ (Mature Accompanied);
- R 18+ (Restricted);²
- X 18+ (Restricted);³ and
- RC (Refused Classification).⁴

9.4 There are also four classification categories for publications:

- Unrestricted;
- Category 1 restricted;
- Category 2 restricted; and
- RC (Refused Classification).⁵

1 Proposed classification markings appear in Appendix 3.

2 The R 18+ classification currently applies to films only however in July 2011 Commonwealth, State and Territory Censorship Ministers agreed to introduce an R 18+ classification for computer games.

3 The X 18+ classification currently applies to films only.

4 *Classification (Publications, Films and Computer Games) Act 1995 (Cth) s 7.*

5 *Ibid s 7.*

Television programs

9.5 The television codes of practice for commercial free-to-air television, subscription television, the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS) provide for the following classifications:

- P (Pre-school);
- C (Children);
- G (General);
- PG (Parental Guidance);
- M (Mature);
- MA 15+ (Mature Audience);
- MA 15+ (Not suitable for people under 15);⁶
- MAV 15+ (Not suitable for people under 15: Strong Violence);⁷
- AV (Adult Violence);⁸ and
- R 18+ (Restricted).⁹

Classification categories under the proposed classification system

9.6 In the Issues Paper, the ALRC asked about the community's understanding of the existing categories and the merits of other possible classification categories.¹⁰ Many submissions argued that classification categories are not themselves a significant problem. The Arts Law Centre of Australia, for example, observed that the current classification categories are well-promoted and appear to be well understood.¹¹ Civil Liberties Australia said there is little need for new classification categories.¹²

9.7 Some submissions cautioned against major change in this area, because significant resources have been expended since the early 1990s to harmonise classification categories across media (for example, between television and films and computer games) and to educate consumers about their meaning.¹³ The Australian

6 SBS uses a different descriptor for the MA 15+ classification category.

7 This classification category is unique to SBS.

8 This classification category is unique to commercial broadcasters.

9 R 18+ programs are only allowed to be screened on subscription television.

10 In the Issues Paper, the ALRC asked whether the existing classification categories are well understood in the community; which classification categories, if any, cause confusion. Is there a need for new classification categories, and if so, what are they. Should any existing categories be removed or merged? Australian Law Reform Commission, *National Classification Scheme Review*, ALRC Issues Paper 40 (2011), Questions 20 and 21.

11 The Arts Law Centre of Australia, *Submission CI 1299*, 19 July 2011.

12 Civil Liberties Australia, *Submission CI 1143*, 15 July 2011.

13 J Dickie, *Submission CI 582*, 11 July 2011.

Home Entertainment Distributors Association (AHEDA) submitted that it ‘would not support any changes to a system that is on the whole well understood and supported’.¹⁴ The Australian Subscription Television and Radio Association (ASTRA) thought that additional or merged categories would cause confusion, and submitted:

there would need to be compelling evidence that the current categories are ineffective or inappropriate, and that a reconfiguration of categories would be more effective, before any substantial changes are contemplated.¹⁵

9.8 On the other hand, there were submissions that pointed to the need for better descriptions of each classification category to assist consumers in distinguishing between existing categories. Others suggested that age references be incorporated into the classifications. In particular, numerous submissions identified the M and MA 15+ classifications as problematic, as discussed below.

9.9 Many submissions called for the introduction of an R 18+ classification for computer games. In July 2011 Commonwealth, state and territory censorship Ministers agreed to introduce this classification for computer games. This is consistent with the ALRC’s proposed classification model. Many submissions also questioned the scope of the RC category. This is discussed separately in Chapter 10.

9.10 Well understood categories are essential if a classification system is to inform and guide people’s entertainment choices and assist parents to choose content for their children. The ALRC considers there is merit in modifying the names and markings of some of the existing categories in order to achieve greater clarity and better fulfil the consumer information role of classification—particularly for parents.

