

## 4. Guiding Principles for Reform

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### Summary

4.1 This chapter identifies eight guiding principles for reform directed to providing an effective framework for the classification of media content in Australia, and the context in which the guiding principles relate to law reform and media policy. It is proposed that these principles inform the development of a new National Classification Scheme that can best meet community needs and expectations, while being more effective in its application and responsive to the challenges of technological change and media convergence.

4.2 The eight guiding principles are that:

- (1) Australians should be able to read, hear, see and participate in media of their choice;
- (2) communications and media services available to Australians should broadly reflect community standards, while recognising a diversity of views, cultures and ideas in the community;
- (3) children should be protected from material likely to harm or disturb them;
- (4) consumers should be provided with information about media content in a timely and clear manner, and with a responsive and effective means of addressing their concerns, including through complaints;
- (5) the classification regulatory framework needs to be responsive to technological change and adaptive to new technologies, platforms and services;

- (6) the classification regulatory framework should not impede competition and innovation, and not disadvantage Australian media content and service providers in international markets;
- (7) classification regulation should be kept to the minimum needed to achieve a clear public purpose; and
- (8) classification regulation should be focused upon content rather than platform or means of delivery.

### **Context for the reform principles**

4.3 The eight guiding principles outlined in this chapter provide the framework for the recommendations for reform in this Final Report. The principles are derived from existing laws, codes and regulations, as well as principles that have been identified in other relevant reviews and government reports. This chapter outlines the basis of each of these principles in legislation and other policy documents, and highlights relevant comments from stakeholders in this Inquiry.

4.4 A statement of guiding principles is considered important for three reasons. First, it acknowledges that, while classification is an inherently contested space, characterised by strong views on the relative importance attached to particular principles—for example, individual rights and freedoms as compared to the protection of children from potentially harmful media content—it is possible for policy makers and regulators to proceed on the basis of a common community understanding of underlying interests and principles. The National Classification Code has played an important role in this regard.

4.5 Secondly, it allows discussion of policy goals and policy instruments to be uncoupled. The ALRC proposes the application of a diverse range of policy instruments be applied to a new National Classification Scheme, involving a mix of direct government regulation, co-regulation, and industry self-regulation. As the Australian Public Service Commission has observed:

Each main category of policy instrument has something valuable to offer but they generally have substantial limitations as a stand-alone strategy for government intervention. Further, each category of policy instrument works well in only a restricted range of circumstances—no single instrument type works across-the-board.<sup>1</sup>

4.6 Thirdly, as changes in the context of media convergence will be difficult to anticipate, there is a need for regulation that can be adaptive to changes in the media environment. A statement of guiding principles allows for flexibility in the application of policy instruments, while being anchored in an understanding of policy goals that can remain more constant over time.

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<sup>1</sup> Australian Public Service Commission, *Smarter Policy: Choosing Policy Instruments and Working with Others to Influence Behaviour* (2009), 12.

4.7 In developing the guiding principles, the ALRC drew upon:

- the existing National Classification Code;
- the objectives of the *Broadcasting Services Act 1992* (Cth);
- the Terms of Reference of this Inquiry;
- key principles identified in submissions received in response to the Issues Paper and the Discussion Paper; and
- other relevant statements of principles for Australian government regulation, such as those identified in the *Best Practice Regulation Handbook*.<sup>2</sup>

4.8 The ALRC also noted principles for convergent media regulation being identified in other relevant inquiries, most notably the Convergence Review being conducted by an independent committee through the Department of Broadband, Communications and the Digital Economy (DBCDE). The Convergence Review Committee has observed that the current range of reviews of media and communications being conducted for the Australian government provide ‘an opportunity to create a new convergent framework for content and communications which will better position Australia in a global digital economy’.<sup>3</sup>

4.9 The principles that the Convergence Review has identified as being central to future policy and regulatory frameworks that should apply to the converged media and communications landscape in Australia include:

- providing reduced, better-targeted regulation;
- providing a technology neutral approach that can adapt to new services, platforms and technologies;
- promoting emerging services and innovation;
- ensuring consistent content standards across platforms;
- enhancing Australian and local content;
- supporting media diversity;
- reducing compliance costs for industry;
- providing certainty for the market into the future.<sup>4</sup>

4.10 Public feedback on the guiding principles was also sought through the ALRC’s public discussion forum. The forum was hosted on the ALRC web site from 15 August 2011 to 2 September 2011, and attracted 101 comments from 29 participants.<sup>5</sup> Responses to the guiding principles have been incorporated into the discussion below.

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2 Australian Government, *Best Practice Regulation Handbook* (2010).

3 Department of Broadband, Communications and the Digital Economy, *Convergence Review: Interim Report* (2011), v.

4 Ibid.

5 See ALRC Classification Discussion Forum, <[www.alrc.gov.au/public-forum/classification](http://www.alrc.gov.au/public-forum/classification)>, at 9 November 2011.

## Guiding principles

### Principle 1: Individual rights

#### Australians should be able to read, hear, see and participate in media of their choice

4.11 The National Classification Code states that ‘adults should be able to read, hear and see what they want’.<sup>6</sup>

4.12 The *Broadcasting Services Act* contains a statutory objective ‘to promote the availability to audiences throughout Australia of a diverse range of radio and television services offering entertainment, education and information’.<sup>7</sup>

4.13 While the National Classification Code requires that this principle be understood alongside other principles in the making of classification decisions, the principle that adults should have access to the media of their choice has informed media policy in general, and classification policy in particular, and received wide support in submissions to this Inquiry.<sup>8</sup>

4.14 Some submissions cited art 19 of the *Universal Declaration of Human Rights* and art 19 of the *International Covenant on Civil and Political Rights* (ICCPR).<sup>9</sup> Art 19 of the Universal Declaration of Human Rights states that:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.<sup>10</sup>

4.15 The ICCPR provides that this right includes the ‘freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice’.<sup>11</sup>

4.16 The rise of the internet has further strengthened the power of individuals to exercise their rights to free speech, and the impacts of this are being seen across the globe. As a uniquely powerful medium for personal expression, the internet challenges existing regulatory regimes in a profoundly important manner.

6 *National Classification Code 2005* (Cth) cl 1(a).

7 *Broadcasting Services Act 1992* (Cth) s 3(1)(a).

