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Paul Hunt / MLCS Management Submission to ALRC Review of the National Classification Scheme

INTRODUCTION

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

Two major issues threaten the ongoing usefulness of the NCS to Australian consumers:

1. The growth of the internet and the associated opportunities for consumers to utilise, innovative ways to access content; and
2. The age of the NCS, and its failure to keep abreast of consumer expectations and usage patterns

The purpose of this paper is to provide the ALRC with a response to the questions raised in the issues paper from a classification expert who has spent seven years inside the workings of the NCS and four years assisting industry apply the requirements of the NCS to contemporary entertainment product.

ABOUT MLCS MANAGEMENT

MLCS Management is a boutique management consultancy specialising in providing strategic, policy and operations advice regarding the classification and censorship of entertainment content. MLCS Management provides a unique service to assist businesses achieve market ready products in an environment of multiple legislative schemes and converging technologies.

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Approach to the Inquiry

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

The ALRC should focus on developing a new framework for classification. Too often business or government policy is simply created by patched and polishing existing systems. This is an opportunity to step away from what has gone before. You can use the past to search for strengths and weaknesses, but it shouldn't be used as a framework for the future. The correct approach should be to examine what is needed, and create something fresh to serve that need. However, there are some aspects of the existing framework that can be drawn upon in creating a new one.

Several issues are paramount in responding to this question. Briefly, the current negative issues are:

a) It is unclear to both industry and government how the NCS should be applied to certain products – based on either there delivery channel or user access channel. Different content regulation schemes apply to different delivery channels

- Internet content is generally managed through the co-regulatory scheme administered by the Australian Communications and Media Authority (ACMA) through the *Broadcasting Services Act 1992* (BSA). There are some references back to the NCS and the Classification Board, but the application of the BSA is arguably inconsistent at times, with very little of the content sanctioned or otherwise subject to action by ACMA being referred to the Classification Board for formal decisions. Whilst it is important that the ACMA does not waste time and money on frivolous or vexatious complaints, some increased transparency on this issue may be supportive of the acceptability of the various schemes to the community generally.

- Several types of content can be accessed by both the traditional "boxed copy" from a shop method and by download from the internet. Computer games are perhaps the most readily recognisable entertainment form that to which this situation applies. The same game can be purchased from a "bricks and mortar" retailer, from an Australian based website (for either delivery of a boxed copy by postage or by digital download), or from an international website (for either delivery of a boxed copy by postage or by digital download). From my time with the Classification Board and with the OFLC, and during my time assisting industry since then, there has been inconsistent legal advice regarding the application of both the NCS and the BSA and ACMA's co-regulatory scheme to the same product delivered through different channels. Indeed, whilst at the OFLC I was constantly frustrated in procuring legal advice regarding this issue due to procedural and other rules regarding the acquisition of legal advice regarding issues that crossed over two regulatory schemes.

- The main point of this matter is that consumers don't generally give a damn how they got their product – they just get it in the manner that best suits their needs. What they do want is some consistency about the application of classification information.

b) The interface with criminal law to control illegal activities such as the distribution of child pornography is inconsistent, and there should be clearer boundaries and linkages developed to manage this interface between entertainment and criminal activity.

- This is a major flaw in the set-up of the national classification scheme. Obviously, one of the reasons for banning content (refusing classification) is because it not only offends reasonable adults, but because it may in some way break the law. However, the prime reason for the NCS is to advice consumers about product suitability. There must be very clear and consistent linkages between any classification framework and other legislative schemes, such as criminal codes and customs regulations.

- During my time at OFLC, police and legal practitioners consistently failed to accurately apply the classification of products during criminal prosecutions. Virtually all jurisdictions amended legislation to bypass the need to have product classified (including child pornography) before it is presented as evidence in court. This was in some cases due to the administrative burden of classification, but was also sometimes due to the response of magistrates in accepting a Classification Certificate as evidence – with magistrates preferring to make their own assessments by viewing material. I have no opinion on what is the correct way to proceed with this type of legal matter, but some consistency would be useful to all parties. And the elimination of double handling makes sense.