PG 8+

9.11 Some submissions proposed that age references should be included as part of the classification, to provide a better guide for parents and carers on the suitability of content for children.¹⁶ Currently, the only film, television and computer game classifications that have age references built into the classification marking are those categories with legal age restrictions: MA 15+, R 18+ and X 18+. While the classification guidelines include recommendations of appropriate ages for the other classifications, this information is arguably unhelpful, because ‘too many categories centre around the age of 15 years’.¹⁷

9.12 The ALRC agrees that adding unique age references to the categories and markings will provide greater clarity and consistency of appearance across all the classifications. This will assist consumer understanding of the categories, including how they relate to each other.

14 Australian Home Entertainment Distribution Association, *Submission CI 1152*, 15 July 2011.

15 ASTRA Subscription Television Australia, *Submission CI 1223*, 15 July 2011.

16 For example, T Holland, *Submission CI 2172*, 15 July 2011; A Hightower and Others, *Submission CI 2159*, 15 July 2011; N Mennega, *Submission CI 1981*, 14 July 2011; D Lane, *Submission CI 1742*, 13 July 2011; Australian Council on Children and the Media, *Submission CI 1236*, 15 July 2011; S Bennett, *Submission CI 860*, 17 July 2011.

17 Australian Council on Children and the Media, *Submission CI 1236*, 15 July 2011.

9.13 The ALRC therefore proposes that, in addition to the T 13+ category proposed below, the PG category should be amended to incorporate the age reference 8+.¹⁸ The classification guidelines might also state that parental guidance is recommended, but this content is not recommended for persons under eight years of age.

M, MA 15+ and T 13+

9.14 Many submissions stated that the M and MA 15+ classifications are confusing. It is important that parents and guardians understand the difference between these classification categories because MA 15+ content is strong in impact and not suitable for persons under fifteen.

9.15 MLCS Management, for example, stated that ‘the overlap/confusion around M and MA 15+ should be addressed’.¹⁹ Another submission suggested ‘at least change the M letter in one of them to avoid confusion’.²⁰ SBS suggested that the confusion arises because ‘the M category is not recommended, while the MA 15+ category is not suitable, for people under 15 years of age’.²¹

9.16 The MA 15+ classification was introduced in 1994 to address community concerns about the significant gap between the M and R 18+ classifications. There was particular concern that stronger content that did not warrant restriction to adults, but was nevertheless unsuitable for persons under 15, was being wrongly classified as M. Similar concerns have been cited in support of an R 18+ classification for computer games.²² If, on the other hand, the M classification were removed, a similarly problematic gap would exist between PG and MA 15+ content.

9.17 Rather than remove a category, the ALRC proposes renaming the M classification as ‘T 13+ Teen: Teenage audiences and above’. The classification guidelines for the T category should be amended to state that ‘T classified material is not recommended for persons under 13 years of age’. This proposed change clearly distinguishes the classification from the MA 15+ classification in its visual representation, the category descriptor and by referring to a different age.²³

9.18 ‘Teen’ has particular utility as a familiar term that is intuitively understood to mark a stage of life often associated with developmental milestones such as commencing high school. There was support in submissions for a category that referred to age 12 or 13 years,²⁴ and similar categories exist in the computer games

18 Ibid. ACCM proposes a set of new classification categories. While they propose different letters for some of the classification categories, they suggest 8 as the appropriate age for mild content which corresponds to the impact threshold for the current PG category.

19 MLCS Management, *Submission CI 1241*, 16 July 2011.

20 M Tolhurst, *Submission CI 757*, 10 July 2011.

21 SBS, *Submission CI 1833*, 22 July 2011.

22 See transcript of radio interview by Ian Henschke with the Minister for Justice, Brendan O'Connor, 891 ABC Adelaide, 23 June 2011.

23 Three of the existing classification categories for films and computer games: PG, M and MA 15+, use 15 as the point of reference age. Additionally, the current category descriptors are very similar M—Mature and MA 15+—Mature Accompanied: *Guidelines for the Classification of Films and Computer Games* (Cth).

