



Submission

on the

Australian Film and Literature Classification Scheme

to the

Australian Law Reform Commission

GPO Box 3708, SYDNEY NSW 2001

classification@alrc.gov.au

15th July, 2011

Media Standards Australia is an advocacy group on behalf of children and families in matters of the media. Our membership is made up of individuals, families and family groups, Australia-wide.

While the Australian Law Commission originally introduced the Classification Scheme to Australia, it is important to note that our group was also in existence at that time, with the name "The National Viewers and Listeners Association of Australia". This means, in fact, that since its inception until today, MSA (previously NVLAA) members have been able to observe the strengths and weaknesses of the Classification Scheme. Over-all we would like to congratulate the ALRC for the significant initiative the Classification Scheme is for Australian families, and one which works fairly well within the Australian context.

MSA believes that a Classification Scheme is essential for Australia, but it must be effective, and it must protect those whom it is designed most to protect. It is imperative that the ALRC address the problems with the system as it currently exists.

Some Important Observations:

We have seen a very obvious decline in community standards and media content, over the years, and we are concerned about community desensitisation, which has led to apathy, and worse. While it is hard to tell where community standards have had an effect on media content, and *vice versa*, vested interests appear to favour the '*vice versa*' scenario. Those who seek to entertain for profit can have little interest in the decency of the entertainment provided. Those who dislike the standard of entertainment sufficiently have been forced to "turn it off" in the face of worsening standards and the refusal of the classification bodies to take heed of complaints. This essentially means that their choices, in this 'society of choice', are severely curtailed.

While community standards may have dropped in our society, it needn't follow that the media reflect this. Yet, those in control of the media seem to believe that it is their responsibility to mould and display society's ills, rather than simply reporting on them and presenting a better way. The paradigm of *Leave it to Beaver* or *My Three Sons* may seem quaint and out-dated, but by presenting an ideal picture of family life the media of the time contributed to higher standards of goodness, respect and loyalty in family life. For instance, respect for authority (policemen, parents, teachers, the Law, etc.) is dangerously undermined today, and the media has been an important contributing factor.

We have also noticed that what would have received an R rating, when the Classification Scheme was first introduced, would probably receive an M rating or at the most an MA15+ rating today. This demonstrates, not that the current content is more acceptable, but that those who classify it are desensitised to offensive content.

We have seen countless instances of boundaries being pushed and even where there is self-regulation, the industries' own code of practice has been ignored. This begs the question - Does self-regulation actually work? Or, should there be strong monetary penalties where commercial vested interests are involved, in order to make them more accountable?

We have, further, seen many instances where bodies such as Free TV have ignored submissions from family groups and have not even acknowledged receipt of them. This all comes back to accountability, but it has clearly turned out that bodies such as Free TV are **only accountable to the TV stations they represent**.

Commercial vested interests are unlikely to act counter to their own financial interests, and a system involving penalties is the only motivation they would understand. The only just measure would be to replace self-regulation with measures in the interest of the protection of minors, and give a voice to parents and citizens.

We also note that mental illness in Australia currently affects one in five people, including the very common illness of depression. It is hard to see how a continual diet of death and depravity, being provided by the media, can be at all helpful.

MSA has made repeated submissions to various bodies regarding the Classification System and its problems. We include, with our submission, two of these previous, recent submissions.

Reference Questions

Question1. In this Inquiry, should the ALRC focus on developing a new framework for classification, or improving key elements of the existing framework?

While MSA believes that a massive overhaul of the Classification System is necessary, we recognise that, for practical purposes, 're-inventing the wheel' may not be the best approach. For this reason, we believe that the ALRC should address the improvement of key elements of the existing framework. This must be done thoroughly, however, and actually produce a genuine improvement on the current system, to actually protect those it is intended to protect. **There needs to be a radical change away from self-regulation.**

Question2. What should be the primary objectives of a national classification scheme?

The first objective, the protection of children, should be the paramount objective of all. If children are not being protected, then the Classification Scheme is not doing its job. Further, there need to be accountability sanctions introduced.

No. 1 Protect children from material that is unsuitable.

No. 2 All material should have a classification code with comprehensive information.

No. 3 Everyone should be protected from material that is offensive and contravenes basic standards of decency and family values.

No. 4 The preferences of adults for adult content should be respected, but only within the framework of licit, non-criminal material. This would automatically exclude paedophilia, violent rape and torture, and other gross obscenities.

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

No. Technology is changing all the time. The particular technology being utilised should have no bearing on the classification of the content. Classification should apply to all technological media and platforms.

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

No. All material must be subject to classification, with an effective complaints system as a back-up.

The complaints system, as it stands, does not work. It is grossly ineffective.

1. MSA has noted that most complaints, based on being offended by the material, have failed. This shows a refusal of the board to respect and support the sensibilities of members of the public. There is also a distinct insistence that all complaints fall within the very specific parameters of the guidelines, adding yet more difficulty for those who seek to make a complaint.

