

# NATIONAL CLASSIFICATION SCHEME REVIEW

12 July 2011  
Australian Law Reform Commission

## Approach to the Inquiry

1. In this Inquiry, should the ALRC focus on developing a new framework for classification, or improving key elements of the existing framework?

For most purposes, the framework as it stands is good. Perhaps its implementation is inconsistent sometimes, words like “moderate” are very subjective, but overall the ideas behind it, its general structure, is sound.

## Why classify and regulate content?

2. What should be the primary objectives of a national classification scheme?

It is in two parts. The primary objective should be to inform people, especially those with responsibility over minors, but also everyone else, about content they may find disturbing, or not wish to see, or have their children see. Secondly, it should serve to provide a framework for refusing importation of illegal works—child pornography being the obvious example. But also to inform people of things that may be culturally sensitive, such as the depiction of Aboriginal people who have passed away.

## What content should be classified and regulated?

3. Should the technology or platform used to access content affect whether content should be classified, and, if so, why?

Obviously it should. If the content is, for example, in a public place, stricter controls may be required because it is not possible to prepare or warn people. If it is on private property, in a restricted place, then different rules apply again. But then it is harder—is well-written prose just as able to be of concern as cinema?—obviously. If I watch a movie on the Internet, is that a film? If I hear a play on the radio, what is that? If I read a story is that the same as listening to a recording of someone reading the story? What if it is read out with sock puppets? I think it is no longer easy to package things into ‘Film’, ‘Literature’, ‘Audio’ and apply separate rules. The rules must be more general, but then contain specifics. For example an interactive TV show, with say a live twitter discussion, may be more interactive than a point-and-click adventure game, where you know all the outcomes are pre-set.

4. Should some content only be required to be classified if the content has been the subject of a complaint?

Yes. It is absolutely impossible to, for example, classify every video on Youtube. On the other hand, it makes sense to require all major film releases to have a classification. Where do you draw the line? I don’t know.

5. Should the potential impact of content affect whether it should be classified? Should content designed for children be classified across all media?

How can you judge the ‘potential’ impact of something? Before it has been classified? That’s just weird. As to the second question, that would depend on how you judge ‘designed for children’. Perhaps it should be required to obtain some kind of ‘seal of approval’, but do you require anything that *could* be for children to be classified? That’s crazy. What if it is marketed ‘in a child-like way’? No. Offer

classification as a seal of approval, so that non-classified things may be left up to parents to judge. The sheer volume of material to classify would make it unworkable.

6. Should the size or market position of particular content producers and distributors, or the potential mass market reach of the material, affect whether content should be classified?

Absolutely. If a large number of people are going to encounter something—in the shops, in the cinema, on the SMH website—then pre-classifying it makes sense. It's good use of resources. Classifying every blog on Wordpress does not make sense. That's a waste of resources.

7. Should some artworks be required to be classified before exhibition for the purpose of restricting access or providing consumer advice?

I think artworks in major public galleries, yes, but then these are generally already classified by the gallery. Do they also need to be classified in some more formal way? No, except in the case of formal complaint where there is reason to believe the artwork should have been Refused Classification, i.e. is illegal.

8. Should music and other sound recordings (such as audio books) be classified or regulated in the same way as other content?

This is tricky. Is music art? Do we differentiate between an artwork and a live performance? An art print and an album of music? A book, an audio book, and a radio play? I think for large commercial distributions, warn when something contains foul language, or graphic descriptions of sex or violence. But do not restrict. Encourage self-classification.

9. Should the potential size and composition of the audience affect whether content should be classified?

Size, yes. Composition, no.

10. Should the fact that content is accessed in public or at home affect whether it should be classified?

Yes.

11. In addition to the factors considered above, what other factors should influence whether content should be classified?

That's it!

#### **How should access to content be controlled?**

12. What are the most effective methods of controlling access to online content, access to which would be restricted under the National Classification Scheme?

Basically, there aren't any good methods to filter content. It's just not the way the Internet is designed. If you want to remove something from the Internet, the only efficient way is to stop it being broadcast; that is, take down the server. So, as with say, an issue of copyright infringement in America, issue a notice to the host that the content is illegal, and proceed that way. If you want to restrict access by age, you can't. You can't 'card' people online. You can warn them (if it's your content) or you can ask them for their age, but people lie. I lie about my age online all the time, it's part of protecting your identity.

13. How can children's access to potentially inappropriate content be better controlled online?

This has to be done by parents. You can educate the parents, you can educate the child, but you simply can't enforce anything. Like 'stranger danger' or cyclists on footpaths, this is something parents need to teach their child how to avoid. If the child is, say, under twelve, the parents may wish to use special software to 'whitelist' sites the child is allowed to access. Parents teach kids how to find age-appropriate material in the local video shop or library, they can do the same on the Internet.

14. How can access to restricted offline content, such as sexually explicit magazines, be better controlled?

The same way it is now: they're not on the shelves open. Unless you go into an age-restricted premises.