24 For example, I Graham, *Submission CI 1244*, 17 July 2011; L Pomfret, *Submission CI 109*, 6 July 2011.

classification system in the US and Europe and for the film classification system in Britain.²⁵

9.19 While the current classification guidelines explain that material classified M is not recommended for persons under 15, and this would change to age 13 under the above proposal, the Australia Council on Children and the Media suggested age 13 as the appropriate age for moderate impact content in its recommendations for changes to categories. This is consistent with the moderate impact threshold for the current M classification.²⁶

9.20 The ALRC proposes that the MA 15+ classification should be retained unchanged except that the category descriptor should be amended from ‘Mature Accompanied’ to ‘Mature Audience’ and the black ‘restricted’ tag removed from the marking. This change is necessary to reflect the proposal in Chapter 8 that the MA 15+ classification no longer impose legally enforceable access restrictions (although the classification guidelines should continue to state that content at this classification is not suitable for persons under 15). Changing the reference to ‘Mature Audience’ also achieves consistency across media platforms—this is the meaning of the MA 15+ classification as applied for some time under most of the television codes of practice, including subscription television.

C (Children)

9.21 The C (Children) and P (Preschool Children) classifications are currently only used by free-to-air commercial television networks. These classifications are in addition to the G classification which is used across all the classification regimes. C and P classifications are granted by the Australian Communications and Media Authority (the ACMA) on application. C and P classified programs are different from material produced for a family or general audience. They are not simply ‘suitable for’ children, but designed specifically to meet children’s needs and interests.

9.22 A television program may carry the C or P classification if approved by the ACMA and if it satisfies the requirements of its Children’s Television Standard (CTS),²⁷ which includes that it:

- is made specifically for children;
- is entertaining;
- is well produced using sufficient resources to ensure a high standard of script, cast, direction, editing, shooting, sound and other production elements;
- enhances a child’s understanding and experience; and
- is appropriate for Australian children.

25 The Entertainment Software Ratings Board in the US has a Teen 13+ classification; the Pan European Games Information system has a 12 classification and the British Board of Film Classification has 12 and 12A classifications.

26 Australian Council on Children and the Media, *Submission CI 1236*, 15 July 2011.

27 Australian Media and Communications Authority, *Children’s Television Standards 2009*.

9.23 AHEDA submitted that content designed for children ‘should be industry self-assessed and it should apply and be consistent across all platforms’, indicating that some content providers may be interested in using a children’s classification for certain media content.²⁸

9.24 It is also inconsistent that the ABC, SBS and subscription television services use the G classification for children’s programming in accordance with requirements set out under their respective codes of practice; and the Board uses the G and PG classifications for content that is appropriate for younger children in accordance with criteria as set out in the classification guidelines for films and computer games. Free TV Australia maintained that:

television programs granted a C certification by the ACMA (as required under the CTS), are regularly classified as PG by the Board. This causes difficulty for free-to-air broadcasters, who will often be influenced by the Classification Board in their own classification decisions, and increases the likelihood of accidental breaches in cases where the ACMA and the Board have different views on the same piece of content. It also creates confusion for viewers, who may be unclear as to the appropriateness of material where different classifications apply in different formats.²⁹

9.25 The ALRC considers that consistent and targeted classification information that is useful to parents, such as that provided by a children’s specific classification, should be encouraged, particularly if it leads to more media content being classified. A more widely used C classification might have other benefits, such as assisting content providers or parents to establish ‘white lists’ of safe, child-friendly online content. Parents and carers can also be confident that they are selecting content exclusively for young children as distinct from G content that is not always or necessarily intended for children.

9.26 The ALRC therefore proposes the inclusion of a C category that may be used by all classifiers under the new National Classification Scheme.

Common classification categories for all media content

9.27 The ALRC proposes that the introduction of common classification categories and markings would be a considerable improvement to Australia’s classification landscape. This would mean that the same classifications and markings are used in cinemas, on television, on DVD and games packaging, and on websites with classified content. In line with two of the guiding principles for reform discussed earlier in this Discussion Paper, consumers would benefit from information that is clear and consistent and the approach reflects the goal of platform-neutrality.³⁰

9.28 Many submissions argued that ‘different classification of the same content, according to different criteria, across cinema and DVD as compared to television is inconsistent and confusing’.³¹ Others described it as ‘illogical’ and ‘archaic’.³² In