2. It generally comes down to the opinion of the board members *versus* the opinion of the complainant, as to whether the issue is offensive or not. If feed-back has shown that several members of the public 'like' the offensive material (i.e. finding it humorous, etc.), it is usually perceived (by the board) to be, therefore, non-offensive. This is nonsense.

3. Many, or all, of those who may potentially complain will not have access to the material before it is classified. Having no say before classification, and having to wait until the material is released before complaining, makes the chances of having the complaint upheld highly unlikely. One of our members complained about the classification of two videos, only to find that the time to complain had expired several years prior to the complaints. If complaints can only be made within a small time-frame, the complaints system becomes worse than useless. Classification, at the very least, should take into account the sensibilities of those who cannot complain within the time-frame.

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

All material should be checked by the classification board, and some should be refused classification. Content designed for children should definitely and automatically be classified across all media, as well as content which will be available to children within their viewing or listening hours.

Boundaries for children's material are being crossed all the time, partially through of the influence of pop culture through music videos. **Guidelines must always be available.** The fact that people break rules is not an argument in favour of removing the rules.

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?

No. The size or market position should have no bearing. Rules that apply to large groups must also apply to small groups. Moreover, any loop-hole will be exploited by producers of illicit/criminal/offensive material.

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

Yes. There is an important difference between *freedom of speech*, and *freedom of expression/art*. It is a basic human right to express an opinion, controversial or otherwise. The role of true art is to present a work of excellence, as is the case for authentic literature and music. It can, of course, be used as a vehicle for an artist to express an opinion, but obscenity and/or grossly offensive insult is totally unacceptable. In some cases, obscenity is used as a weapon against values which are at the heart of our Australian civilization, and degrading to the dignity which is the right of every human person.

As we have seen over the years, artworks can not only be grossly offensive, but can also have a refused classification if so rated. We are happy to agree that there should be **some** freedom in art and expression, but there must also be **responsibility**. Some artists will try to be controversial in an obscene, or otherwise offensive, way just to earn publicity and profit.

Trying to pass a so-called piece of art that should clearly be “refused classification”, while saying that it has “artistic merit”, is deceitful. It also discredits the art-world. As recently as 2010, a computer game company decided that the depraved and obnoxious content in their games was, in fact “art”, and other “artists” have also described their ‘refused classification’ material as “art”. Attempts should be made to severely curtail this stratagem, by always requiring the works to be classified. Giving pornography the title of “art” is simply another way of refusing to be accountable.

In addition, the exhibition houses have a responsibility to ensure that all art-works adhere to the classification guidelines, meaning that this aspect of classification also needs attention.

It must further be noted that the nature of art has changed in many respects, and now covers photography and images on our lounge-room plasma screens, as well as on i-pads, mobile phones and computers. Nevertheless, classification should still be required.

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

Yes, most definitely. MSA has many serious concerns about the music industry.

In the 1960’s, probably the most controversial song was *Puff the Magic Dragon*, by Peter, Paul and Mary, because of speculation (despite denials) that it was about smoking marijuana. Since then, as music has evolved from the Blues into Rock, Heavy Rock, Metal and Death Metal, and also Gangsta Rap, it is concerning that the music is not so much about smoking marijuana but about having sex with dead children

(Cannibal Corpse) and blatant S&M (sado-masochism) - (Rihanna). Both types of music are readily available in Australia, and, appallingly, these musicians have also recently played in concerts in Australia.

Even if the lyrics are unintelligible in the music, as with Cannibal Corpse, it is still quite easy to locate them from the Internet. Furthermore, as with Rihanna, the music is played on mainstream radio and then, eventually, at live concerts.

In addition, and importantly, because the music is played on mainstream radio, **parents are led to believe that 'all is well'**. This is only until they take their children to a concert and then realise just exactly what their children are listening to. A recent example was in the case of the KE\$HA concert, where there was an inflatable penis on stage. Further, the music videos also don't leave anything to the imagination and what is obvious is a culture profiting from the **sexualisation of children**.

Further, mainstream musicians such as Snoop Dogg have also produced X18+ rated pornographic music videos. This is of great concern because of the age of his fan-base.

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

Not at all. Content should be classified no matter what size the audience.

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

No, it should not affect whether it should be classified. The idea of the Classification Scheme is to set boundaries as to **what the acceptable standards are**. Protection of children is far more important than the private indulgences in depravity of some adults.

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

Content should always be classified. While the ever-changing technology has made this more difficult, it has also become **much more important than ever**.

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?

MSA supports Mandatory Internet Filtering, notwithstanding the arguments of its dangers and problems.

The major arguments against mandatory internet filtering are that it is largely ineffective, and that producers of the most offensive material will always find ways to circumvent the system. While MSA recognises the veracity of these concerns, we still believe that more must be done to filter out the worst material. Other countries have been able to make the system succeed. However, the filtering system must be coordinated with the Classification Scheme, and no Government should have any direct involvement unless the nation's security is being compromised.