8 For example, SBS, *Submission CI 1833*; The Arts Law Centre of Australia, *Submission CI 1299*; MLCS Management, *Submission CI 1241*; The Australian Recording Industry Association Ltd and Australian Music Retailers’ Association, *Submission CI 1237*; Australian Home Entertainment Distribution Association, *Submission CI 1152*; Civil Liberties Australia, *Submission CI 1143*; J Dickie, *Submission CI 582*.

9 *The Universal Declaration of Human Rights*, entered into force generally on 10 December 1948, 217A (III); *International Covenant on Civil and Political Rights*, 16 December 1966, [1980] ATS 23 (entered into force on 23 March 1976). For citations, see The Arts Law Centre of Australia, *Submission CI 1299*; Melbourne Fringe, *Submission CI 1199*; G Urbas and T Kelly, *Submission CI 1151*.

10 *Universal Declaration of Human Rights*, 10 December 1948, (entered into force on 10 December 1948), 217A (III).

11 *International Covenant on Civil and Political Rights*, 16 December 1966, [1980] ATS 23 (entered into force on 23 March 1976), art 19.

4.17 Dr Gregor Urbas and Mr Tristan Kelly suggested that the internet has been strongly associated with the right to freedom of expression in democratic societies:

The Internet provides a unique medium for free expression. In the US case *ACLU v Reno*, Dalzell J stated: ‘The Internet is a far more speech-enhancing medium than print, the village green, or the mails’.<sup>12</sup>

4.18 The United Nations Special Rapporteur on Freedom of Opinion and Expression has stated that:

Approaches to regulation developed for other means of communication—such as telephony and broadcasting—cannot simply be transferred to the Internet, but, rather, need to be specifically designed for it.<sup>13</sup>

4.19 The internet not only enables access to a much wider range of media content than traditional mass communications media, but empowers its users to more readily become participants in the creation and distribution of media content.

4.20 Many submissions to this Inquiry made the observation that media users are increasingly the creators as well as the recipients of media content, and there is an associated need to extend the right to communicate to the right to participate in the media, recognising the two-way, interactive nature of digital communications media.

4.21 Google argued that:

At a time when technology has delivered the *potential* for users to access, create and distribute content anywhere and at any time, and when innovation is resulting in ever new ways for that engagement to occur, it is imperative that Australian content regulations not operate as a roadblock to innovation, nor a fetter on the free flow of legal content.<sup>14</sup>

4.22 In responses from the public discussion forum, it was also observed that since communication is a two-way street, this principle could be further broadened to guarantee a right to publish, as well as a right to participate in media.

4.23 The ALRC is supportive in principle of this proposition, but notes that a difficulty arises in that while the High Court of Australia has implied from the Constitution a freedom of political communication this is narrower than a guaranteed freedom of communication or expression in a general sense. It is not of an equivalent status to the First Amendment to the United States Constitution, or art 10 of the *European Convention on Human Rights*.<sup>15</sup>

<sup>12</sup> G Urbas and T Kelly, *Submission CI 1151*.

<sup>13</sup> United Nations Special Rapporteur on Freedom of Opinion and Expression and Others, *Joint Declaration on Freedom of Expression and the Internet* (2011), referred to by Electronic Frontier Foundation, *Submission CI 1174*; Access Now, *Submission CI 1172*, 16 July 2011. See also Electronic Frontiers Australia, *Submission CI 2194*.

<sup>14</sup> Google, *Submission CI 2336*.

<sup>15</sup> *Australian Capital Television Pty Ltd v Commonwealth* (1992) 177 CLR 106 at 138, 140 per Mason CJ, at 149 per Brennan J, at 168, 169, 174 per Deane and Toohey JJ, at 211, 212, 214 per Gaudron J, at 227 per McHugh J; *Nationwide News Pty Ltd v Wills* (1992) 177 CLR 1, 94, 95.

4.24 The ALRC proposes that adults should not only be able to read, see and hear what they want—within the parameters of the law—but that this principle should be extended to recognise that adults should be able to communicate and participate in the media of their choice. This includes as producers and senders as well as the receivers of information and media content.

### **Principle 2: Community standards**

#### **Communications and media services available to Australians should broadly reflect community standards, while recognising a diversity of views, cultures and ideas in the community**

4.25 In the Australian classification system as it has evolved from the 1970s, the principle that adults may freely access information, communication and entertainment media of their choice has been tempered by other social and cultural factors.

4.26 The National Classification Code makes explicit reference to the idea that members of the community should not be inadvertently exposed to material that they may find offensive, by referring to the principle that ‘everyone should be protected from exposure to unsolicited material that they find offensive’.<sup>16</sup>

4.27 The general matters that the Classification Board are to have regard to are outlined in s 11 of the *Classification (Publications, Films and Computer Games) Act 1995* (Cth):

The matters to be taken into account in making a decision on the classification of a publication, a film or a computer game include:

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

4.28 The National Classification Code also refers to the need to take account of community concerns about ‘depictions that condone or incite violence, particularly sexual violence’ and ‘the portrayal of persons in a demeaning manner’.<sup>17</sup>

4.29 The ‘community standards’ and ‘reasonable adult’ principles are applied in other relevant media legislation. The *Broadcasting Services Act* makes reference to such principles in s 3, which states that the objects of the Act include to: ‘encourage providers of broadcasting services to respect community standards in the provision of program material’; ‘ensure designated content/hosting service providers respect

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16 *National Classification Code 2005* (Cth) cl 1(c).

17 *Ibid* cl 1(d).

community standards in relation to content’; and ‘restrict access to certain internet content that is likely to cause offence to a reasonable adult’.<sup>18</sup>

4.30 In its submission to the ALRC, the Communications Law Centre observed:

It is one of the primary, fundamental responsibilities of government to maintain a community standard of public decency. This responsibility applies to every aspect of society. For example, members of the community are not permitted by law to behave in public in any manner that they can. A system of classification and censorship of content should maintain a community standard of public decency in content and communications in Australia ... [As] a community we have a right to assert that there are some materials which are so far contrary to fundamental human rights, or which are such an attack on basic human dignity, or which are so depraved, obscene, destructive or criminal that we do not admit them into our community even for adults.<sup>19</sup>

4.31 A similar point was made by the Australian Council on Children and the Media, which identified among its core principles for a National Classification Scheme the need ‘to give voice to the community’s recognition of the powerful contribution media experiences make to the shaping of individuals and society’, and ‘to prevent the dissemination of content that is injurious to the public good’.<sup>20</sup>

4.32 What constitutes offensiveness is not fixed or certain over time, and is subject to the evolving nature of community values, norms and expectations. Moreover, what may be offensive to one person may well be entertaining, humorous or informative to another.