15. When should content be required to display classification markings, warnings or consumer advice?

If it is for sale in a shop, or being given away for commercial gain or advertising.

#### **Who should classify and regulate content?**

16. What should be the respective roles of government agencies, industry bodies and users in the regulation of content?

Government should set the rules for what is not legal, and what should be restricted by age. Cultural issues and so on should be primarily the responsibility of industry bodies, in collaboration with government.

17. Would co-regulatory models under which industry itself is responsible for classifying content, and government works with industry on a suitable code, be more effective and practical than current arrangements?

I think you still need some kind of place to refer complaints and so on, the same way it is done with advertising.

18. What content, if any, should industry classify because the likely classification is obvious and straightforward?

I think a lot of literature and audio (music and otherwise) can be done by industry, as well as a lot of games. Take for instance the Apple App Store, which does this already for games and applications for iPhone and iPad. All of these industry ratings should be able to be challenged at a higher level, but I see no reason that the original classification shouldn't be self-done.

#### **Classification fees**

19. In what circumstances should the Government subsidise the classification of content? For example, should the classification of small independent films be subsidised?

Perhaps the content could be self-classified, and if the material, upon review, is found to be of a different classification then the fee payable? And increased depending on market availability, impact etc.

#### **Classification categories and criteria**

20. Are the existing classification categories understood in the community? Which classification categories, if any, cause confusion?

I think it's more the way things have changed. There are films I saw as a child, that were classified G, that I think would now be more likely to get a PG or M rating. I think there's an uncertainty about the difference between a G and PG film, and then a view that there's a large gap between PG and M, but not a big gap between M and MA. Descriptions like 'moderate themes' or 'fantasy elements' are a joke. People understand that if a film is MA "violence", there's going to be a lot of violence, but what does PG "mild cartoon violence" mean? I also think the classification of nudity so highly is strange, especially if it's not at all sexual.

21. Is there a need for new classification categories and, if so, what are they? Should any existing classification categories be removed or merged?

I like the current ratings systems, but the standard descriptions don't seem to match. I think having both M and then MA (and 'enforced' M?) is strange. Maybe if M was M13+ rather than 15+? Also, the difference between PG and G is really not clear. Either merge them, or make a bigger distinction because a lot of 'children's' films are getting PG ratings, and that really doesn't make sense.

22. How can classification markings, criteria and guidelines be made more consistent across different types of content in order to recognise greater convergence between media formats?

Just state what the problem is, without fancy words. "This film contains graphic violence." "This audio recording has occasional language that may be offensive to some listeners." "This short story deals with issues of child abuse."

23. Should the classification criteria in the Classification (Publications, Films and Computer Games) Act 1995 (Cth), National Classification Code, Guidelines for the Classification of Publications and Guidelines for the Classification of Films and Computer Games be consolidated?

Yes.

#### **Refused Classification (RC) category**

24. Access to what content, if any, should be entirely prohibited online?

Things that are illegal! But then you have the problem of enforcing the ban, which is largely impossible, so stop damn trying. Find the people responsible for the content (ie, not the host, who may be unaware) and prosecute them. Get the content removed. You don't shut down a library because someone did a drug deal in the bathroom. And you *can't* shut down the internet. You can't block stuff, not really. The Internet is designed the way it is. Rebuild it differently if you like!

25. Does the current scope of the Refused Classification (RC) category reflect the content that should be prohibited online?

I think it's too broad. Be more specific.

#### **Reform of the cooperative scheme**

26. Is consistency of state and territory classification laws important, and, if so, how should it be promoted?

Absolutely. If you're seventeen and can drive over the border and buy something that you couldn't at home, that's just nuts. Classification is a national issue, and it needs to be done at a national level.

27. If the current Commonwealth, state and territory cooperative scheme for classification should be replaced, what legislative scheme should be introduced?

Just get the Commonwealth to run it. We've already seen how one (unelected!) state representative can block the process, don't make it more complicated than it needs to be.

28. Should the states refer powers to the Commonwealth to enable the introduction of legislation establishing a new framework for the classification of media content in Australia?

Yes.

#### **Other issues**

29. In what other ways might the framework for the classification of media content in Australia be improved?

It needs to be in line with other countries. Not only do we become "a laughing stock", but to pretend that people aren't going to get this content, if it's legal elsewhere (say, the EU) is ignorant. If we are going to make things RC that are legal in the EU, then we need to think really hard about whether that makes sense. We need to be pragmatic, we need to recognise that just because some people don't like something, just because they don't want anyone to see it, doesn't actually mean it should be banned.

Importantly, some of these decisions need to be based on actual science and psychology, especially judging things like the 'impact' of an element, rather than on a guess-and-feel system. People often harp on about a link between violent video games and violent behaviour, and it sounds 'reasonable' that there's a link, but the science just isn't there to justify that. Perhaps the government should fund some research to find these things out!