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

It must be the legal responsibility of any web-owner to have a secure online age-verification process with content that is classified higher than an M-rating. Internet servers must likewise be legally obliged to provide age-verification security. **This will require legislation and effective monetary sanctions.**

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

All material with an R18+ classification should be in an isolated, restricted area, and removed from all other material. This includes magazines and videos. There should, moreover, be no R18+ for computer games and no 18+ material should be sold in any Australian store. Fines should be imposed for non-compliance. Children should not be confronted by adult-content images as they browse shelves in a store, whether it be for computer games, DVDs, books or magazines.

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

At all times. Television programmes, and movies shown on television, for example, should regularly display the relevant classification of its content, including its reasons for the classification. Not all programmes are watched from the very beginning.

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

1. Government agencies should be responsible for ensuring that the classification system is run efficiently, effectively, and in line with the four principles listed in our answer to Question 2.
2. Industry bodies should be responsible for adhering closely to the standards set by the Classification Boards.
3. Media users should have the responsibility of making complaints when classification guidelines have been breached, and when offensive content is encountered.

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?

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

This system, while appearing to be able to reduce the workload of the Classification boards, will be open to abuse. A double-tiered system may work, however, whereby the industry is permitted to suggest some obvious or straightforward classifications, but which subsequently **must be checked and passed by the**

board. Children's programmes and educational (e.g. wildlife/science/natural wonders) material may come under this category, although the issue of **sexualisation of children** is becoming more and more relevant, and more intrusive, in these programmes. The *Walking with Dinosaurs* series is a case in point, where the mechanics of mating were presented in great detail.

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 Government should not only subsidise small independent films, but introduce a **sliding scale** so that there is more of a subsidy if the classification is closer to a G rating and less subsidy if it is closer to an X18+ or R18+ rating. More content is required which is of general suitability and freely consumable by children and families.

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

No, the Classification categories are not properly understood in the community. The M-rating and the MA15+ rating definitely causes confusion. Ever since the same rating symbols were introduced for both film and computer games, the confusion has generally become worse.

While we accept that the symbols needed to be less confusing, and uniformity usually helps with this, the **interactive nature of computer games means a higher impact**. This important aspect must be urgently addressed.

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?

There should **never be an R rating for computer games**. We do not want to see horror-themed, interactive and realistic violence and sex being entrenched in mainstream Australian culture.

Research shows that the brains of teenagers are still developing, and are not fully developed into adult brains until about 25 years of age. Pornography is also addictive.

Furthermore, health experts have displayed concerns that people from violent backgrounds are more attracted to violent video/computer games and are more likely to take the violence out into the streets. Law-enforcement agencies have backed this concern.

In fact people, even from the gaming community, have expressed concerns that content in the MA15+ category should be upgraded to an "R rating". For this to happen, they clearly support having an R classification.

MSA states, quite categorically, however, that if material is so offensive that it needs to go into an R classification, then **it should be refused classification**.

Material which promotes **criminal activity** is not suitable for any audience, including adults, and should be refused classification. Impressionable minors, of course, are in greatest danger.

There is grave concern, even from gamers themselves, that adult material is creeping into the M and MA categories. This is not an argument for an R rating, but it is an indication that some protection ought to be attempted for minors aged 15+, perhaps by making an MA18+ category.

MSA notes that in countries where there is an R rating for computer games, copycat crime has been largely committed by adults. The more access minors have to this material, the more likely they are to commit these copycat crimes. The more offensive material, therefore, should be **discouraged and refused classification**, rather than being provided with ingress by simply giving it a higher category. There should be motivation to **reduce** the offensive content of media, by **applying the classification guidelines more strictly**.

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?

We believe that the same colours should be used, but with better, more concise, information about the content. Different symbols may be advisable.

Advice for television programmes ought to be more comprehensive. For example, programmes with sexual themes should clearly state so. Many a TV programme has been aired, with advice on violence only, but which includes several sexual conversations and/or scenes, sometimes even having explicit graphic sexual content. This is completely unacceptable.

Regarding computer games, **interactive content** should **automatically consign the material to a higher classification category**.

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?

No. That is a big **NO**. A few years ago, the Film and Computer Games were consolidated. This has led to a widespread belief that there should be an R-rating for computer games. There are several reasons for our opposition to such a move.

- Computer games are interactive,
- Computer games are addictive,
- Computer games are essentially training systems for particular skills.
- These make them far more powerful than other media. It also means that there is a massive difference between an MA15+ film and an MA15+ computer game. Having the same symbol, unfortunately, lulls people into believing that they mean essentially the same.

- Most people would only see a film once or twice in their lifetime, so generally the impact won't be anywhere the same as when a person plays a computer game constantly.

Those involved in the mental health industry have also expressed concerns about the addictive nature of computer games, and the effect of the more violent material on those exposed to it.

Some arguments from the computer game industry have been that Australia should adopt the same Classification Scheme that other countries have. This argument would only be relevant if all of these nations had a time-tested track-record showing that this system actually works across all of society. We have seen, however, the frustration from U.S. politicians and families with their classification system, simply because of the First Amendment. In other words the Classification System in the US is actually failing children and families. On the other hand, many other countries have banned certain computer games whether R-rated or not.