- In a practical sense, if a classification certificate is going to be ignored by the legal system, what is the point in exposing Classification Board members to extremely distressing material in the first place?

- It should be noted that there will always be some potential for overlap. If an adult sex film uses actors who are, or who look, very young, the Classification Board may decide that that the film includes depictions of persons who look like they are under 18 years engaged in sexually explicit activity and RC the film. The same film may be evidence in criminal prosecutions. However, child pornography images of very young children do not necessarily require the opinion of the Classification Board to determine that their possession or distribution is contrary to criminal law.

- It should also be noted that some legislation, including customs regulations and telecommunications offences legislation, has been amended over the last decade to provide more detailed tests for content, and these tests may be considered inconsistent with the RC requirements of the NCS. This could create some

difficulties in undertaking proceedings against persons who import or distribute offensive or illegal material.

c) The current framework uses some processes and systems from co-regulatory models, but this undertaken using an inconsistent model.

- Computer games have always been classified using a model that relies on industry to provide details of classifiable content. This has worked very well, and reduces the burden on the Classification Board and the cost to industry. There are very few instances where the Board has had to overturn a classification decision due to insufficient information being provided by industry. A fault in the computer game assessor scheme is that it does not apply to games likely to be classified MA15+. The Board still requires applicants to provide full disclosure of content, and effectively the assessor/applicant recommends an MA15+ classification (because they aren't recommending G, PG or M and wouldn't recommend RC), but the arrangements of the legislation treat an MA15+ "recommendation" differently. The Attorney General's Department has just announced changes to classification fees. Under the existing fee structure, applicants for games "likely" to be classified MA15+ are provided with discount fees for providing additional information to make the classification process simpler. This arrangement is removed in the new fees. It seems counter-intuitive that MA15+ is treated differently (presumably because it is a more difficult and controversial classification category), but options for extracting information prepared by a trained assessor have been removed.

- Schemes for trained assessors to recommend classifications for films (of all classifications including MA15+ and R18+ - but not X18+) in certain circumstances have been introduced over the last few years. This includes DVD releases of previously classified films and DVD releases of TV series that have been classified under the co-regulatory scheme for television content. These schemes rely on industry to do most of the work – with the government and the Classification Board providing an audit and training function. However, it is flawed by the addition of a formal classification process. This simply adds to the administrative, time and monetary burden.

- Advertising unclassified films and games was previously prohibited – except for a certain number of cinema films. A scheme was recently introduced that allows for the advertising of unclassified product following industry self-assessment of the likely classification of the product. This scheme has the government providing a training and audit role, but does not include the burden of formal classification/approval processes.

- The most pervasive of all audio-visual entertainment channels/products is television. Television has been in our home for over half a century. It is easily accessible, and has very little provision for technological controls. However, this form of entertainment has been controlled by a co-regulatory model for many decades; and generally the classification of broadcast content is accepted by

most people in the community. The success of this model should be used a key example of how things could work for other entertainment types.

d) The intergovernmental agreement on censorship creates logistical and practical difficulties and there is a need for change.

- The intergovernmental agreement was created to allow the States and Territories to continue to have some influence on classification. However, it is clear that the need to gain unanimous agreement on significant change issues is often hampered by the views of individual Ministers participating in the Standing Committee of Attorneys-General (SCAG) process.

- An assessment of SCAG minutes and press releases over the last decade indicates that from time to time there has been an obvious desire for change, but one Minister can prevent that change – and sometimes due to an uninformed or misinformed opinion. When the commonwealth government didn't gain support for changes to RC guidelines for "material that advocates terrorism", the commonwealth government simply took the unilateral decision to amend the *Classification (Publications, Films and Computer Games) Act 1995* (Classification Act) – ignoring the views of SCAG Ministers.

- Also, under the intergovernmental agreement, the States and Territories are responsible for the enforcement of classification legislation. Except in cases relating to criminal prosecutions, such as those dealing with the adult sex film industry, state and territory police simply do not bother taking action. If a major retail store is selling a DVD with an incorrect classification marking, the police do not investigate and do not take action. And frankly, so they shouldn't. No-one cares. The police are generally under resourced, and dealing with this issue may be important, but not as important as many other issues. Internationally, where industry manages classification, it is the industry that takes action against its members – with considerable success.