4.33 In 1997, the then Attorney-General for Australia, the Hon Daryl Williams MP, noted that:

The ‘reasonable adult’ test is used in two different senses—as a measure of community standards and also as an acknowledgment that adults have different personal tastes ... In other words, although some reasonable adults may find the material offensive, and thus justify a restricted classification for it, others may not.<sup>21</sup>

4.34 On the ALRC’s public discussion forum, several respondents observed the need for a regular review of community standards based on a rigorous research framework, using a methodology that can also track changes in attitudes over time. Commentators have also observed the lack of research into community attitudes to media content and the need for information that can better align classification guidelines to contemporary community standards.<sup>22</sup>

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18 *Broadcasting Services Act 1992* (Cth) s 3(1)(h), (ha), (l).

19 Communications Law Centre, *Submission CI 1230*.

20 Australian Council on Children and the Media, *Submission CI 1236*.

21 The Hon Daryl Williams MP, ‘From Censorship to Classification’, Address, Murdoch University, 31 October 1997, quoted in G Griffith, *Censorship in Australia: Regulating the Internet and Other Recent Developments* (2002), 5.

22 R Fitzgerald, ‘Let us stop pussyfooting around our censorship laws’, *Weekend Australian*, 12 February 2011.

4.35 Any community standards test presents the challenge of recognising the diversity of views and ideas in the community, and the cultural diversity of contemporary Australian society. Free TV Australia commented that:

Because community standards develop and change, a dynamic approach is required to encourage innovation and development in content. Gauging ‘community standards’ in an objective, inclusive and responsive way is difficult. It is important to recognise that different communities within Australia have different standards, and standards change over time.<sup>23</sup>

4.36 The challenges of diversity to any form of classification system are accentuated by media convergence, the proliferation of media content and globalisation. Chris Berg and Tim Wilson from the Institute of Public Affairs identified factors that point towards a ‘radical rethink of the principles and justification for classification’ as including: the shift of media onto the internet and internet-enabled home entertainment systems; the expansion of ‘niche’ media targeting smaller audiences and narrower interests; and an ‘increasingly multicultural society seeking media produced for ethnic diasporas’.<sup>24</sup>

4.37 The relevance of more media content being accessed from the home was also raised in submissions, as the private nature of consumption of such content may render notions of ‘community standards’ more problematic than for publicly available media such as cinema.

4.38 Civil Liberties Australia argued that ‘most new technological platforms are accessed only in the context of private use’, and that ‘internet access, regardless of the platform, is clearly a private use context, in contradistinction to the cinema context’.<sup>25</sup> Dr Nicolas Suzor of the Queensland University of Technology, proposed that ‘in the online environment ... it is much less important to take into account community concerns about content, since content accessed online is generally searched for, not inadvertently accessed’.<sup>26</sup>

4.39 At the same time, the ALRC is of the view that the development of the internet does not in itself provide a rationale for abandoning restrictions on content or regulations based on community standards. The requirement that all such access remains within the bounds of the law continues to be important.

4.40 In this respect, it is worth noting that art 19 of the ICCPR qualifies the right to freedom of expression with the observation that it may be subject to restrictions necessary for ‘respect of the rights or reputations of others’ or ‘the protection of national security or of public order ... or of public health or morals’.<sup>27</sup>

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23 Free TV Australia, *Submission CI 2452*.

24 Institute of Public Affairs, *Submission CI 1737*.

25 Civil Liberties Australia, *Submission CI 1143*.

26 N Suzor, *Submission CI 1233*.

27 *International Covenant on Civil and Political Rights*, 16 December 1966, [1980] ATS 23 (entered into force on 23 March 1976), art 19.

### Principle 3: Protection of children

#### Children should be protected from material likely to harm or disturb them

4.41 In referring the National Classification Scheme Review to the ALRC, among a range of matters, the Australian Government Attorney-General had regard to

the impact of media on children and the increased exposure of children to a wider variety of media including television, music and advertising as well as films and computer games.<sup>28</sup>

4.42 The National Classification Scheme makes a distinction between the ‘responsible adult’ on the one hand, and children on the other. This is expressed in the National Classification Code as the principle that ‘minors should be protected from material likely to harm or disturb them’.<sup>29</sup>

4.43 In relation to broadcasting and online content, the *Broadcasting Services Act* has statutory objectives to ‘ensure that providers of broadcasting services place a high priority on the protection of children from exposure to program material which may be harmful to them’, and to ‘protect children from exposure to internet content that is unsuitable for children’.<sup>30</sup>

4.44 The protection of children was also identified as a primary objective of the National Classification Scheme in a number of submissions in response to the Issues Paper and the Discussion Paper.<sup>31</sup>

4.45 For example, the Queensland Commission for Children and Young People and Child Guardian considered that:

The primary objectives of a national classification scheme should incorporate protections for children, clear advice to parents and caregivers and considerations of how to promote their wellbeing, positive development and best interests when classifying material.<sup>32</sup>

4.46 Others made reference to the United Nations *Convention on the Rights of the Child* (CROC), to which Australia is a signatory. Among the relevant clauses of CROC are provisions that States Parties shall ‘[e]ncourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being’ and prevent the ‘exploitative use of children in pornographic performances and materials’.<sup>33</sup>

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28 Terms of Reference. The full Terms of Reference are set out at the front of this Report, and can be accessed from the ALRC website at <www.alrc.gov.au>.

29 *National Classification Code 2005* (Cth) cl 1(b).

30 *Broadcasting Services Act 1992* (Cth) s 3(1)(j), (m).

31 National Civic Council, *Submission CI 2226*; Queensland Commission for Children and Young People and Child Guardian, *Submission CI 1246*; Uniting Church in Australia, *Submission CI 1245*; Australian Council on Children and the Media, *Submission CI 1236*; Bravehearts Inc, *Submission CI 1175*; Media Standards Australia Inc, *Submission CI 1104*; Hon Nick Goiran MLC, *Submission CI 1004*.

32 Queensland Commission for Children and Young People and Child Guardian, *Submission CI 1246*.

33 *Convention on the Rights of the Child*, 20 November 1989, [1991] ATS 4 (entered into force on 2 September 1990), arts 17(e), 34(c).