If, despite our serious objections, the classification systems are merged, it is essential to make the interactive element of computer games mean an automatic consignment to a higher category.

Refused Classification (RC) category

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

Anything that is in the R18+, X18+ and RC category should be prohibited online. This must include any material that is criminal and/or obscene. This includes paedophilia, bestiality, rape and other sexual torture, and graphic violence.

Material with an M or MA15+ classification should require parent-controlled user passwords. This will not eliminate the problem of children gaining access to offensive material, but it can make a big difference.

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

It is difficult for us to comment on this question as we do not actively seek out Refused Classification material. However, it must be noted that we are reasonably happy with what the RC classification currently defines as reprehensible, although the actual adherence to these standards is debatable. We also believe that there should be a provision that content can be added to the RC classification, where necessary. Guidelines don't always cover all parameters when they are first established.

We also believe that much material currently given MA and R classifications is so morally abhorrent that it should have been given an RC status. We believe that these guidelines are too lax, and that those doing the classifying are not adhering closely enough to the present guidelines. It is rather ironic that a person who complains about offensive material is required to be most specific, and comply closely with the parameters of the guidelines, while the original classifiers seem to do the opposite.

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

Yes. There should be complete consistency across all of Australia. Furthermore, the Australian territories should not be permitted to import Refused Classification material, thus enabling it to be distributed across all of Australia. This loop-hole is a disgrace.

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

It is important that there is a representative from each state as a voice for the people of that state.

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?

The states should have input in formulating guidelines, and not just leave it to a single commonwealth bureaucracy.

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

Part of the framework for the classification relies on a complaints system. While the theory behind the complaints system has some merit, the practicality of it is not. Many people are finding the system too hard and have become cynical about it, and burnt out by it. It becomes pointless complaining about something offensive when the complaints get **repeatedly rejected**.

In fact, the entertainment media has grown so enormously, since the inception of the Classification Scheme, that the complaints system that it relies on to gauge community standards has become confusing and ineffective.

In relation to television viewing, here is what the viewer is supposed to do:

If they see something that they find is offensive, they must first get a copy of the relevant code of practice, read it, see if their complaint is relevant to the code of practice and then complain to the TV station. Each complaint must include the date, time, channel and name of programme, as well as the nature of the offensive material. Then, if the TV station looks at the complaint and finds that the complaint does not contravene their own code of practice, they must reply within 30 days. If the complainant is not satisfied, then the complainant can send his or her complaint onto the ACMA for further investigation.

Realistically, most people won't bother. In fact when the Australian public do find something offensive, they generally find it hard to articulate their complaint and usually their complaint does not fit into any wording of any code of practice. Moreover, MSA has never ever known a TV station to actually agree with a complaint. This only serves to discourage the complainant, which is more than likely exactly what the TV stations want.

We have also found that many people have come to MSA, to complain about something in the media, and when we have explained the correct complaints process, and asked them to keep us informed, we never hear from them again. We strongly suspect that, most of the time, they do nothing.

Therefore, it should be possible for complaints to be made about anything offensive, whether or not it violates the code of practice. The code may very likely need updating.

Furthermore, our own MSA members who used to make complaints have stopped doing so, despite the fact that offensive material is being encountered almost continually in the media.

ADVERTISING COMPLAINTS

With the current complaints system, all advertising complaints must go to the Advertising Standards Board

It is quite concerning that over a ten-year period, The Advertising Standards Board has revealed some interesting statistics:

1. The total number of complaints from 1998 to 2009 was 22,742
2. The number of complaints dismissed from 1998 to 2009 was 20,724
3. The number of complaints upheld from 1998 to 2009 was 2,018

Is anyone questioning why there were so many complaints dismissed? No wonder people are so cynical about the complaints system! Out of a total of 22,742 complaints, only a mere 2,018 were upheld. That doesn't sound as though the community is being heard, and nor does it sound as though the ASB is in touch with community standards.

In one particular example, further investigation revealed that to make an informed decision about an advertising complaint about **billboard** advertising, the ASB looked at the **television station's code of practice**. Hence the summary of their findings...

The Board noted that the advertisement did not portray sex, sexuality or nudity inappropriately and that therefore it did not breach Section 2.3 of the Code.

The Board considered whether the advertisement was in breach of section 2.3 of the Code states: "Advertising or Marketing Communications shall treat sex, sexuality and nudity with sensitivity to the relevant audience and, where appropriate, the **relevant programme time zone**".

Finding that the advertisement did not breach the Code on other grounds, the Board dismissed the complaint.

This beggars belief! "Relevant programme time zone" – for a billboard?

We further note that the number of people who actually take the time to make a complaint is very small compared with those who are actually offended. This is a well-known fact, and it is a principle that is usually factored in when doing polls and the like. One actual complaint may represent 10 or even 100 people who were offended but who didn't actually complain. This principle, basically ignored by media organisations and the ASB and in relation to complaints, makes the 22,742 complaints mean many more than the statistics would suggest. It also makes **20,724 dismissed** complaints much more meaningful, too.