28 Australian Home Entertainment Distribution Association, *Submission CI 1152*, 15 July 2011.

29 Free TV Australia, *Submission CI 1214*, 15 July 2011.

30 See Chapter 4, Principles 4 and 8.

31 S Ailwood and B Arnold, *Submission CI 2156*, 15 July 2011.

32 S Bennett, *Submission CI 1277*, 12 July 2011.

particular, submissions referred to the different categories for publications (which are not well known or understood) and for some television content screened by certain television broadcasters.³³ The disparate range of categories across media platforms contributes to consumer uncertainty in relation to the meaning of respective classifications which ultimately undermines the value of classification information. As MLCS Management asserted:

Simply use the same classification categories and markings for all types of content. There is no reason to differentiate. Consumers find understanding and applying information easier if it is not complicated.³⁴

9.29 The ALRC agrees that simple, clear and consistent classification information should be applied uniformly across all media content and platforms.³⁵ The full range of classification categories should also be available for all media content; laws and other rules relating to access can be managed separately. For example, that material may be classified X 18+ does not necessarily mean it is legal to sell. Similarly, there may continue to be restrictions on commercial broadcasters screening R 18+ content. The policy and legislative framework should be adaptive and able to manage media content developed in the future flexibly, rather than have to ‘catch up’ after the fact.

What this means for publications

9.30 In Chapter 6, the ALRC proposes that all media content—including publications—likely to be X 18+, must be classified. However, publishers may also choose to classify some of their other content. Classified publications could then be given any one of the proposed classifications: C, G, PG 8+, T 13+, MA 15+, R 18+, X 18+ or RC, accompanied by consumer advice where required or appropriate.³⁶

9.31 These classifications are not only more familiar to consumers than those currently used for publications, but they provide more guidance. The broader range of categories also provides classifiers with greater flexibility to assign a classification that better reflects the content of the material. For example, a sexually explicit adult magazine would be assigned the X 18+ classification, while a book such as *American Psycho* by Bret Easton Ellis might be classified R 18+, with appropriate consumer advice for high level violence and sexual violence.³⁷

9.32 Most publications that are currently required to be classified are sexually explicit magazines. Under the scheme proposed by the ALRC, these publications would be classified X 18+, rather than Category 1 restricted or Category 2 restricted. In the ALRC’s view, this is the appropriate classification for this content, because the X 18+ classification is specifically for depictions of consensual sexually explicit

33 For example, I Graham, *Submission CI 1244*, 17 July 2011; Collective Shout, *Submission CI 2450*, 7 August 2011.

34 MLCS Management, *Submission CI 1241*, 16 July 2011.

35 For example, Australian Christian Lobby, *Submission CI 2024*, 21 July 2011; D Self, *Submission CI 466*, 8 July 2011.

36 See discussion later in the chapter that refers to combining the classification guidelines and criteria to provide for one set of criteria that is used to make classification decisions across all media content.

37 The novel *American Psycho* is currently classified Category 1 restricted.

activity.³⁸ The proposed change also reduces the risk that industry classifiers would misclassify sexually explicit adult magazines—because they could only be classified either X 18+ or RC.

9.33 Proposing that sexually explicit adult magazines should be classified X 18+ is distinct from the issue of the legality or illegality of selling and distributing these magazines or that all X 18+ content should necessarily be restricted in the same way. Whether some or all X 18+ media content may be legally sold or distributed in Australia is a matter for government and is a matter separate from classification of the content.

What this means for television

9.34 To harmonise the classification categories, the ALRC also proposes the removal of the MAV 15+³⁹ and AV⁴⁰ classifications used by SBS and commercial television broadcasters respectively. The ‘V’ in these classifications refers to violence, but, in the ALRC’s view, consumer advice is the better place to refer to the level of violence in a television program. Consistent with this view, SBS has submitted that it may drop the MAV 15+ category in its next codes review, as the content which falls within that category could be classified MA 15+ with the consumer advice for ‘strong violence’.⁴¹ SBS said this would lead to greater consistency across industry.