4.47 Some submissions pointed out that the distribution of child pornography has increased considerably through the internet, and that there is a need to address issues relating to the circulation of such material differently from questions concerning access of adults to pornography more generally. Urbas and Kelly, for example, noted that:

According to the US Government, circulation of child pornography had been almost completely eradicated by the mid-1980s. However, the Internet has provided a new means of distribution, and this is now considered a multi-billion dollar industry. The apparent anonymity of the Internet allows paedophiles to share material easily, while the Internet's international reach allows access to material produced in any country to be accessed globally.<sup>34</sup>

4.48 This principle received a large number of comments on the ALRC's public discussion blog. Respondents argued that there was a need to recognise age-based distinctions, and that the issues for small children and teenagers are quite different. Caution was also suggested in relation to pursuing harm mitigation strategies without clear insights into the potential for harm from different media content. It was also argued that classification can ultimately only provide guidance, and responsibility for what media children access ultimately lies with their parents and care givers.<sup>35</sup>

4.49 The question of the relative responsibilities of government and parents in relation to protecting children from potentially harmful media content also generated strong responses from a range of individual submissions that followed the ALRC's Issues Paper.<sup>36</sup>

4.50 The rights of adults to be able to access material freely and the need to protect children need not be conflicting principles. Telstra argued, for example, that the classification system should have two 'end-user focused' objectives of protecting children from material that may be harmful and empowering adults, within reason, to decide for themselves the media content that they wish to consume.<sup>37</sup>

#### **Principle 4: Consumer information**

**Consumers should be provided with information about media content in a timely and clear manner, and with a responsive and effective means of addressing their concerns, including through complaints**

4.51 In referring the review to the ALRC, the Attorney-General had regard to the 'need to improve classification information available to the community and enhance public understanding of the content that is regulated'.<sup>38</sup>

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34 G Urbas and T Kelly, *Submission CI 1151*.

35 See ALRC Classification Discussion Forum, <[www.alrc.gov.au/public-forum/classification/3-children-should-be-protected-material-likely-harm-or-disturb-them](http://www.alrc.gov.au/public-forum/classification/3-children-should-be-protected-material-likely-harm-or-disturb-them)> at 2 September 2011.

36 Australian Law Reform Commission, *Responses to ALRC National Classification Scheme Review Issues Paper (IP40) - Graphical Representation of Submissions* (2011) <<http://www.alrc.gov.au/publications/responses-IP40>> at 26 January 2012.

37 Telstra, *Submission CI 1184*.

38 Terms of Reference.

4.52 The National Classification Code provides that ‘everyone should be protected from exposure to unsolicited material that they find offensive’.<sup>39</sup> The *Broadcasting Services Act* requires that broadcasters and providers of online content not only respect community standards, but also ensure means for addressing complaints about broadcasting services and certain internet content.<sup>40</sup>

4.53 Classification is essentially about providing information to the public about the material that has been classified in order to guide their entertainment choices. Members of the public should also be able to have their concerns addressed, if they believe that a classification decision was in error, or that content has been made available that is in breach of classification laws.

4.54 Several submissions stated that the provision of appropriate information to enable consumers to make informed decisions about media content should be a primary principle of the National Classification Scheme.<sup>41</sup>

4.55 The Australian Competition and Consumer Commission (ACCC) pointed out that ‘the availability of adequate information for consumers to make informed choices is an important characteristic of a competitive industry’, and that ‘an effective and consistent classification system is one possible tool to achieve this’.<sup>42</sup>

4.56 Civil Liberties Australia emphasised the consumer information dimension of classification, stating that the ‘primary objective must be to equip people with the information they need to decide whether they want to purchase or experience particular content beforehand’.<sup>43</sup>

4.57 The Australian Children’s Commissioners and Guardians observed that ‘for the classification system to meet its objectives it must be, and must be seen to be, reliable by the community’.<sup>44</sup>

4.58 The Senate Legal and Constitutional Affairs References Committee recommended the establishment of a classification complaints ‘clearinghouse’ as a one-stop shop for administering complaints:

Consumers need to be provided with clear information about how to make complaints in relation to classification matters. In order to make a complaint, a consumer should not be required to have a detailed knowledge of the classification system, along with the role of the various bodies involved in classification and their associated responsibilities.<sup>45</sup>

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39 *National Classification Code 2005* (Cth) cl 1(c).

40 *Broadcasting Services Act 1992* (Cth) s 3(1)(i), (k).

41 Australian Council on Children and the Media, *Submission CI 1236*; ASTRA Subscription Television Australia, *Submission CI 1223*; Civil Liberties Australia, *Submission CI 1143*; Interactive Games and Entertainment Association, *Submission CI 1101*.

42 Australian Competition and Consumer Commission, *Submission CI 2463*.

43 Civil Liberties Australia, *Submission CI 1143*.

44 Australian Children’s Commissioners and Guardians, *Submission CI 2499*.

45 Senate Legal and Constitutional Affairs References Committee, *Review of the National Classification Scheme: Achieving the Right Balance* (2011), 181.

4.59 The current National Classification Scheme framework has been criticised as being confusing to the public.<sup>46</sup> MLCS Management observed, for example, that it is unclear to both industry and consumers what classification requirements apply to certain products, given that

different content regulation schemes apply to different delivery channels ... consumers don't generally give a damn how they got their product—they just get it in the manner that best suits their needs. What they do want is some consistency about the application of classification information.<sup>47</sup>

4.60 Clarity about content classification regulation should assist industry to better comply with classification obligations and meet consumers' expectations for classification information as well as assist consumers understanding of where to direct complaints and have their concerns addressed.

### **Principle 5: An adaptive regulatory framework**

#### **The classification regulatory framework needs to be responsive to technological change and adaptive to new technologies, platforms and services**

4.61 In referring this review to the ALRC, the Australian Government Attorney-General had regard to the need for a framework which can adapt to 'the rapid pace of technological change in media available to, and consumed by, the Australian community'.<sup>48</sup>

4.62 Several stakeholders argued strongly for the need to move from piecemeal responses that apply the existing classification framework to each new technological development, towards one that is framed in such a way as to be adaptive to broader convergent media trends.