Some of the positive aspects of the current framework include:

e) The use of an independent statutory body to make classification decisions.

- Having faceless bureaucrats make classification decisions would not generally be acceptable to the community. (However, this would produce a certain amount of consistency that may be important to industry.) Having the option to refer matters to an independent arbiter is a very valuable strength in the existing NCS and should be used in the future.

- Using the independent body to make all decisions is simply a waste of time and money. Classification is (mostly) very easy. Anyone can do it. That's a fundamental part of the makeup of the Classification Board – they are in essence just ordinary people. Using the Board (or similar) as an adjudicator makes sense, but using them for all the day to day simple work does not make sense.

f) The availability of an appeal mechanism.

- The option to appeal to the Classification Review Board is a good one, and it is an essential part of natural justice that a person/company should be able to seek another opinion on a matter such as classification. However, the Review Board in the current model has very little exposure to some types of content, and this puts their ability to make accurate decisions in doubt.

- There should be an appeal mechanism in the new framework. In a new framework, the replacement for the Classification Board would be acting as the first point of appeal or audit, and should be doing a much lower volume of work. The replacement for the Review Board should therefore have an even lower workload. This will expose both bodies to a lack of knowledge and this issue must be addressed in any future framework for the national classification scheme.

Why classify and regulate content?
Question 2. What should be the primary objectives of a national classification scheme?

There is really only one objective for a national classification scheme: To ensure that members of the Australian community, to the extent that it is possible, are well informed regarding the suitability of entertainment content for themselves and those in their care.

The national classification scheme should not be designed to modify consumer habits, or set standards for matters that are linked to criminal activity.

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

No - definitely not. The idea of different channels making a difference to users does not make sense. From a classification perspective, consumers simply do not care where they get content from.

Arguably, one of the reasons that we have different regulatory schemes for different channels (delivering exactly the same content) is due to bureaucratic and political turf wars. We need to get over who is responsible for what channel, develop a framework for all content, and *then* sort out who manages it at a government level.

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

No. Any content classification scheme should have a complaints handling mechanism. The mechanism may require classification or assessment through different levels as part of a defined process. My experience over 25 years in different government regulatory roles has shown that some complaints are frivolous or vexatious. There needs to be a mechanism that ensures every complaint is carefully managed – but automatic "classification" of any product subject to complaint would be a wasteful mechanism.

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

This answer is based on the assumption that very little content should be "formally" classified by a government body. All of the different classification categories are equally difficult or simple to apply or understand. In the current assessor scheme for computer games, there are more restrictions on applying for an MA15+ game than for a G game. So the emphasis is not on children's content, but on restricted content. Also, there is a mechanism for the Board to rescind a decision for an M, MA15+ or sometimes PG game if, after receiving additional previously undisclosed information, it should be classified higher. But there is no mechanism for the Board to rescind a G decision if the game should have been PG. This means that at least in some aspects the current system does not focus on "children's" products.

All children's content is currently "classified" in some way. DVDs, cinema film, computer games, music and television all get formal or semi-formal classification. Children's books and websites are "self-classified" by users and producers. This works.

Content designed for children should be assessed for audience suitability across all media. It should not necessarily be formally classified by the Classification Board. However, an easily to apply and accessible system should be available for use across all media types.

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. In the modern world everyone can get access to everything. Market position or reach are old fashioned issues from when classification only applied to stuff that was easy to trap. That is why we are in the current situation of reviewing the NCS. The paradigms have changed and will no doubt change again. Create a system that applies to everything, and make it easy to use. Then market size and reach won't matter.

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

Again, this answer is in the context of the absence of a formal classification process, except to provide checks and balances. It is always difficult to apply standard processes and

restrictions to art. Art is meant to stretch our thinking and explore our society and our mores. Many exhibitors recognise that due to its very nature, some art will offend some people, and many currently restrict access to some exhibitions. This generally works. However, there are some issues/works that will test the boundaries of offensiveness.

