



Submission to

**Australian Law Reform Commission:
National Classification Scheme Review**

Subject

Response to Issues Paper 40

Date

July 14, 2011

INTRODUCTION

This paper has been prepared to assist the Australian Law Reform Commission (**ALRC**) with its inquiry into Australia's National Classification Scheme (**NCS**). This paper has been prepared in response to Issues Paper 40 (IP 40) released 20 May 2011 (**Issues Paper**).

The Internet has provided the entertainment industry with an opportunity to develop innovative ways to distribute content to consumers. In addition it has facilitated independent development and distribution of digital content that includes whole computer games, components for games, add-ons and digital entertainment experiences that were not generally available to consumers a decade ago.

The increased consumer use of broadband Internet and, more recently, the prospect of the National Broadband Network have prompted the entertainment industry to develop innovative models for digital content distribution. The application of the NCS to content in traditionally distributed computer games is generally well understood across industry as is the process for classification. There is less certainty and clarity in respect of the application of the NCS to content that is digitally distributed. This is particularly the case for content that is less than a full 'game' or content that is produced and distributed by micro-development entities.

Significantly, the extent and variety of digitally distributed content challenges the potential effectiveness and efficiency of the present NCS arrangements.

The purpose of this paper is to provide the ALRC with iGEA's formal response to the questions raised in the Issues Paper. iGEA understands that the ALRC has read and referred to iGEA's Submission to the Senate and Legal Constitutional Affairs Committee's Inquiry into the Australian Film and Literature Classification Scheme dated 4 March 2011 (**iGEA's Senate Submission**). Accordingly, iGEA will, where possible, avoid repeating those issues that were raised in iGEA's Senate Submission.

This paper will make reference to computer games and content that are sold and distributed exclusively over the Internet (**Digitally Distributed Games**) and to server-based computer games that are played entirely over the Internet (**Online Games**). These formats are emerging as key products within the interactive games industry. This paper will also refer to computer games that are sold and distributed as packaged products whether through retail 'over the counter' channels or through online sales (**Boxed Games**), which may also involve online functionality and play.

Boxed Games have been the traditional method for distribution of computer games.

ABOUT US

The Interactive Games and Entertainment Association (**iGEA**) is an industry association representing Australian and New Zealand companies in the computer and video game industry. iGEA's members publish, market and/or distribute interactive games and entertainment content and related hardware. The following list represents iGEA's current members:

- Activision Blizzard
- All Interactive Distribution
- All Interactive Entertainment
- Disney Interactive Studios
- Electronic Arts
- Findlay Marketing
- Fiveight
- Gamewizz Digital Entertainment
- Microsoft
- Mindscape
- Namco-Bandai Partners
- Nintendo
- QVS International
- SEGA
- Sony Computer Entertainment
- Take 2 Interactive
- THQ Asia Pacific
- Total Interactive
- Ubisoft
- Warner Bros. Interactive Entertainment

BACKGROUND

Classification requirements for computer games are set out in the NCS. The NCS was established to enable the Commonwealth, States and Territories to take a uniform approach to classification. In 1995, the Commonwealth passed the *Classification (Publications, Films and Computer Genres) Act 1995 (Cth)* (the **Classifications Act**) which set out the procedures that must be followed when making classification decisions for publications, films and computer games in Australia. The Classification Act is complimented by various legislative instruments, including the *National Classification Code 2005*, the *Guidelines for the Classification of Films and Computer Games 2005* and the *Classification (Markings for Films and Computer Games) Determination 2007*. The Classification Act and the various legislative instruments are enforced in each State and Territory through various State and Territory enforcement laws (the **Enforcement Laws**).

To date, the NCS procedures have been applied to computer games published and/or distributed in Australia and sold in retail outlets in formats such as game cartridges, CDs, DVDs, UMDs and Blu-ray. Such computer games are generally played on computers, hand held devices (including Nintendo DS, PlayStation Portable) and game consoles (including Nintendo Wii, PlayStation 3 and the Xbox 360). The NCS sets out the responsibilities of the publishers when distributing computer games in this manner.