4.63 Telstra observed that, in light of the fragmentation of international media markets, 'the focus of classification policy intervention needs to be shifted to domestically based users rather than the now multitudinous and internationally dispersed content creators and distributors'.<sup>49</sup>

4.64 The Australian Home Entertainment Distributors Association recommended that the Inquiry address the ambiguities in the current framework, particularly between content accessed in physical and digital forms:

The ALRC should guide the government on *what* content should be administered by a reformed Scheme, and as part of this what *can* be administered in a digital distribution environment which is: instant, international, vast and often user generated.

In other words, the Scheme should focus on the content that 'matters' and be implemented so that it can apply to as much content as possible directly by the content distributor.<sup>50</sup>

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46 For example, A Hightower and Others, *Submission CI 2159*; MLCS Management, *Submission CI 1241*.

47 MLCS Management, *Submission CI 1241*.

48 Terms of Reference.

49 Telstra, *Submission CI 1184*.

50 Australian Home Entertainment Distribution Association, *Submission CI 1152*.

4.65 Google argued the need to rethink media classification around the different layers of the converged media environment, rather than in terms of analogies between one media form and another:

The existing classification regime is unworkable in a converged environment. A new regulatory framework must take into account the particular features of each layer of the converged media landscape—the network, the platforms, and the content layers—and apply the appropriate policy instrument.<sup>51</sup>

4.66 Free TV Australia agreed with the principle that

Any new classification framework must be technology-neutral, and be able to deal with new and emerging platforms and services. In particular, the advent of devices such as Connected TVs will enable viewers to transition seamlessly between broadcast and streamed content.<sup>52</sup>

4.67 Criticisms of the *ad hoc* and piecemeal nature of the current National Classification Scheme (NCS) are identified in Chapter 2 of this Report. The Australian Mobile Telecommunications Association (AMTA) noted the difficulties involved in extending the existing framework to the fast-changing and global mobile telecommunications environment:

AMTA has concerns about the practicalities in extending the NCS so that it covers all content available in Australia, including online content that may often be sourced from foreign-based producers of content or be produced by internet users rather than more traditional content providers. Such an extension of the NCS would be almost impossible to administer, either by the regulatory body or by telecommunications service providers. Further, AMTA believes that the existing classification requirements that apply, for example, to film, may not be easily or appropriately translated to other platforms, such as mobiles.<sup>53</sup>

4.68 Such observations with the concern expressed by the Australian Communication and Media Authority (ACMA) about ‘broken concepts’ in existing legislation, and ‘piecemeal responses’ to new issues, where

legislation is incrementally amended and supplemented to address the rapid change occurring in the communications sector over the past two decades ... the present communications legislative landscape is fragmented [and this] has reduced the overall coherence of the regulatory scheme.<sup>54</sup>

4.69 The ALRC supports the development of a policy and regulatory framework for media classification that can be adaptive and flexible, and can respond to changes in technology, consumer demand and markets.

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51 Google, *Submission CI 2336*.

52 Free TV Australia, *Submission CI 2452*.

53 Australian Mobile Telecommunications Association, *Submission CI 1190*.

54 Australian Communications and Media Authority, *Broken Concepts: The Australian Communications Legislative Landscape* (2011), 7.

### **Principle 6: Competition and innovation**

#### **The classification regulatory framework should not impede competition and innovation, and not disadvantage Australian media content and service providers in international markets**

4.70 The Terms of Reference for this Inquiry point to the need for the ALRC to give consideration to the ‘desirability of a strong content and distribution industry, and minimising the regulatory burden’.

4.71 Such a principle is consistent with the objective of the *Broadcasting Services Act* to provide ‘a regulatory environment that will facilitate the development of a broadcasting industry in Australia that is efficient, competitive and responsive to audience needs’<sup>55</sup> and the principle of the Convergence Review that the ‘communications and media market should be innovative and competitive, while balancing outcomes in the interest of the Australian public’.<sup>56</sup>

4.72 The ACCC made the point that

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.<sup>57</sup>

4.73 At the same time, the ACCC cautioned against overly prescriptive approaches to the regulation of online content and emergent media platforms, observing 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.<sup>58</sup>

4.74 The ALRC considers that the National Classification Scheme needs to ensure that there is parity of treatment between domestic and international media content providers. The problem with existing regulations is that they can be disproportionately applied to domestic providers, while the regulatory complexities arising from media globalisation and convergence are simply ignored.

55 *Broadcasting Services Act 1992* (Cth) s 3(1)(b).

56 Department of Broadband, Communications and the Digital Economy, *Convergence Review: Emerging Issues Paper* (2011), Principles 3 & 8. The *National Digital Economy Strategy* has stated the Australian Government’s aim that, by 2020, ‘Australia will be among the world’s leading digital economies’: See Department of Broadband, Communications and the Digital Economy 2011, *#au20 National Digital Economy Strategy: Leveraging the National Broadband Network to Drive Australia’s Digital Productivity*, Executive Summary, 2.

57 Australian Competition and Consumer Commission, *Submission CI 2463*.

58 *Ibid.*

4.75 Telstra, for example, noted that:

The reduced capacity of Nation States to enforce regulation against international actors (even where the black letter law is consistent in its application) creates a serious risk that local providers, who are more easily caught by the regulatory reach of Government, could be indirectly competitively disadvantaged by regulatory intervention.<sup>59</sup>

4.76 The Interactive Games and Entertainment Alliance (the iGEA) drew attention to the need for a classification framework that does not ‘impede innovation nor the exploration of the provision of entertainment and other services over new technologies’.<sup>60</sup>

4.77 The Internet Industry Association recommended the development of a framework that is harmonised, where possible, with other international classification standards, so that a revised National Classification Scheme would

enable development of an international system whereby information about content could be provided once by the originator and vendors/distributors in different countries/cultures could use that information to apply ‘age appropriate’ recommendations appropriate to their culture.<sup>61</sup>

4.78 On the ALRC public discussion forum, the question was raised as to whether Australia should adopt classification decisions made in other countries, given that most media content is accessed from overseas.<sup>62</sup> As noted in Appendix 1 to this Report, New Zealand refers to classification decisions of the Australian Classification Board for certain content sold in its domestic market. The ALRC discusses this concept in Chapter 7.