I have no final opinion on this issue. It comes down to what one considers to be "art". Some art is wonderful, beautiful, challenging, inspiring, etc. Some is just rubbish. If the ALRC can tie a definition around "art" to allow for its inclusion or exclusion from classification – they have my praise.

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

Music is classified in a similar way to internet content and television, with the absence of a formal legislative backing. The Australian Music Retailers Association (AMRA) and the Australian Record Industry Association (ARIA) have an elaborate code of practice and system that allows for the classification of certain product and a complaints handling system. This works well.

Music and sound recordings should be classified – but in a model that does not require all content to be submitted to a body such as the Classification Board. The current system matches this model.

With sound recordings there is a "bleed" over to criminal and terrorism offenses. There has been some controversy over recent years regarding the speeches of some Muslim clerics. Some books and films have been banned through the NCS. But the NCS doesn't necessarily apply to audio recordings of these speeches. All content of this nature should be managed outside of the NCS.

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

No. The framework should allow for the classification of all product – but not necessarily through a formal process.

The current Classification Act refers to the need to consider "the persons or class of persons to or amongst whom it is published or is intended or likely to be published". Certain elements of the film festival community have used this requirement in the past to argue that certain films are OK for film fans to watch but not the rest of the community (such as when the film Ken Park was banned in 2003). This is an elitist and offensive position. I suppose that at some level it's reasonable to consider who the likely audience is, but in reality everything available to one Australian is available to the other 20 million or so.

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

No. This is an old fashioned point of view. Some cinema screens are very small and designed for an audience of 20 or so people. Some home entertainment setups are massive and have the same feel as a cinema. Cinemas and gaming venues have challenges with restricting access to some films or games. Parents have challenges at home restricting their children's access to content.

It's often been suggested that home entertainment options should be more restricted because of the failure of parents to manage their children's access to inappropriate content. My view is the opposite. No-one monitors children's access to inappropriate content in cinemas and games venues – except the operators (who are often very young adults or teens too). Parents have responsibility for all aspects of their children's lives, and given the right tools they are the best people to manage their children's access to content.

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

More than what should or should not be classified, the question should be "to what extent should which products/content be classified?"

School newsletters are classified. Children's sports club websites are classified. But they are not classified by a formal process. The people putting them out to members, etc use judgement to decide what should and should not be shared with their audience – this is the essence of classification.

The base point should be that everything should be classified by the relevant distributors. Sometimes an industry body may help in setting broad standards. Some industries may be unable to set broad standards, and will need to rely on government to help with the standards. In all cases, government should have an overseer's role to ensure consistency across all sectors.

How should access to content be controlled?

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?

The current online Restricted Access Systems for MA15+ and R18+ (or equivalent) content work well. They reflect the standards used in cinemas, shops, etc.

Any system for online restrictions must reflect restrictions in other more traditional consumer circumstances.

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

Education. And specifically the education of parents and other adults. Filters are a waste of time. The government spends millions of dollars on advertising various issues, but there has not been a serious multi-media education programme for content management and classification (including online content) for decades.

In addition, the subjects in our education curriculum that deal with social and technology matters should have a considerably more practical focus, to assist children and teens grow into adulthood with a quality set of tools to manage their online activities.

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

There is no "real" enforcement of sexually explicit magazine distribution and sales. Some magazines are significantly altered from their original publication to meet the requirement for a specific category in Australia. But multiple importers of the same magazine means that not all copies of a magazine are modified in the same way. This results in magazines restricted to one audience sector becoming available to a broader audience.