Several years ago, game publishers began experimenting with distributing computer games over the Internet. Initially, the types of games that were distributed online were already released as physical products (CDs etc) within Australia. Accordingly, these products were already classified under the NCS and publishers applied the same classification to the digitally distributed games

when making the game available for sale online. As technology and the variety of platforms that consumers used to access games evolved, consumer practices and expectations changed. Game publishers now distribute a variety of games exclusively through Internet distribution with no physical version that is classified under the NCS. Similarly, while many Boxed Games, which are subject to classification, include online play and functionality, publishers are also making available many more fully server-based online games that involve no physical component that can be classified under the current system. Consumers are now more familiar with Digitally Distributed Games and Online Games and the range of such games has increased.

The following are examples of content types that have developed in response to the greater availability and reliability of the Internet across the globe and the introduction of new technologies and innovation. Examples of each content types are also provided:

Content Type	Examples
<p>Add On Content: Any content that is additional to the core game such as expansion packs and in-game micro-transactions.</p>	<p>Medal of Honour / Halo map packs</p> <p>LittleBigPlanet costume packs</p>
<p>Mobile Games: Games able to be played on a mobile device or tablet device. This includes downloadable games and in-game content offered through microtransactions.</p>	<p>Angry Birds, Fruit Ninja, Need for Speed, Rockband. Microtransaction examples include: Need for Speed - where players can purchase bounties and Rockband - where players can purchase songs.</p>
<p>Small downloadable casual games</p>	<p>Bejeweled.</p>
<p>Small casual server based online games such as games available on POGO, NineMSN, Yahoo7, Facebook etc.</p>	<p>MafiaWars, Farmville, Words With Friends, Bejeweled Blitz.</p>
<p>Server-based online games such as mid-session gaming (MSGs):</p>	<p>FIFA Online and Need For Speed World.</p>
<p>‘Client based’ games and ‘Peer to Peer’ games that are playable online</p>	<p>Most traditional PC and console games now have offline and online play using client-server architecture (Medal of Honor, FIFA 11) or peer to peer architecture (Gran Turismo 5 and Call of Duty Black Ops (console version)); some are client-server games that can be played only online (MMOGs such as Warhammer, World of Warcraft).</p>

<p>User Generated Content</p>	<p>User Generated Content includes any content that is created and shared by a user with other users of a particular computer game. This may include customised characters and environments (for example, the content creation features of the Sims 3 and Spore) and even includes any text written users such as contributions within any 'chat' feature of Online Games.</p>
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The following are some examples of digital business distribution models that have developed in recent years and how publishers are using the Internet to deliver computer games to their customers:

- (a) **Standard Digital Purchase** - Customers are able to purchase and download entire computer games and Add On Content (as explained below) through a web site (e.g., EA Store, AppStore for Mac) or an online user interface (PlayStation Network, Xbox Live, AppStore for iPhone/iPad, Steam client). For example, a customer is able to purchase and download the PlayStation game titled '*Flower*' through the PlayStation Store (an online shop accessible through the PlayStation 3 console via the PlayStation Network. The PlayStation Network is an online game and digital media delivery service operated by Sony Computer Entertainment Europe). For example, the game titled Flower is only available through the PlayStation Store. Similarly computer games are distributed to customers via Apple's App Store for use on Apple's iPhone, iPod Touch and iPad devices. .

- (b) **Code Purchases** – Customers purchase access codes at retail stores that enable the customer to download games or Add On Content. Such codes can also be used to provide the user with access to Online Games and in-game currency. For example, Zynga Game Cards can be purchased in certain retail outlets throughout Australia. These cards provide the customer with a code which can be used to redeem in-game currency for Zynga's computer games. Such in-game currency is then used by the customer to purchase and unlock certain content within Zynga's computer game.