MEDIA COMPLAINTS

The Media

TV Stations: Apart from the many commercial TV stations, there are also quite a few Government ones, such as SBS and the ABC, each having several channels.

1. Pay TV – Foxtel and Austel
2. Advertising media such as Billboards and Outdoor
3. Music – ARIA
4. Radio stations – AM and FM
5. Internet - ACMA

MSA RECOMMENDATIONS:

1. Set up a “one stop shop” that deals with **all complaints** in media.
2. The Complaints Department should be made up mainly from representatives from the public.
3. The Complaints Department would analyse the complaints and notify the “offending” media outlet.
4. The offending media outlet would then need to respond directly to the Complaints Department within the 30 day period of receiving the report.
5. A report by the Complaints Department would then be sent to ACMA who would take action on the report.
6. The findings would then be relayed back to the complainant by the Complaints Department through their website.

Further recommendations:

Given that TV stations are allowed by their public to have a monopoly over transmissions;

(a) They should not be allowed to insult (or intimidate) their public by claiming that complaints about programmes can only be lodged if consistent with the guidelines;

(b) As the guidelines are quite complex, the public should be able to submit complaints based on what they consider offensive and not whether in breach of the guidelines;

(c) If a sufficient number of complaints are received about a particular guideline, ACMA should proceed to have the guidelines tightened.

Money has no moral conscience

Self-regulation with no accountability is just pure window-dressing and we have seen many examples over the years where media industries have pushed the boundaries, or just ignored the Classification laws.

ACMA have continually been branded the “toothless tiger” and we have seen the frustration of ACMA not having enough powers to provide significant sanctions and accountability measures to those who flout classification laws.

The porn industry has had plenty of time to come up with deterrents to stop children from gaining access to pornography from the internet, but the little that they have done may as well be nothing. In fact, the porn industry is very well-versed in the classification scheme, as they have continually sent submissions to Government inquiries on classification issues, and have even set up a political “sex party”. The fact that they have flouted the law in selling X-rated material off the shelves in the shops when it is illegal to do so, however, makes it very obvious what **little regard they have for the protection of the society’s children**. This should surprise no one, since preying on porn-addicts for profit hardly shows altruistic tendencies.

Some parts of the computer game industry also go beyond the boundaries, in the material they have introduced in the computer games, and self-regulation in the United States has caused concerns with family groups and politicians, who have had their hands tied because of the First Amendment.

INTERNET FILTERING

MSA is forced to support Mandatory Internet Filtering. It is not acceptable that pornography is displayed in search engines and it is also not acceptable that the porn industry is so intrusive in family homes. It is also intolerable that it is so easy to gain access to material deserving a refused classification, via the internet.

Most importantly, if any internet filtering is introduced, it must work in line with the Classification Scheme and must be accountable as such. It should not be a tool whereby legitimate lobbying can be censored for political purposes.

INFORMATION AND EDUCATION

It has come apparent, over the years, that many people do not have a full understanding of the democratic process of the Classification Scheme. We are sometimes surprised by the misconceptions that some people, even parents, have about the classification system.

Recommendation: Advertise or promote with community announcements about what the Classification Scheme is, and why it is relevant and important to society. Advertising just what the rating symbols mean is just not good enough – it needs to be spelt out and defined.

These announcements can also be similar to, or work with, alcohol and tobacco issues, insisting that parents continue their vigilance past the early teenage years.

SOCIAL NETWORK – CYBER-BULLYING

This is a huge problem and we are well aware that this issue is being addressed by the Government, which we applaud.

MSA wishes to emphasise, however, that with the “adult” material cropping up in these social network sites that there must be age-appropriate verification for membership. The Government

needs to help make it easier for parents to oversee the networking sites of their teenagers. Those younger than 18 years of age must not only have their parent's permission, but also have verifying identification by parents, such as a driver's licence or credit card.

This can make parents more accountable in keeping a closer eye on what their children are doing, and on a positive note, show an interest in what their children are doing.

Recommendation: That the Government make a concerted effort to make recommendations to parents regarding limiting their children's time on networking sites. That more alerts to the dangers of these sites be made public.

MSA Conclusions

Media Standards Australia, being primarily concerned with the welfare and safety of children, and also for the removal of offensive material from the public sphere, urges the ALRC to make genuine reforms of the National Classification Scheme, so that:

- The protection of children is put well ahead of the desires of adults to consume reprehensible media material.
- The general public is protected from objectionable material in the public sphere,
- Stronger adherence to existing guidelines takes place, both for classification and for advertising standards
- The complaints system is overhauled to make it easier to use, and actually effective in listening to the complaints of concerned citizens,
- A single department to process all media complaints is put in place.
- Accountability from media producers is ensured, whereby they must comply with the guidelines or else face strong penalties,
- The interactive, addictive nature of computer games renders them inadmissible for an R classification. There should be no R classification for computer games, and many more adult-content computer games need to be refused classification.
- The interactive nature of computer games automatically consigns them to a higher classification category.
- Mandatory Internet Filtering is used, in conjunction with the classification system, and without interference from political vested interests, to reduce the influx of criminal and pornographic material into our country.