9.35 Family Voice Australia also observed that the distinction between MA 15+ and AV in the *Commercial Television Code of Practice* is arguably unnecessary and potentially unhelpful:

While many parents are rightly concerned about the adverse impact of violence on their children, many are equally concerned about the adverse impact of sexual depictions, coarse language, adult themes and drug use. Such parents see no reason to differentiate these elements by separate classifications. The provision of consumer advice meets the needs of those parents who wish to permit their older children to view some but not all material from the adult classification range.⁴²

9.36 Free TV Australia indicated that it would be open to a harmonised approach based on research to assess whether ‘this inconsistency should be rectified by removing the category and subsuming the content within the MA15+ category.’⁴³

38 The X 18+ classification currently only applies to films. The classification is a special and legally restricted category which contains only sexually explicit material. That is material which contains real depictions of actual sexual intercourse and other sexual activity between consenting adults: *Guidelines for the Classification of Films and Computer Games* (Cth).

39 This classification is used by SBS for content warranting an MA15+ classification for the element of violence.

40 This classification is used by commercial television broadcasters for content that is unsuitable for the MA 15+ classification due to the intensity or frequency of the violence or because violence is central to the theme.

41 SBS, *Submission CI 1833*, 22 July 2011.

42 FamilyVoice Australia, *Submission CI 85*, 3 July 2011.

43 Free TV Australia, *Submission CI 1214*, 15 July 2011.

9.37 As noted below, the ALRC has identified that ongoing research into community standards and their relationship to classification categories will be a vital component of the proposed new National Classification Scheme.

Proposal 9–1 The Classification of Media Content Act should provide that one set of classification categories applies to all classified media content as follows: C, G, PG 8+, T 13+, MA 15+, R 18+, X 18+ and RC. Each item of media content classified under the proposed National Classification Scheme must be assigned one of these statutory classification categories.

Proposal 9–2 The Classification of Media Content Act should provide for a C classification that may be used for media content classified under the scheme. The criteria for the C classification should incorporate the current G criteria, but also provide that C content must be made specifically for children.

Consumer advice

9.38 Consumer advice refers to the words that appear alongside the classification marking, and is designed to give specific information about the content. It is a short description that highlights the classifiable elements in a film, computer game or publication with the most impact, for example, ‘Strong violence’ or ‘High level sex scenes’—in other words, the elements that led to the classification.

9.39 The *Classification Act* currently requires the Classification Board (the Board) to provide consumer advice for all films and computer games it classifies, with the exception of content classified G (for which consumer advice is optional) and RC (consumer advice is unnecessary for RC content, because the content is illegal to sell).⁴⁴

9.40 Submissions confirmed that consumers value this extra information.⁴⁵ Consumer advice also has other useful applications, as the Interactive Games and Entertainment Association observed:

Australia’s classification framework should allow for the introduction of new content descriptors or consumer advice to address technological advances and any emerging consumer concerns.⁴⁶

9.41 Consumer advice is an efficient way to highlight content that may be of particular concern as well as demonstrate to the community that the Board has considered a specific matter in its deliberations. For example, a 1994 version of the children’s film *Lassie* was classified PG with the consumer advice ‘some smoking by

⁴⁴ *Classification (Publications, Films and Computer Games) Act 1995* (Cth) s 20.

⁴⁵ For example, A Wells, *Submission CI 166*, 6 July 2011; S Farrelly, *Submission CI 245*, 7 July 2011.

⁴⁶ Interactive Games and Entertainment Association, *Submission CI 1101*, 14 July 2011. See also Hunter Institute of Mental Health, *Submission CI 2136*, 15 July 2011 that suggested consumer advice be used to provide better guidance in relation to media content that may include suicide themes or depictions of suicide.

minors', reflecting concerns of the Australian community about smoking but particularly in relation to depictions of children smoking.⁴⁷

9.42 The ALRC agrees that consumer advice is important and consistent with the principle that consumers should be provided with information about media content in a timely and clear manner.⁴⁸ The ALRC therefore proposes that consumer advice must be provided for all classified media content, except content classified C and G. Consumer advice should be optional for C and G content, but classifiers should be encouraged to provide it whenever content may raise issues for young children.