- (c) **Subscription Services** – Online Games are often made available to customers via a subscription fee. Customers are also able to subscribe to services which allow the customer to download, at no additional cost, certain computer games. For example, PlayStation's '*Plus*' service allows customers to pay \$20.95 for a 90 day subscription, or \$69.95 for a 12 month subscription (as of the date of this submission, current pricing subject to change). In exchange for the subscription fee, the customer is able to download a full game trial from a range of PlayStation titles from the PlayStation Store for a period of time at no additional cost (trial games may also be purchased). Subscribers are also offered discounts and free content. Other examples include computer games

that are made available through IPTV services such as FetchTV, Foxtel and TiVo. Such computer games are offered over the Internet as part of a wider subscription service which bundles movies, television shows and music and services.

- (d) **Advertisement Supported or Free Games** – Customers are able to download entire computer games or play Online Games without exchanging any money. These computer games may be funded by advertisements placed in or around the computer game. For example, the computer game ‘Scrabble’ is made available to iPhone and iPod Touch users for free through the iTunes App Store. While the computer game is free, the publisher of the computer game earns revenue from the placement of advertisements throughout the computer game .
- (e) **Micro Transaction Funded Games (‘Freemium Games’)** – More recently, publishers are providing games to users for free, and relying on subsequent Add On Content download purchases to receive revenue. For example, Electronic Arts has released a soccer game to users for free in Asia. Users subsequently have to pay \$1 to download each new team or stadium for use within the game.
- (f) **Independent Games Distribution** - Publishers are beginning to promote user innovation by providing accessible and cheap online distribution channels for programmers to use to sell their computer games. In markets outside of Australia, Microsoft has made available an ‘Independent Games Channel’ where student game programmers can create their own games. These developers undertake a peer review for the consideration and disclosure of classification elements. The programmers then release their games for a price directly through the Xbox Live service. There were over 1500 titles made available through this channel within the first 12 months of the channel’s operation.

These online distribution channels and new business models have offered consumers amazing choice on when, where and how to access games and how to pay for those games. They have also resulted in the volume of games and game content in the market to grow exponentially. Low barriers to entry have made it possible for even 1-man developers to enter the market, including through the AppStore and Xbox Live’s Independent Games Channel. As a result, there is more game content than ever available to online consumers, including those located in Australia.

ISSUES PAPER QUESTIONS

iGEA's Preferred Framework

In order to properly address the questions raised in the Issues Paper, iGEA has considered the many variables of a new framework for content classification in Australia, including the preferred regulatory model, the ideal classification process and the type of content that should be classified. As acknowledged in the Issues Paper, iGEA recognises that the effectiveness of any new framework for classification will rely on a number of factors.

Importantly, iGEA considers the classification scheme should provide certainty for consumers. That is, consumers should be provided with content ratings that are meaningful and assist their decisions as to what they, or those in their care, want to see.

In iGEA's view, this means that classification decisions and representations in relation to products should be consistent and accurate across all forms of content. While classification decisions will always be open to challenge, consumers should be entitled to feel confident that where a classification is attached to content, that someone has made a reasonable judgment about the content with reference to a set of publicly available criteria.

Importantly, iGEA notes that Digitally Distributed Games and Online Games are not released universally through organisations having a level of resources to undertake a comprehensive classification compliance program. Moreover, trends in the industry toward small, digitally distributed games produced for multiple device formats across global markets are evidence of business models that rely on low development cost and high transaction turnover.

In such circumstances, regulatory costs associated with ratings systems for specific jurisdictions can lead to markets being excluded from distribution or developers and distributors releasing content without reference to those classification systems at all.

Consequently to achieve a comprehensive and consistent classification system for computer games, and recognising the increasing volume of games and content distributed digitally, iGEA would argue that administrative arrangements need to be low cost, easy to interpret and apply and readily applicable across all forms and size of games and content.