- The Australian public is made more aware of their rights in relation to standards of content, and that parents are better informed of their options and responsibilities in regard to their children's use of the media and technology.
- Self-regulation is replaced with measures in the interest of the protection of minors, and gives a voice to parents and citizens.
- Classification in Australia is made stronger, broader and effective, across all media and technology.

Finally, we wish to point out that the Classification Board should not just be a bureaucracy, but genuinely representative of parents and citizens. The membership should be changed frequently, since board members can very soon become desensitised.

We thank you for this opportunity to contribute, and we trust that our submission will be helpful and be taken seriously.

We attach three additional documents for your perusal, in addition to the 4 Appendices below.

Thank you in anticipation,

Yours sincerely,



Paul Hotchkin

President, Media Standards Australia

President Paul Hotchkin

Vice President Gail Gifford

Secretary Carol Phillips

Patron Dr. Jennie Bickmore-Brand

P.O. BOX 4266, CANNINGVALE EAST, WA 6155

Telephone (08) 9403 6275

E-mail viewers@mediastandards.org

Website www.mediastandards.org

APPENDICES [Total of 4]:

Appendix 1

[The Australian](#)

Nine in trouble with regulators

http://blogs.theaustralian.news.com.au/tvinsider/index.php/theaustralian/comments/nine_in_trouble_with_regulators

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NINE really is having an annus horribilus.

First they had a shocking start to the 2011 ratings year with a series of flops - Ben Elton Live From Planet Earth was the first disaster.

Then they suffered a daily hammering in the ratings, thanks to a strong Seven network.

Now Nine has now been slammed by the broadcast regulator.

Today the Australian Communications and Media Authority announced the network had given an “enforcable undertaking” it would improve its complainst handling process.

Now that sounds very bureaucratic, but it essentially means Nine’s licence now depends on its commitment to that undertaking.

For the past five years Nine has been treating viewer complaints, about everything from A Current Affair stories to racy promos in G timeslots, with less than the required seriousness.

The way the complaints system works, viewers concerned about code breaches must first complain to the network in writing.

Under the Commercial Television Industry Code of Practice 2010, ACMA can demand a network comply with an order or risk losing its licence.

“This undertaking follows numerous breaches of complaint-handling provisions since 2006 by the Nine Network, which Nine itself had acknowledged to be unacceptable,’ said ACMA Chairman, Chris Chapman. “By offering this EU, Nine has shown its commitment to address the problem and the ACMA welcomes its pro-active approach.”

‘It is important for members of the public to feel confident that TV stations will respond, substantively and promptly, when they make a complaint about a code matter.’

As well as trying to lift its game in the ratings, Nine will now have to:

Nine will send responses to postal complaints by either registered mail or Express Post

Nine will maintain a register of all code complaints

Nine will provide the ACMA with a monthly report on complaints received and processed

Nine will provide the ACMA with quarterly reports on compliance prepared by an independent auditor

Appendix 2:

Channel Nine penalised by ACMA after 'persistent' breaches

http://www.news.com.au/entertainment/television/nine-penalised-after-persistent-breaches/story-e6frfmyi-1226061516101?referrer=email&source=eDM_newspulse&emcmp=Newspulse&emchn=Newsletter&emlist=Member

- By Holly Byrnes
- From: *News Limited newspapers*
- May 24, 2011 12:04AM



Sam Newman and The Footy Show were forced to pay \$200,000 to charity for ridiculing a Malaysian man during a skit. Picture: The Herald Sun *Source:* Herald Sun



The unprecedented slap follows a persistent pattern of code breaches, which Nine acknowledged as "unacceptable". Picture: The Daily Telegraph *Source: The Daily Telegraph*

- Channel 9 to report to ACMA once a month
- Penalised for mishandling viewer complaints
- Follows persistent pattern of code breaches
- **Scroll down for a list of Nine's breaches**

CHANNEL 9 has been put on a short leash by the media watchdog after consistently mishandling viewer complaints.

Under a strict new ruling, Nine must provide ACMA with a monthly report of audience gripes received and how the network has addressed them - or face tough penalties.

Nine has also agreed to provide the industry body with quarterly reports on compliance prepared by an independent auditor.

The unprecedented slap follows a persistent pattern of code breaches, which Nine acknowledged as "unacceptable."

ACMA chairman Chris Chapman said "it is important for members of the public to feel confident that TV stations will respond, substantively and promptly, when they make a complaint about a code matter."

Nine has been found in breach of the code 17 times in the past two years.

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The most costly was in September last year when Sam Newman and *The Footy Show* (AFL) were forced to pay \$200,000 to charity for ridiculing a Malaysian man during a skit.

A Nine spokesperson said it had "greatly improved its complaints handling processes in recent times and this has been acknowledged by the ACMA. Nine believes that its current complaints handling process is industry best practice."

The network had offered the new enforceable undertaking "in recognition of past conduct and to demonstrate our proactive approach in responding to viewer complaints."