### **Principle 7: Clear regulatory purpose**

#### **Classification regulation should be kept to the minimum needed to achieve a clear public purpose**

4.79 The ALRC has been asked to propose a regulatory framework for the National Classification Scheme that can ‘minimise the regulatory burden’ while meeting community expectations. Similarly, the Convergence Review has proposed that ‘where regulation is required, it should be to the minimum needed to achieve a clear public purpose’.<sup>63</sup>

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59 Telstra, *Submission CI 1184*.

60 Interactive Games and Entertainment Association, *Submission CI 1101*.

61 Internet Industry Association, *Submission CI 2445*.

62 ALRC Classification Discussion Forum, <[www.alrc.gov.au/public-forum/classification/4-national-classification-scheme-needs-provide-consumer-information-time#comment-92](http://www.alrc.gov.au/public-forum/classification/4-national-classification-scheme-needs-provide-consumer-information-time#comment-92)> at 2 September 2011.

63 Department of Broadband, Communications and the Digital Economy, *Convergence Review: Emerging Issues Paper* (2011), 8.

4.80 The *Australian Government Best Practice Regulatory Handbook* frames a guiding principle for government regulation as follows:

The challenge for government is to deliver effective and efficient regulation—regulation that is *effective* in addressing an identified problem and *efficient* in terms of maximising the benefits to the community, taking account of the costs.<sup>64</sup>

4.81 Concerns about the costs of compliance and the need for clarity were expressed by stakeholders.<sup>65</sup> The iGEA, for example, drew attention to the need for a classification framework ‘designed to ensure that it is easy for the local and global industry to comply with’ and which ‘operates in a certain and low friction manner’, with low costs of compliance.<sup>66</sup> Further, the classification framework ‘should clearly indicate the extent of its application, including whether it applies to computer games played or delivered over the Internet from inside or outside of Australia’.<sup>67</sup>

4.82 In the ALRC’s view, the critical variables in determining the appropriate regulatory form for classification of media content should include:

- the potential for risk, harm or impact associated with the content in question;
- the degree of community concern about the effective application of classification to the content in question;
- the likelihood of the industry or media content provider in question effectively self-managing its own relationship to its consumers and to the wider community; and
- the extent to which non-compliance with regulations generates reputational risk or diminished market standing for the industry or media content provider in question.

4.83 As discussed in later chapters of this Report, the ALRC is of the view that there is considerable scope to extend co-regulatory arrangements in those areas where there is no major community contention about classification decisions, allowing government to more effectively focus time and resources on the most contentious media content.

4.84 This is a realistic and appropriate response to the almost infinite volumes of media content now available to consumers and households, and to develop more appropriate consideration of the costs and benefits associated with who classifies what.

4.85 By enabling industry to take greater direct responsibility for classification decision making, the ALRC envisages more concentration of public resources on ensuring higher-level media content is properly classified and restricted. Industry classification will also free up resources currently deployed in across-the-board platform-based classification to be redeployed in the fast-growing area of online content that may require restricted access or be prohibited.

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64 Australian Government, *Best Practice Regulation Handbook* (2010), 1.

65 Telstra, *Submission CI 1184*; Interactive Games and Entertainment Association, *Submission CI 1101*.

66 Interactive Games and Entertainment Association, *Submission CI 1101*.

67 Internet Industry Association, *Submission CI 2445*.

4.86 The ACCC has provided guidelines for developing effective voluntary industry codes of conduct.<sup>68</sup> The ACCC observed that the benefits of voluntary industry codes can include:

- that industry codes can be more flexible than government legislation and can be amended more efficiently to keep abreast of changes in industry needs, technological changes, or changing market conditions;
- that there can be greater transparency of the industry to which signatories to the code belong;
- greater stakeholder or investor confidence in the industry/business;
- ensuring industry compliance with the Act in order to significantly minimise breaches;
- that industry participants have a greater sense of ownership of the code leading to a stronger commitment to comply with the Act;
- that the code acts as a quality control within an industry; and
- that complaints handling procedures are generally more cost effective, time efficient and user friendly in resolving complaints than government bodies.<sup>69</sup>

4.87 Codes and co-regulatory frameworks are discussed in more detail in Chapter 11 of this Report.

4.88 In a draft version of these principles circulated for public comment, the full statement was that ‘classification regulation should be kept to the minimum needed to achieve a clear public purpose, and should be clear in its scope and application.’ In response to comments received on the public discussion blog, the principle has been amended, as it was argued that clarity in scope and application is implied in the shorter statement.<sup>70</sup>

### **Principle 8: Focus on content**

**Classification should be focused upon content rather than platform or means of delivery.**

4.89 Many stakeholders identified the principle of platform neutrality as being important, and suggested that the extent to which the National Classification Scheme does not operate on the basis of such a principle, is a major source of ongoing problems.

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68 Australian Competition and Consumer Commission, *Submission CI 2463*.

69 Australian Competition and Consumer Commission, *Guidelines for Developing Effective Voluntary Industry Codes of Conduct* (2011), 3.

70 See ALRC Classification Discussion Forum, <[www.alrc.gov.au/public-forum/classification/7-classification-regulation-should-be-kept-minimum-needed-achieve-clear-#comments](http://www.alrc.gov.au/public-forum/classification/7-classification-regulation-should-be-kept-minimum-needed-achieve-clear-#comments)> at 2 September 2011.

4.90 In responses to the Issues Paper, the absence of an R 18+ classification for computer games was repeatedly cited as evidence of what happens when classification guidelines are platform driven and based upon contentious assumptions about the impact of a particular medium or the nature of its consumers.<sup>71</sup>

4.91 The Convergence Review Committee has also emphasised the need for a platform neutral regulatory framework. In recommending the phasing out of licencing regimes as a condition for the provision of certain types of content, such as those applying under the *Broadcasting Services Act*, the Committee has stated:

Having regard to the principle of freedom of communication, there is no compelling reason to continue to require a licence to provide a content service, particularly where no licence is required to provide an identical service on a different platform. Providers of content services may have obligations, where appropriate, without the need for licences.<sup>72</sup>

4.92 Telstra drew attention to current inconsistencies in the treatment of similar content across different platforms, and the extent to which this becomes problematic in the context of devices such as the Telstra T-Box, which are explicitly designed to deliver content from multiple platforms through a single device:

As technological innovation continues, and the diversity of content producers and distribution platforms continues to grow, distinguishing classification treatment on the basis of distribution platform is likely to become increasingly difficult, resulting in further inconsistencies of this kind.<sup>73</sup>

