



AUSTRALIAN FEDERATION AGAINST COPYRIGHT THEFT

PO Box 564
Paddington NSW 2021
Phone: +61 2 9997 8011
Fax: +61 2 9999 2466
Toll Free: 1800 251 996
Email: info@afact.com.au
Web: www.afact.com.au

BY EMAIL: - classification@alrc.gov.au

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**Australian Law Reform Commission
Level 40, MLC Tower
19 Martin Place
SYDNEY NSW 2000**

AFACT SUBMISSION TO THE AUSTRALIAN LAW REFORM COMMISSION'S ISSUES PAPER ON THE NATIONAL CLASSIFICATION SCHEME REVIEW

Thank you for the opportunity to provide the following comments in response to the Australian Law Reform Commission's Issues Paper on the National Classification Scheme Review (**NCSR Issues Paper**).

A. Introduction

The Australian Federation Against Copyright Theft (**AFACT**) appreciates the opportunity to provide a submission in response to the NCSR Issues Paper. The subject matter of the NCSR Issues Paper is highly relevant to AFACT members' businesses.

AFACT:-

- supports a uniform and consistent National Classification Scheme (**NCS**);
- endorses the principle of "Same Content – Same Rating – Single System – Different Platform";
- supports industry self-assessment of content;
- endorses harmonisation of state and territory laws;
- supports the "New Model" proposed by the Australian Home Entertainment Distributors Association (**AHEDA**) contained in its submission on the NCSR Issues Paper; and
- supports the Motion Picture Distributor Association of Australia's (**MPDAA**) position that an efficient and more cost effective Classification Board appeals process needs to be introduced and that only the 3D version of a film should be classified without requiring a separate classification for the 2D version of the same film.

B. Australian Federation Against Copyright Theft

AFACT was established in 2004 to protect the film and television industry, retailers and movie fans from the adverse impact of copyright theft in Australia. AFACT works closely with industry, government and law enforcement authorities to achieve its aims. AFACT acts on behalf of the 50,000 Australians directly impacted by copyright theft including independent cinemas, video rental stores and film and television producers across the country.

AFACT members include: Village Roadshow Limited; Motion Picture Association; Walt Disney Studios Motion Pictures Australia; Paramount Pictures Australia; Sony Pictures Releasing International Corporation; Twentieth Century Fox International; Universal International Films, Inc.; and Warner Bros. Pictures International, a division of Warner Bros. Pictures Inc.

C. AFACT Submission

The NCSR Issues Paper was released on 20 May 2011 seeking community input into the reform of the classification system and AFACT's submission in relation to it is set out below.

1. Uniform and Consistent National Classification Scheme

AFACT supports a uniform NCS which is consistent across different jurisdictions and media platforms with reform needing to take into account distribution of content that occurs in a converged media environment.

Of particular importance is AFACT sees the need for clear definitions of the remit of the NCS to allow the NCS to operate with certainty and consistency.

AFACT believes that the role of the NCS is to provide guidance as to the suitability of content and supports a NCS that would allow industry to self-regulate classification of content under an appropriate co-regulatory framework.

2. "Same Content – Same Rating – Single System – Different Platform"

AFACT believes that a single system of classification should be established and implemented in today's converged world to avoid confusion.

The principle of "Same Content – Same Rating – Single System – Different Platform" should be used to guide the reform to achieve this outcome.

Where content is identical, regardless of the platform it is carried on, the same classification should apply.

3. Industry Self-Assessment of Content Designed for Children and Consist Application Across all Platforms

AFACT believes that content specially designed for children should be self assessed by industry on the basis of the content rather than assessing "potential impact" of the content.

Assessment based on "potential impact" necessarily involves subjectivity but the focus should be on an objective assessment of the content itself.

Once rated, classifications for this type of content should be applied consistently across all platforms.

4. Harmonisation of State and Territory Laws

AFACT believes the harmonisation of state and territory laws is essential to create an effective, centralised and truly "national" NCS.

Currently, states and territories can legislate and this can create national implications and restrictions impacting upon content producers in other states or territories.

As Australia is served by near ubiquitous communications, there is no rational justification for state based regulation.

The uncertainty this creates needs to be addressed through the harmonisation of state and territory laws and the creation of a consistent framework.

5. AHEDA's New Model

AFACT supports the Home Entertainment Classification Code of Practice self-assessment model proposed by AHEDA in its submission on the NCRS Issues Paper including the proposed complaints handling process and classification fees.

In particular, TV content on DVD or the internet can simply use the broadcast classification which would lead to greater consistency and public awareness.

6. MPDAA Submission

While AFACT accepts that classification is a cost of business, we share the concerns of the MPDAA, as referenced in its submission on the NCRS Issues Paper, relating to the cost of Classification Board appeals and the requirement for both the 2D and 3D versions of the same film to be screened and classified separately.

AFACT believes that a more cost effective appeals process should be explored, such as digital screenings and teleconferences rather than the requirement for the Review Board to travel to Sydney and view the film in a cinema.

AFACT also agrees with the MPDAA position that the requirement, based on the perceived increased impact, that both the 2D and 3D versions need to be screened and classified separately is unnecessary and that only the 3D version should be classified with that rating then applying to the 2D version. This is supported by the fact that every film that has been screened in both 2D and 3D in Australia has had the same rating for both versions.

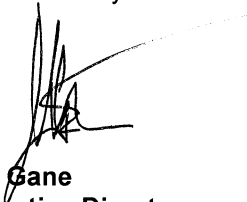
AFACT also supports the MPDAA proposition that trailers are classified only on their content and should be appropriate to the film with which it is playing, as opposed to the possible classification of the yet-to-be-seen feature film. The current underlying regulation requires that trailers are classified according to the proposed classification of the theatrical feature.

D. Conclusion

AFACT strongly believes that the above reform to the NCS would equip the NCS strongly to deal with the challenges classification faces in a converged world. The confidence of any system depends on the consistency of outcomes and the above reform will help achieve this.

Thank you for considering AFACT's submission.

Yours faithfully



Neil Gane
Executive Director
Australian Federation Against Copyright Theft