9.43 In the interests of consistency, the ALRC also suggests that the Classification Board publish guidelines for generating standardised consumer advice including a list of familiar consumer advice lines that classifiers may choose to use with each classification category.

Proposal 9–3 The Classification of Media Content Act should provide that all content that must be classified, other than content classified C, G or RC, must also be accompanied by consumer advice.

Existing classification criteria

Films, computer games and publications

9.44 Films, computer games and publications that advocate the doing of a terrorist act must be classified RC,⁴⁹ but otherwise, must be classified in accordance with the National Classification Code (the Code) and either the Guidelines for the Classification of Publications or the Guidelines for the Classification of Films and Computer Games (Classification Guidelines).⁵⁰

9.45 In *Adultshop.Com Ltd v Members of the Classification Review Board*, the Federal Court explained that the Code 'describes' the classification categories and 'contains the general principles which form the basis of the Classification Guidelines'⁵¹—principles such as that 'adults should be able to read, hear and see what they want' and 'minors should be protected from material likely to harm or disturb them'.⁵² The Code features separate tables—with distinct criteria—for publications, films and computer games.

47 Classification database, <<http://www.classification.gov.au/www/cob/find.nsf/Search?OpenForm>> at 15 September 2011.

48 See Ch 4, Principle 4.

49 *Classification (Publications, Films and Computer Games) Act 1995* (Cth) s 9A(1).

50 *Ibid* s 9.

51 *Adultshop.Com Ltd v Members of the Classification Review Board* (2007) 243 ALR 752 [89].

52 *National Classification Code 2005* (Cth) cl 1. The principles that classification decisions are required to give effect to under the existing National Classification Code might usefully be reviewed in future against the principles discussed in Chapter 4.

9.46 The classification guidelines assist in the application of the criteria in the Code,⁵³ as they ‘explain the scope and limits of each classification category’ in more detail.⁵⁴ A separate set of guidelines exists for publications. Films and computer games are currently covered by the one set of combined guidelines, but separate guidelines for computer games—as agreed at the July 2011 Standing Committee of Attorneys General meeting—will be introduced with the introduction of an R 18+ classification for computer games.

9.47 In addition, the *Classification Act* sets out the following matters that must be taken into account in the making of a classification decision:

- the standards of morality, decency and propriety generally accepted by reasonable adults;
- the literary, artistic or educational merit (if any) of the publication, film or computer game;
- the general character of the publication, film or computer game, including whether it is of a medical, legal or scientific character; and
- the persons or class of persons to or amongst whom it is published or intended or likely to be published.⁵⁵

Television programs

9.48 The television codes of practice each contain details on the classification criteria and process for making decisions in relation to the media content they broadcast. While some of the codes incorporate elements of the current national classification scheme, the extent and manner in which they do this varies between broadcasters.

9.49 Subscription television content is classified using the film and computer games guidelines, but free-to-air television has developed its own criteria, provided for in an industry code of practice.

Common classification criteria for all media content

9.50 Many submissions favoured common classification criteria for application to all media content regardless of the type of media. As suggested by the Arts Law Centre of Australia:

It would also be useful to consolidate the various codes and guidelines so there was one set of rules or guidelines that applied to classifiable content, regardless of the platform by which it was delivered.⁵⁶

53 *Classification (Publications, Films and Computer Games) Act 1995* (Cth) s 12(1).

54 *Adultshop.Com Ltd v Members of the Classification Review Board* (2007) 243 ALR 752, 765 [93].

55 *Classification (Publications, Films and Computer Games) Act 1995* (Cth) s 9. The Classification Board must take these matters into account, or ‘have regard’ to them; they are not criteria or standards: See *Adultshop.Com Ltd v Members of the Classification Review Board* (2008) 169 FCR 31, [42],[44].

56 The Arts Law Centre of Australia, *Submission CI 1299*, 19 July 2011.

9.51 The Classification Board also questioned whether the existing separate and media-specific classification guidelines are the best system for the future,

with new technology, formats and platforms to see/hear/read material (digital ebooks, digital magazines, downloads of movies direct from the internet to mobile phone, ipad, TV, computer), and material no longer being confined to being a physical product.⁵⁷

9.52 One set of guidelines for all media content removes the current anomaly whereby a webpage is classified under the film and computer game guidelines.