NINE'S SHAME FILE

- * Mar 2011: failed to provide caption service on *NBN News* and *A Current Affair*
- * Nov 2010: with Ten, found guilty of promoting interactive gambling services
- * Sept 2010: Sam Newman and *The Footy Show* (AFL) provoked severe ridicule of Malaysian man and forced to pay \$200,000 to charity
- * Aug 2010: incorrectly classified episode of *Dante's Code* as AV (adult violence)
- * Jul 2010: failed to provide caption service on *Nine News* and *RPA*
- * May 2010: breached children's television standards over a prize segment on *The Shak*
- * Mar 2010: *60 Minutes* unfairly linked school to segregation
- * Dec 2009: failed to provide caption service for programs on GO!
- * Nov 2009: with Ten and Seven, breached news accuracy requirements relating to a story on Sudanese refugees
- * Nov 2009: promotion of *Underbelly: A Tale of Two Cities* inappropriate G viewing
- * Sept 2009: *A Current Affair* failed to present factual material accurately in a story about a debt recovery company
- * Aug 2009: *A Current Affair* guilty of designing program to induce hypnotic state in viewers
- * June 2009: *A Current Affair* failed to present factual material accurately in a story about municipal carpark rangers
- * May 2009: Sam Newman and *The Footy Show* (AFL) provoked severe ridicule of female journalist and mishandled complaints
- * Mar 2009: *A Current Affair* failed to present factual material accurately in a story titled 'Foreign Doctors'
- * Feb 2009: classification breach on *Underbelly* and Gordon Ramsay programs

* Feb 2009: used racist overtones towards Aboriginal people in *National Nine News* story about baby bonus scheme

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Appendix 3:

Doctors tell why violence stalks WA

CATHY O'LEARY, MEDICAL EDITOR, *The West Australian* July 11, 2011, 2:00 am

Family breakdown, domestic violence and lax parenting are most to blame for violence by young men on Perth's streets, according to a survey of almost 200 doctors.

A Medical Forum magazine poll of 197 male GPs and specialists also found alcohol was the biggest catalyst of spontaneous violence and, to a lesser extent, illicit drug use.

Other factors that explained violence from young men were exposure to violent media, relationship problems, mental illness, absent fathers and bullying.

Some of the doctors said methamphetamine abuse in young men was greatly underestimated.

"It allows users to consume vast quantities of alcohol and lose their faculties but remain on their feet and engage in physical violence," one said. "Organised criminals, read bikies, are huge in WA and law enforcement seems powerless."

Another said there was a strong link between watching violence in the media and real violence.

"You can't hit a guy in the temple and not expect risk of haemorrhage," he said. "It is nonsense to suggest that the head hitting the bitumen is to blame for the injury."

A third of doctors surveyed cited permissive parenting as a contributor to street violence.

"An excessive belief in their right to tread on others comes from childhood, as spoilt brats who are never criticised during their adolescence may be a factor," one said.

The magazine's medical editor Rob McEvoy said the findings did not surprise him because doctors were often aware of underlying factors such as family breakdown and violence that could spill into broader social problems.

"Doctors can see what's happening behind the symptoms, which is the underlying 'disease' as such," he said. "They recognise that certain things such as alcohol remove inhibitions and can spill out into violence.

"It's very frustrating for doctors who are expected to help patch up things."

Dr McEvoy said it was also telling that doctors cited mental health as the issue men most needed help with, ahead of diet, obesity and domestic violence.

Appendix 4:

[Recent U.K. News – 6th June, 2011]

Bailey Review of the Commercialisation and Sexualisation of Childhood: Final report published

Clampdown on sexualised 'wallpaper' surrounding children

Music videos should get age ratings

Sexual images on magazine and newspaper front pages should be covered up

Retailers should sign up to a family friendly code of practice

A six-month independent review into the commercialisation and sexualisation of childhood, which reports today, calls on businesses and media to play their part in ending the drift towards an increasingly sexualised 'wallpaper' that surrounds children.

Reg Bailey, Chief Executive of Mothers' Union, who led the independent review, has listened to parents' concerns about the barriers they face in bringing up their children. They are particularly unhappy with the increasingly sexualised culture surrounding their children, which they feel they have no control over. They singled out sexually explicit music videos, outdoor adverts that contain sexualised images, and the amount of sexual content in family programmes on TV.

Reg Bailey's recommendations are based on parents' concerns and are intended to support them, make sure their views are taken more seriously by businesses and broadcasters, and help children understand the potential dangers they face. They will put control back in the hands of families.