A comprehensive one-size fits all classification system that seeks to apply a high cost, formal application and review process across all forms of digital games and content will likely lead to market fragmentation, product exclusion and/or producer and consumer disregard for the classification system.

iGEA proposes the following characteristics for Australia's new classification framework as it would pertain to computer games:

- (a) The computer game classification framework should adopt a co-regulatory approach whereby the industry develops and administers the classification process, with the government providing legislative backing to enable proper enforcement of the classification system including a complaints and review process;
- (b) Subject to an exception for Small Online Content Product (as outlined below in sub-clause (c)) all computer games should be classified through a process recognised by the Australian computer game industry and the Government. This process may involve content owners/distributors selecting between two methods of classification, being:
 - (i) the use of a self assessment process recognised by the Australian computer game industry and the Government, such as a sophisticated questionnaire specifically designed to generate and assign a classification for computer games in the Australian market (**'Self Assessment'**); or
 - (ii) the use of an authorised assessor being a person who has been trained and certified by a relevant Government authority (**'Authorised Assessment'**).
- (c) **'Small Online Content Products'**, being products which are only available online or through digital distribution and which have a size of less than 2 Gigabytes, should only require classification if the product has the potential to be classified within a restricted classification category.
- (d) Digitally Distributed Games and Online Games should, where possible, display the Australian determined ratings in a manner that alerts consumers to the assessed ratings prior to the purchase or download of the Games or content; and
- (e) Boxed Games must display determined markings.

Importantly iGEA's support for a comprehensive classification system is predicated and conditional upon the operation of a low cost, self-assessment system that enables games developers and distributors to make and be responsible for classification decisions.

iGEA does not support the application of the present NCS system formalities to all forms of games and content on the basis that the cost of applying those formalities to many content forms is unrealistic and will discourage adherence and lead to products not being released in Australia or released without classification – thereby undermining the goal of informed consumers.

iGEA also draws to the attention of the ALRC global industry moves toward a global system of classification. While such moves are still in an early stage they envisage an international system of readily understood standards that the NCS may want, in the future, to adopt in Australia.

The above characteristics outline iGEA's preferred framework for Australia (**'Preferred Framework'**). The Preferred Framework will be referred to throughout iGEA's response to the questions raised in the Issues Paper.

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

iGEA suggests that the ALRC should focus on developing a new framework for classification rather than improving key elements of the existing framework. Since the existing framework was originally designed, the computer game industry has undergone significant change affecting the way that computer games are developed, distributed and enjoyed by users. This is also true for many other forms of digital work. While a new framework for classification may include elements of the existing framework, such as the current determined markings, the dramatic changes in digital content creation and delivery warrants the development of a new framework for classification.

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

iGEA considers the following to be primary objectives of a national classification system:

- (a) The classification framework should aim to inform and guide the community regarding the suitability of entertainment content for themselves and those in their care;
- (b) The classification framework should be designed to ensure that it is easy for the local and global industry to comply with; that it operates in a certain and low friction manner and that the cost of compliance is low;
- (c) 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; and
- (d) The classification framework should not impede innovation nor the exploration of the provision of entertainment and other services over new technologies.

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

iGEA believes that the classification framework should aim to ensure that the community is well informed regarding the suitability of entertainment content for themselves and those in their care. As indicated in the Issues Paper, this would suggest that content should be classified, regardless of the technology or platform used to access the content. While ideally the technology or platform used to access content should not affect whether content should be classified, there are certain factors which might dictate a change in the approach to the classification process dependant on the technology or platform used to access such content.

The following comparisons demonstrate the reasons why the classification process may change depending on the technology or platform used to access content:

- (a) The cost of developing and distributing Digitally Distributed Games is substantially less than the cost of developing and distributing Boxed Games; and
- (b) The process for recalling and reclassifying Digitally Distributed Games may be faster and may not be as damaging as the recall process for Boxed Games.