9.53 Importantly, classification guidelines need to adequately guide decision makers in their consideration of the unique features of an item of media content such as text, moving images, interactivity, sound, still images. Dane Armour submitted that:

The classification scheme should be consistent across all media formats and as such should take into account any themes, concepts or imagery which may be depicted more vibrantly in any given media format. For example, in literature, violence is described through descriptive language as opposed to the visual imagery of violence and gore found in film.⁵⁸

9.54 In the context of media convergence, it is essential that classification guidelines account for features of content regardless of the form it may take. For example, e-books now may contain video content and computer games often incorporate film sequences. As MLCS Management contended, if there is a concern that 'some aspects of computer game content (such as interactivity) need special consideration, that matter should be emphasised for all media types'.⁵⁹

9.55 One combined set of guidelines that refer to the features of media content is therefore also an effective way to keep pace with technological advances, including media convergence. A new classification system must be capable of responding to new forms of media content and new features used to enhance content, quickly and efficiently. MLCS Management argued, for example, for the need to 'future proof the guidelines against technological and content change':

The combined guidelines for films and computer games have been a useful tool for their users—the Classification Board and industry assessors. Their lack of detail provides flexibility that the Classification Board needs to make decisions that reflect constantly changing community standards. It also serves to make them applicable to different media types.⁶⁰

9.56 Platform-neutral guidelines also provide for the same thresholds and limits on content permitted at each classification category across media content. For example, if strong coarse language is permitted at the MA 15+ classification, then this should be the same threshold for language at MA 15+ for television programs, a computer game or online content. It is the role of the classifier, having regard to the features of the media content and the classification criteria and guidelines, to determine whether an

57 Letter from Donald McDonald, Director Classification Board to ALRC, 6 May 2011.

58 Confidential, *Submission CI 1980*, 14 July 2011.

59 MLCS Management, *Submission CI 1241*, 16 July 2011.

60 Ibid.

item exceeds the stated limits of the category and therefore should be assigned a higher classification.

9.57 In the ALRC's view, the same classification criteria and guidelines should be applied to any type of media content. It is neither practical nor meaningful to make classification decisions using multiple sets of guidelines for multiple types of media content with different thresholds and limits for the same classification category. Accordingly the separate tables in the Code should be consolidated to reflect one set of criteria for all media content.

9.58 This logic was the basis for the introduction of common classification categories and markings and combined classification guidelines for films and computer games in 2005. As Dr Jeffrey Brand foreshadowed in his report on the draft combined classification guidelines, convergence issues would necessitate combined classification guidelines for different media forms in the very near future.⁶¹

9.59 The existing guidelines for the classification of films and computer games could usefully be revised to incorporate criteria that provide guidance to classifiers in considering text and still images (currently outlined in the classification guidelines for publications). The guidelines for the classification of films and computer games provide a suitable template as they were developed following a comprehensive review process.⁶² The guidelines were significantly re-engineered including layout, presentation, language and structure with input from academics, classification experts and the public.

Legislation or industry codes

9.60 In the ALRC's view, there should be a consistent process for making classification decisions, regardless of who is classifying the media content, what industry sector they represent and the type of media content or delivery platform. As many submissions agreed, consumers should be confident that a PG classification means the same thing and contains the same level of content no matter what the media type. This is consistent with a guiding principle for reform of the scheme, that consumers should have access to clear information.

9.61 Uniformity and consistency in decision-making are best achieved by establishing statutory classification categories and criteria that represent the same minimum standards and requirements for classification decision-making by all classifiers. As the National Film and Sound Archive notes, 'consistency in criteria

61 *A Review of the Classification Guidelines for Films and Computer Games: Assessment of Public Submissions on the Discussion Paper and Draft Revised Guidelines*, (2002), prepared by J Brand for the Office of Film and Literature Classification. See also the Explanatory Statement, *Classification (Markings for Films and Computer Games) Determination 2005*, that noted that the new combined classification symbols address the 'outdated nature of the previous determinations in respect of the marking of emerging technologies which blur the distinction between "films" and "computer games", new storage devices and current marketing techniques'.