4.93 Assistant Professor Sarah Ailwood and Mr Bruce Arnold, of the University of Canberra, observed that the current National Classification Scheme predates media convergence and, accordingly, ‘treats content in terms of form rather than mode of delivery’. They advocated the development of a new classification model that is ‘consistent across platforms’.<sup>74</sup>

4.94 MLCS Management observed that:

The idea of different channels making a difference to users does not make sense. From a classification perspective, consumers simply do not care where they get content from ... We need to get over who is responsible for what channel, develop a framework for all content, and *then* sort out who manages it at a government level.<sup>75</sup>

4.95 The Senate Legal and Constitutional Affairs References Committee also expressed the view that ‘a uniform approach to the same or similar content is required, regardless of the medium of delivery’, and that ‘the equal treatment of content,

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71 See Responses to ALRC National Classification Scheme Review Issues Paper (IP40) – graphical representation of submissions, <[www.alrc.gov.au/publications/introduction/question-3-should-technology-or-platform-used-access-content-affect-whethe](http://www.alrc.gov.au/publications/introduction/question-3-should-technology-or-platform-used-access-content-affect-whethe)> at 3 February 2012.

72 Department of Broadband, Communications and the Digital Economy, *Convergence Review: Interim Report* (2011), 4.

73 Telstra, *Submission CI 1184*.

74 S Ailwood and B Arnold, *Submission CI 2156*.

75 MLCS Management, *Submission CI 1241*.

regardless of the platform used to access that content, should be a guiding principle of a reformed National Classification Scheme'.<sup>76</sup>

4.96 The ALRC is of the view that convergence is making media content and services increasingly independent of particular delivery technologies, and that content regulation can no longer be premised upon assumptions that it will be carried on any single platform.

4.97 The ACMA has also argued that 'regulation constructed on the premise that content could (and should) be controlled by how it is delivered is losing its force, both in logic and in practice'.<sup>77</sup>

4.98 At the same time, the ALRC recognises that the principle of 'platform neutrality' may present significant challenges in practice. As Dr Lyria Bennett Moses of the University of New South Wales observed:

If one strives to achieve parity of outcome (so that [it is] as hard to access material on-line as in a local bookstore or library or movie theatre), then one would need to impose very restrictive laws on on-line content ... Similarly, if one strives to draft laws in a technology neutral way (thus not differentiating between different technologies in the wording of the legislation), then the laws may not be equally effective or cost-effective in all contexts.<sup>78</sup>

4.99 A conspicuous case of a lack of platform neutrality in the current scheme is in the treatment of computer games at the higher end of the classification spectrum relative to other media, such as films and DVDs. A separate classification scheme was introduced in 1994 for computer games, based on concerns that games, because of their 'interactive' nature, 'may have greater impact, and therefore greater potential for harm or detriment, on young minds than film or videotape'.<sup>79</sup>

4.100 Gareth Griffith observed that this decision, which led to the highest available classification for computer games being MA 15+, marked a significant departure from the 'contemporary "classification" perspective' and was 'suggestive of the "censorship" perspective, emphasising ideas associated with "protection from harm" and the public good'.<sup>80</sup>

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76 Senate Legal and Constitutional Affairs References Committee, *Review of the National Classification Scheme: Achieving the Right Balance* (2011), 177–178.

77 Australian Communications and Media Authority, *Broken Concepts: The Australian Communications Legislative Landscape* (2011), 6.

78 L Bennett Moses, *Submission CI 2126*. See also L Bennett Moses, 'Creating Parallels in the Regulation of Content: Moving from Offline to Online' (2010) 33 *University of New South Wales Law Journal* 581, 581–604.

79 Office Of Film and Literature Classification, *Annual Report 1993–94*, quoted in G Griffith, *Censorship in Australia: Regulating the Internet and Other Recent Developments* (2002), 12.

80 *Ibid.*, 12.

4.101 In the course of the Inquiry, an agreement was reached by the Australian Government, state and territory censorship ministers at the SCAG meeting of July 2011 to introduce an R 18+ category for computer games.<sup>81</sup>

4.102 In February 2012, a bill was introduced by the Minister for Home Affairs and Minister for Justice, the Hon Jason Clare MP, to amend the *Classification Act* to introduce an R 18+ category for computer games, and make consequential amendments to the *Broadcasting Services Act* to recognise the introduction of such a category.<sup>82</sup>

4.103 The ALRC suggests that platform neutrality should be a guiding principle of any new regulations, that co-regulatory approaches should be developed to a greater degree than is currently the case, and that regulatory activity should focus on content of most concerns in relation to community standards and the protection of children.

### **Platform neutrality and the question of media effects**

4.104 The ALRC is proposing that policies and regulations applying under the National Classification Scheme should reflect, to the maximum degree possible, the principle of platform neutrality. Classification should focus on media content rather than platforms or delivery technologies. In the context of media convergence, we have argued that attempts to apply different regulatory frameworks to media based upon their delivery platform has proven to be unsustainable over time, and has generated significant distortions in classification outcomes.

4.105 A related issue is the possible effects that different forms of media may have on the behaviour of individuals. The lengthy debate about whether to introduce an R 18+ classification for computer games, and the distortions and anomalies that emerged in the Australian games market arising from the absence of such a classification, has drawn attention to the problems that can arise from assumptions about media effects.

4.106 The literature on whether particular media content has effects on those who consume it is voluminous. The relationship between media violence and violence in society is perhaps the most researched topic in media and communications, with studies dating back as far as the 1930s. Research into the relationship between television and violence has been particularly prominent since the mid-1950s, after the United States (US) Congressional hearings of 1952 and 1955.<sup>83</sup>

4.107 Research has often been triggered by particular events, such as riots and political assassinations in the US in the 1960s, the Columbine school shootings in the US in 1989, or—in the Australian context—the aftermath of the killing of 35 people at Port Arthur, Tasmania, by Martin Bryant in 1996. More recently, both the Oslo shootings and the London riots in 2011 acted as prompts for debate about the influence of violent video games and social media respectively.

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81 Standing Committee of Attorneys-General, *Communiqué 21 & 22 July 2011*.

82 Explanatory Memorandum Classification (Publications, Films and Computer Games) Amendment (R 18+ Computer Games) Bill 2012 (Cth).

83 J Murray, 'Media Violence: The Effects are Both Real and Strong' (2008) 51 *American Behavioural Scientist* 1212, 1213.