The above reasons enforce iGEA's view that the classification procedure adopted for Digitally Distributed Games is capable of being be far less burdensome than the procedure currently adopted for Boxed Games under the NCS. Accordingly, as set out in the Preferred Framework, we suggest that content owners/distributors should have the choice between using Self Assessment or Authorised Assessment for the classification of all computer games including Digitally Distributed Games, Online Games and Boxed Games. In addition, as further discussed in our response to question 11, Small Online Content Products should only require classification if such products have the potential to be classified within a restricted category.

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

It is iGEA's view that the community should be well informed regarding the suitability of entertainment content for themselves and those in their care. Classification of content should be a positive and important factor considered by consumers. A classification system that is structured to be easy to use (by those classifying games) and imposes a low total cost (as part of the process of content development) will, in iGEA's view, encourage universal compliance by those developing and distributing content.

While a complaint should not be the trigger for the classification of content, the existence of a complaint should trigger a review of a classification decision as part of a co-regulatory system.

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

As outlined in the Preferred Framework (and further discussed in our response to question 11), the potential impact of Small Online Content Products would affect whether such products should be classified. In regard to all other content, iGEA's Preferred Framework would allow such content to be classified, regardless of the potential impact of the content. Again, iGEA stresses that this Preferred Framework assumes the availability of a low cost, easy to use method of classification. This would ensure that the community is well informed of the suitability of content across the full range of impact levels.

In regard to Add-On Content, iGEA recommends that classification only be required for Add-On Content if the potential impact of the Add-On Content is higher than the impact of the computer game to which the Add-On Content will be applied. In circumstances where the Add-On Content has the same or lower level of impact, such Add-On Content would inherit the classification of the computer game to which the Add-On Content will be applied.

Question 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?

Australia's classification framework should be designed to ensure that it is capable of being applied to all content producers, regardless of their size or market position and regardless of the size and composition of the audience for the content. The flexibility and low cost approach of the Preferred Framework would ensure that all content producers are able to comply with Australia's classification framework regardless of their size or market position. This approach will ensure that Australia's classification framework does not impede innovation or prohibit the exploration of the provision of entertainment and other services over new technologies.

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

iGEA does not hold a view on this matter.

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

iGEA does not hold a view on this matter.

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

Please see our response to question 6 above.

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

Since Australia's classification framework should aim to ensure that the community is well informed regarding the suitability of entertainment content for themselves and those in their care, we do not suggest that content accessed at home should be treated differently to content accessed in public.

As indicated in our response to question 6 above, the flexibility and low cost approach of the Preferred Framework would allow all games to be classified, regardless of whether they are accessed in public or at home.

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

Coverage of the Australian classification framework

The ALRC must consider the new framework's application to Boxed Games, Digitally Distributed Games and Online Games that are made available over the Internet from an overseas source. The new framework should clearly specify the test that should be used to determine when such Boxed Games and Digitally Distributed Games should be classified. The following factors are relevant to the test:

- (a) distributors may or may not have control over the computer games being made available in Australia or the way in which such computer games are displayed (including any determined markings) in the Australian market;
- (b) there would be difficulties in properly enforcing the classification framework in external territories;
- (c) there must be a balance between the cost of compliance when distributing computer games from within Australia, compared to the risk of non-compliance when distributing computer games from outside of Australia; and
- (d) the classification framework should aim to ensure that the community is well informed regarding the suitability of entertainment content for themselves and those in their care regardless of where the content is hosted from.

As noted above, there are a number of conflicting factors which should be considered when forming an effective test to deal with computer games that are made available from an overseas source. This issue will require further discussion and iGEA is willing to assist the ALRC in this aspect of the inquiry.