62 Ibid.

would promote consistency in classification decision-making for the benefit of all audiences'.⁶³

9.62 For this reason, the ALRC proposes that the Classification of Media Content Act provide one set of 'statutory classification criteria' that must be used by all classifiers who make classification decisions under the proposed new classification system.

9.63 Some submissions expressed the view that some matters, such as guiding principles for decision making and matters relevant to the classification framework are appropriately set out in the Act, so that changes can only be made by Parliament following debate by both Houses.⁶⁴ There was also consensus that the detailed classification criteria (for example, in the Code and the current classification guidelines) should be separately established so that they can be more readily amended to flexibly respond to changing community attitudes and technological developments.⁶⁵

9.64 The ALRC agrees that legislation should set out the classification categories and the matters that must be taken into account when making a classification decision, but it need not contain the detailed classification guidelines. This would better facilitate periodic review of the classification guidelines, that should be undertaken every five years in consultation with key stakeholders and the broader community.

9.65 To assist classifiers and consumers alike, the 'statutory classification criteria'—the classification categories and matters set out in the Act plus the Code and the detailed classification guidelines—should be contained in a separate legislative instrument that consolidates all decision-making information.

9.66 Industry codes of practice might describe classification criteria in more detail or provide additional guidance on the application of the criteria, for example, by providing relevant examples.

Proposal 9-4 The Classification of Media Content Act should provide for one set of statutory classification criteria and that classification decisions must be made applying these criteria.

Researching community standards

9.67 Classification criteria used in making classification decisions, including the appropriate limits and thresholds for content at each individual category, should reflect community standards and also be evidence-based.⁶⁶ Periodic reviews of classification decision-making criteria would therefore be usefully informed by relevant research.

63 National Film and Sound Archive of Australia, *Submission CI 1198*, 16 July 2011.

64 J Dickie, *Submission CI 582*, 11 July 2011.

65 For example, MLCS Management, *Submission CI 1241*, 16 July 2011; ASTRA Subscription Television Australia, *Submission CI 1223*, 15 July 2011; Interactive Games and Entertainment Association, *Submission CI 1101*, 14 July 2011.

66 Australian Council on Children and the Media, *Submission CI 1236*, 15 July 2011.

9.68 The ALRC proposes that a comprehensive review of community standards in Australia towards media content needs to be undertaken, combining both quantitative and qualitative methodologies, with broad reach across the Australian community. In order to obtain longitudinal data, the exercise should be undertaken at five-yearly intervals.

9.69 Such a study would need to draw upon urban, regional and rural populations, and the full range of culturally and linguistically diverse segments of the Australian population, as well as being representative in terms of age, gender and the state or territories in which people live. This research would be undertaken by an entity independent of government.

9.70 The former Office of Film and Literature Classification also conducted or commissioned research into community standards including the use of Community Assessment Panels,⁶⁷ interviews and focus groups involving members of the public viewing and playing films and computer games and assigning classification decisions.⁶⁸ While useful and important, such studies were nonetheless limited by their reference to the existing classification guidelines.

9.71 A broader attitudinal survey would provide valuable findings for informing future reviews of classification criteria and guidelines and might also be useful for considering matters raised in some submissions such as:

- the adequacy of the existing classifiable elements, for example, whether there should be other classifiable elements such as ‘fear’ or ‘scariness’; and
- the usefulness of an impact test for determining classification (impact may be a subjective test, but the ALRC doubts it can be avoided).

Proposal 9-5 A comprehensive review of community standards in Australia towards media content should be commissioned, combining both quantitative and qualitative methodologies, with a broad reach across the Australian community. This review should be undertaken at least every five years.

67 *Community Assessment Panels Final Report* (2004) prepared by Urbis Keys Young for the Office of Film and Literature Classification.

68 *Classification Decisions and Community Standards* (2007) prepared by Galaxy Research for the Australian Government Attorney-General’s Department.