4.108 An overview of debates as they relate to the influence of media on behaviour can be found in a 2008 special issue of *American Behavioural Scientist*. Those who argue that the effects of sustained exposure to violent media on children are significant, generally point to three classes of effects:

- Aggression: Viewing televised violence can lead to increases in aggressive behaviour and/or changes in attitudes and values favouring the use of aggression to solve conflicts.
- Desensitization: Extensive violence viewing may lead to decreased sensitivity to violence and a greater willingness to tolerate increasing levels of violence in society.
- Fear: Extensive exposure to television violence may produce the mean world syndrome effect, in which viewers overestimate their risk of victimisation.<sup>84</sup>

4.109 Similar observations have been made by the Australian Psychological Society Ltd, which observed that '[e]xposure to violent television can and does influence children's feelings, attitudes and behaviour', and that 'prolonged exposure to television violence is one of a number of factors which lead to children being more likely to display aggressive behaviour in both the short-term and the long-term'.<sup>85</sup> Among those submissions who commented on this issue, Family Voice Australia referred to studies concerning violent video games and their impact on children, and the Australian Council for Children and the Media also provided references to relevant studies.<sup>86</sup>

4.110 There has also been considerable questioning of claims about strong media effects on individual behaviour. In an overview of 50 years of research on media violence, Professor Barrie Gunter points to six factors that qualify strong claims being made about the impact of media violence that draw upon empirical research.<sup>87</sup>

4.111 First, whether the studies took place in an experimental setting or were based upon 'real world' data. It has been noted that three-quarters of studies undertaken have been by psychologists, and about half of these have been laboratory-type experiments.<sup>88</sup> These are open to criticism that they do not replicate 'real world' media consumption practices, and that participants go into such experiments with a pre-conceived idea of what researchers are expecting to find.

4.112 Secondly, the use of experimental methods that seek to uncover cause-effect relationships can neglect the degree to which, if media violence does impact upon behaviour, the relationship is more likely to be longer-term and cumulative rather than short-term and immediate. There is considerably less longitudinal data available on these questions as compared to experimental studies, and the meta-analytic studies

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84 Ibid, 1222.

85 Australian Psychological Society, *Factsheet: The Effects of Violent Media on Children* (2000). See also, Council on Communications and the Media, 'Media Violence' (2009) 124(5) *Pediatrics* 1495.

86 Australian Council on Children and the Media, *Submission CI 1236*; FamilyVoice Australia, *Submission CI 85*.

87 B Gunter, 'Media Violence: Is There a Case for Causality' 51 *American Behavioural Scientist* 1061, 1061.

88 G Comstock, 'A Sociological Perspective on Television Violence and Aggression' (2008) 51 *American Behavioural Scientist* 1184, 1204.

(those that draw together the findings of multiple studies) find only weak correlations at best.

4.113 Thirdly, in so far as there has been a link established, it has generally been associated with those of lower socio-economic status backgrounds, or particular racial minorities. As researchers such as George Comstock observe, such groups also ‘consist of individuals who already face considerable challenges in coping with everyday life’ including a greater likelihood of conflict with authority and the law.<sup>89</sup> Given that the relationships are multi-causal, this leaves open the question as to whether the media-centric focus of effects research occurs at the expense of considering other relevant socio-cultural and socio-economic factors.

4.114 Fourthly, the research literature is dominated by studies looking at the potentially harmful effects of various forms of media exposure, with few studies considering neutral or even positive consequences of exposure. For instance, if media consumers are clear about the difference between media violence and real violence, then the portrayal of violence can be an entirely legitimate form of storytelling—and one with a very long history—particularly if it also conveys a message that aggressive or anti-social behaviour can have negative consequences for its perpetrators.

4.115 Fifthly, the question of whether media consumers in general, and children in particular, differentiate between media violence and real violence can be neglected in experimental studies. Professor Stuart Cunningham has made the point, in relation to work undertaken by the Australian Broadcasting Tribunal on media violence in the early 1990s, that those surveyed were more likely to be disturbed by violent scenes witnessed on television news broadcasts than by fictionalised portrayals of violence in feature films or television dramas.<sup>90</sup>

4.116 The sixth and final point: the risk of assuming that the link between media violence and social violence has been proven is that ‘an oversimplified position ... can lead to political misrepresentation of media effects, with unreasonable requests for tighter controls over media content, scheduling, and transmissions’.<sup>91</sup>

4.117 The argument presented here is not that there are no effects of media on individual behaviour. Gunter concludes that ‘certain forms of media violence can exert certain kinds of effects on some consumers some of the time’,<sup>92</sup> and Dr. Andy Ruddock from Monash University has identified particular contexts where particular media consumers actively use media to achieve certain kinds of effects.<sup>93</sup> It is, rather, to note that there are many and varied results from these studies, and that this evidence base has not generated clearer findings over time.

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89 Ibid, 1206.

90 S Cunningham, ‘TV Violence: The Challenge of Public Policy for Cultural Studies’ (1992) 6 *Cultural Studies* 79, 91.

91 B Gunter, ‘Media Violence: Is There a Case for Causality’ 51 *American Behavioural Scientist* 1061, 1112.

92 Ibid, 1113.

93 A Ruddock, *Youth Media: Young People and Researching Media Influence* (2012, unpublished manuscript).

4.118 This would suggest that there are inherent difficulties in making recommendations about content classification policy and regulation based on claims of media effects on human behaviour. This conclusion is similar to that reached by the Australian Government Attorney-General's Department in its literature review on the impact of playing violent video games (VVGs) on aggression:

Significant harmful effects from VVGs have not been persuasively proven or disproven. There is some consensus that VVGs may be harmful to certain populations, such as people with aggressive and psychotic personality traits. Overall, most studies have consistently shown a small statistical effect of VVG exposure on aggressive behaviour, but there are problems with these findings that reduce their policy relevance. Overall ... research into the effects of VVGs on aggression is contested and inconclusive.<sup>94</sup>

4.119 The ALRC is of the view that the evidence on media effects on individual behaviour is sufficiently ambiguous that it would advise against applying different classification criteria or restrictions to different platforms on this basis. As a result, a content-based approach to classification is the approach adopted in this Report.

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94 Australian Attorney-General's Department, *Literature Review on the Impact of Playing Violent Video Games on Aggression* (2010), 42.