Small Online Content Products

The Preferred Framework makes reference to Small Online Content Products and states that such products will only require classification if they have the potential to be classified within a restricted category of classification. There is a massive number of these Small Online Content Products now available through a number of devices including mobile devices and tablets. The development costs of these Small Online Content Products are substantially lower than traditional computer games allowing small development studios to develop innovative small games while benefiting from access to the global market over the Internet. From a classification perspective, the majority of these Small Online Content Products have a low impact with a majority of these games being outside the restricted category. In iGEA's view, the application of a classification framework on all Small Online Content Products would be relatively costly,

unworkable and would potentially lead to large scale non-compliance. Accordingly, iGEA recommends an alternative approach for the classification of such Small Online Content Products.

Small Online Content Products are relatively easy to define since these titles usually use less memory than traditional games and are distributed exclusively over the Internet. Traditional computer games usually use more than 2 Gigabytes of data, while Small Online Content Products use up to 2 Gigabytes of data. iGEA therefore suggests that the alternative approach to classification be applicable to computer games that have a size less than 2 Gigabytes and are distributed exclusively over the Internet. iGEA suggests that such Small Online Content Products should only require classification if the product has the potential of being classified within a restricted category.

Add-On Content

As indicated in our response to question 5, the current approach to Add-On Content needs to be addressed. iGEA suggests that classification for Add-On Content should only be required if the potential impact of such content is higher than the impact of the computer game to which the Add-On Content will be applied. In circumstances where the Add-On Content has the same or lower level of impact, such Add-On Content should inherit the classification of the computer game to which the Add-On Content will be applied.

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

Currently, the primary method of controlling access to restricted content over the Internet is through the use of a restricted access system as set out in Schedule 7 of the *Broadcasting Services Act*. There are a number of limitations to the effectiveness of this approach, including that:

- (a) it is often difficult to receive comprehensive proof of a user's age without severely limiting the accessibility of the content platform; and
- (b) there is uneven enforceability between services with and without an 'Australian connection';

After considering the limitations of the restricted access systems under Schedule 7 of the *Broadcasting Services Act*, we would suggest that the most effective method of controlling access to online content would be a combination of:

- (a) encouraging, rather than requiring, the use of a restricted access system using a trust model to determine a user's age; and

- (b) educating parents and guardians about how to use parental locks and restricted access systems.

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

Please see our response to question 12 above.

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

iGEA does not hold a view on this matter.

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

Since Australia's classification framework should aim to ensure that the community is well informed regarding the suitability of entertainment content for themselves and those in their care, iGEA suggests that classification markings, warnings and consumer advice should, to the extent that it is practicable, be displayed for Boxed Games Digitally Distributed Games and Online Games. However, in this time of rapid technological change we recommend a flexible approach to the display of such classification markings, warnings and consumer advice.

While the current requirements for Boxed Games are acceptable, as the form, medium, size and delivery method for Boxed Games begins to change there is a requirement for flexibility in marking requirements. For Digitally Distributed Games and Online Games, marking requirements should be flexible enough to adapt to the changing user interfaces for such games, websites and online stores for such games. Since Boxed Games, Digitally Distributed Games and Online Games require a flexible approach to marking requirements, iGEA suggests that a common-sense approach is used incorporating a general obligation to display markings without specifying the format, location and size of such markings. Industry should be empowered to develop standards which will be used to guide the industry on how to display markings, warnings and consumer advice.

iGEA acknowledges the equity that has been generated in the current determined markings and, in particular, the use of colour to enable immediate consumer recognition. It is understood and accepted in the computer game industry that the use of determined markings adds value to the product being sold. There is therefore willingness in the computer game industry to ensure that such determined markings are properly displayed.

We also note, as explored in our response to question 11, that the requirement to display classification markings, warnings or consumer advice will also be subject to whether the particular computer game comes within the scope of Australia's classification framework.