The recommendations include:

- Providing parents with one single website to make it easier to complain about any programme, advert, product or service.
- Putting age restrictions on music videos to prevent children buying sexually explicit videos and guide broadcasters over when to show them.
- Covering up sexualised images on the front pages of magazines and newspapers so they are not in easy sight of children.
- Making it easier for parents to block adult and age-restricted material from the internet by giving every customer a choice at the point of purchase over whether they want adult content on their home internet, laptops or smart phones.
- Retailers offering age-appropriate clothes for children – the retail industry should sign up to the British Retail Consortium's new guidelines which checks and challenges the design, buying, display and marketing of clothes, products and services for children.
- Restricting outdoor adverts containing sexualised imagery where large numbers of children are likely to see them, for example near schools, nurseries and playgrounds.
- Giving greater weight to the views of parents in the regulation of pre-watershed TV, rather than viewers as a whole, about what is suitable for children to watch.
- Banning the employment of children under 16 as brand ambassadors and in peer-to-peer marketing, and improving parents' awareness of advertising and marketing techniques aimed at children.

Reg Bailey said:

Society has become increasingly full of sexualised imagery. This has created a wallpaper to children's lives. Parents feel there is no escape and no clear space where children can be children.

I want to put the power back in parents' hands so they can better manage the pressures on their children and make it easier for them to bring up their children the way they want.

Parents need encouragement to feel they can change things and that their voices will be heard. Regulators, businesses and broadcasters should do more to connect with parents – it's not enough for them to work out what is acceptable from what people complain about afterwards. I hope that they see that it's good business if you look out for families. Then we can all help to make Britain a more family friendly place.

Children's Minister Sarah Teather said:

I'm very grateful to Reg for his insightful and thorough review, and for recommending a set of practical measures to help parents protect their children in the increasingly sexual and commercial world we live in.

It is not Government's role to interfere in family life. But parents often tell me that they would like more support so that they can navigate the rapidly-changing technological and commercial world. Reg's review shows the way for business and Government to give them this support.

I know that Reg has encountered a lot of goodwill from the broadcast, retail and advertising industries throughout his review. I am looking forward to working together to implement his proposals.

Ed Vaizey, Minister for Culture, Communications and Creative Industries, said:

We know that many parents are concerned that their children could be exposed to content that seems too adult, be it online, on TV, through adverts or in music videos. I welcome the collaborative way that regulators and industry have engaged with Reg Bailey. For our part, we are committed to consulting on whether age ratings on music videos would provide effective protection for children.

Many of the actions suggested in the report are for businesses and regulators rather than for the Government. Reg Bailey is recommending that the Government should monitor the implementation of his recommendations and do a stock-take in 18 months time. To make sure that good progress is made quickly, the Prime Minister and Children's Minister will invite a wide range of businesses and regulators into Downing Street in October and ask them to report on steps they have taken to address the issues raised in this report.

The British Retail Consortium (BRC) has today published new family-friendly guidelines which Mr Bailey welcomes as a clear example of how industry can respond positively and voluntarily to public feeling. He recommends all retailers should sign up to the guidelines.

Jane Bevis, Director of Public Affairs at the BRC, said:

This has been an important review in considering the needs of children and families in an increasingly complex world. We have been delighted to work closely with Reg and his team as they have examined some real and challenging issues and debunked a number of urban myths.

It has highlighted the excellent practice already in place in responsible retailers – and the need to share this more widely so that parents can be confident when shopping.

Our good practice guidelines on childrenswear, launched alongside Reg's report today, aim to ensure that the highest standards are maintained across the sector.

Guy Parker, Chief Executive of the Advertising Standards Authority (ASA), said:

The protection of children from harmful or inappropriate advertising is one of the Advertising Standards Authority's top priorities and to do this we know we need to reflect the views of parents and young people in our work.

We welcome Reg Bailey's recommendations on advertising and we're committed to making sure that parents have the confidence to raise their concerns and to know that they'll be heard.

Chris Woolard, Group Director of Content at Ofcom, said:

Protection of children is one of Ofcom's most important statutory duties and we therefore welcome Reg Bailey's review of this significant area.

Ofcom recognises the critical importance of parents' views about what children watch on TV. We will continue to focus on exploring parents' views in our enforcement of broadcasting standards relating to the protection of children.

The Bailey Review listened to the views of parents, children and young people through a range of ways including face-to-face surveys, a call for evidence and focus groups. The Office of the Children's Commissioner for England also submitted the views of 552 children and young people, published in a report today.

Notes to editors:

1. The Bailey Review of Commercialisation and Sexualisation of Childhood, [Letting Children be Children](#), was published on Monday 6 June 2011.
2. Reg Bailey was asked to lead the independent review on 6 December 2010.

3. Contributions to the review included:

- 1000 parents completed an online call for evidence

- 1025 parents of five to 16-year-olds and 520 children and young people aged seven to 16 took part in a face-to-face survey
 - 70 parents took part in qualitative research, including focus groups
 - 552 children and young people took part in a survey by the Office of the Children's Commissioner for England
 - 120 organisations and businesses submitted written evidence
 - Over 40 organisations and experts held individual meetings with Reg Bailey.
4. Watch Reg Bailey talking about his review on our [YouTube channel](#).

Contact details

Central newsdesk
for media enquiries

Telephone: 020 7925 6789

<http://www.education.gov.uk/inthenews/inthenews/a0077662/bailey-review-of-the-commercialisation-and-sexualisation-of-childhood-final-report-published>