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

iGEA suggests a co-regulatory approach to Australia's classification framework which will involve industry working with Government throughout the framework's creation, management and enforcement. iGEA would expect the key roles to be as follows:

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|---------------------|--|
| Government Agencies | <ul style="list-style-type: none">- train and certify authorised content assessors- collect and aggregate computer game classifications for public access- handle user complaints if such complaints are unable to be resolved by content originators- review classification decisions- enforce the requirements of the new framework- Take a lead and work with industry to assist with educating industry and users about the new framework |
| Industry bodies | <ul style="list-style-type: none">- work with government to develop standards and codes for the new framework and assist with educating industry and users about the new framework |
| Users | <ul style="list-style-type: none">- provide feedback on the new framework and ensure that the decisions of authorised content assessors are consistent with community expectations |

Question 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?

iGEA supports a co-regulatory model as indicated in the Preferred Framework.

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

Australia's classification framework should be designed to ensure that it is capable of being applied to all types of content. As indicated in the Preferred Framework, iGEA suggests that all content types should be classified through Self Assessment or Authorised Assessment. While the content originator may select between Self Assessment or Authorised Assessment, the use of Self Assessment may be more prevalent in computer games where the classification is obvious and straightforward.

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

The low cost approach outlined in the Preferred Framework would alleviate the need for such subsidies. However, if any subsidies are provided by Government, iGEA recommends that they be available equally to all content industries, including the computer game industry.

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

iGEA understands that the existing classification categories are largely understood in the community however iGEA is aware of there being some confusion between the M and MA15+ classification categories. While this may be largely due to the current absence of an R18+ classification category for computer games, further education may be necessary in this area.

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

Subject to iGEA's view regarding the need for an R18+ classification category for computer games (an issue which is currently being considered), the current classification categories are sufficient. However, iGEA suggests that 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.

Question 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?

The development of computer games is becoming more sophisticated, with many titles now incorporating feature film-like narrative structures for users to enjoy. The size of the storage medium used for computer games also allows actual filmed footage to be incorporated into computer games (for example, a 'making of' documentary for a computer game being included within the computer game). The converging nature of how computer games are distributed and enjoyed creates a need for classification markings, criteria and guidelines to be consistent across different types of content.

In order to ensure greater consistency across different types of content, iGEA suggests that the classification markings should, to the extent that they share the same classification categories, be the same for both films and computer games and that both films and computer games should also share the same criteria and guidelines.

Question 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?

Australia's classification framework must be flexible enough to effectively address both technological developments and emerging community concerns. In order to ensure flexibility in Australia's classification framework the codes, standards, or guidelines used by industry to classify content should operate separately, and be capable of being amended separately, from the legislation underpinning the framework.

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

The decision to entirely prohibit online content warrants serious consideration and discussion and any decision to entirely prohibit online content should only be reserved for the most serious of circumstances.

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

The current scope of the RC category is broader than what should be entirely prohibited online. As outlined in our response to question 24, any decision to entirely prohibit online content should only be reserved for the most serious of circumstances.

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

There must be a consistent approach to classification throughout Australia and therefore within each Australian state and territory. The current NCS provides a certain level of consistency however, as outlined in the Issues Paper, there are also a number of variations between the state and territory enforcement laws leading to inconsistent application of the NCS across Australia. In addition to these variations, the current structure of the NCS has repeatedly demonstrated its inability to adapt to technological change and emerging consumer concerns, with any change requiring the consideration and consent from Commonwealth, state and territory ministers.

iGEA suggests that the most effective way to promote a consistent state and territory approach to classification would be to have each state and territory refer its power to the Commonwealth under section 51(xxxvii) of the *Australian Constitution*. While the referral of state and territory power would ensure that Australia's classification framework is applied consistently across Australia, it would also ensure that the framework aligns with the Commonwealth's approach to regulating Internet content (i.e. the *Broadcasting Services Act*).

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

Please see our response to question 26.

Question 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?

Please see our response to question 26.

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

As indicated throughout this submission, the computer game industry has witnessed, and will continue to witness rapid change in the way that consumers access and enjoy computer games in Australia. Any new framework should be subject to frequent review and be capable of adapting to such changes. Accordingly, iGEA suggests that any new framework should be subject to an annual or biennial review.

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