In addition, the guidelines for publications are so poorly worded that the original intent of the censorship ministers is not appearing in classification decisions. e.g.: The guidelines prohibit "genital detail or emphasis" in the unrestricted classification. One can assume this meant that Ministers didn't want to have pictures of naked women with their legs spread in unrestricted magazines. The industry uses photo editing software to brush away detail, and unrestricted magazines have plenty of photos of naked women with their legs spread with unrealistic detail (i.e. no detail) of their genitals. This is clearly a use of silly words to restrict something, because someone was too embarrassed about being up front about what they wanted to express/restrict. The outcome is that there are plenty of images of the pubic area of women's bodies in unrestricted magazines, but no pictures of labia. The overall "sexualisation" of the women in the images is the same. Does this make sense? What on earth did the creators of the guidelines want? And in what way does it reflect the desires of the broad Australian community?

So before considering the best way to control sexually explicit magazines, there is a need to carefully consider what is desired of each category. The simplest method would be to use the same classification categories and standards for publications that are used for films and computer games. Keep it consistent and keep it simple.

Note – Some content permitted in the publications guidelines is not permitted in the film guidelines. So an internet page of text about a very strong fetish activity would be RC if classified by the Classification Board after referral from ACMA. The same page printed and sold in a restricted adult premises would be classified "Restricted – Category 2". This sort of inconsistency must be addressed if considering the control of sexually explicit magazines.

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

It is difficult to answer this secondary question without a classification scheme framework agreed upon. Broadly, classification markings should be displayed where there is a reasonable expectation that consumers will use the markings in their purchase/viewing/playing decision making.

Who should classify and regulate content?

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

Government agencies (NOTE – a single government agency) should oversee classification by providing:

- Common standards and guidelines through a legislative framework
- Reference body for broad standard setting
- Reference body for adjudication of disputes
- Appeal mechanisms
- Policing and auditing functions
- Classification services where industry has failed to provide services or is unable to provide services
- Nationwide consumer education

Industry should provide:

- Classification and assessment of content
- Training and certification of classifiers/assessors
- Complaints handling systems
- The major development of industry policy and standards for ratification by government
- Assistance with the creation and distribution of education material

Users:

- Feedback regarding all aspects of the classification framework

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?

Yes. As noted above, this model works in television, which is the most pervasive of all entertainment content distribution technologies. It should work with everything else.

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

All of it. As noted above, classification is easy. There will always be some content that is difficult because it sits on the boundaries. But this applies to content across all types and channels. Classification decision on the border between G and PG are no more or less difficult than ones on the border between MA15+ and R18+. Most classification is easy. Some is difficult. It would be beneficial to have peer support or referral mechanisms in an industry based co-regulatory model to assist with the management of difficult content.

Classification fees

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

In a co-regulatory framework there should be minimal need for government subsidisation of classification fees/costs. Classification under any framework is a cost of doing business. Any person/company who does not consider these costs in their work should not be subsidised by tax payers. If you can't afford it – get a different job.

Classification categories and criteria

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

Generally the film ones are well understood.

Most people have no familiarity with the publications markings. They need to change to match the other markings.

Since the Computer Games markings were changed to the Film ones, the public has a better understanding, although the lack of an R18+ for games obviously still causes considerable confusion amongst consumers and media commentators.

One of the big problems is the public's lack of understanding of MA15+. OFLC research a few years ago indicated that only 6% of people understood MA15+. This led to changes in the markings – colour etc, but a proposal to change MA15+ to A15+ was quashed following film and television industry lobbing of the Howard government.

One of the issues from the OFLC research was that most of the 94% of people who didn't understand MA15+ thought it was the same as M. The change to A15+ may have somewhat addressed this issue – we'll never know. The big problem is that it could be interpreted that if people think MA15+ equals M, then people don't understand M either. There is a need to review MA15+ and M, and come up with more meaningful labels for these two classification categories.

If we look at PG, M and MA15+:

- PG – Not recommended for viewing or playing by persons under 15 without guidance from parents or guardians
- M – Not recommended for persons under 15 years of age
- MA15+ - unsuitable for persons under 15 years of age. Legal restrictions apply

They are all centred around the age of 15, and this may cause some confusion. I do not support a complete age based classification system, but some of the overlap between the categories should be 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?

The categories that exist are sufficient, but the overlap/confusion around M and MA15+ should be addressed.

The absence of an R18+ category for computer games is completely ridiculous, and this issue has been discussed at length elsewhere. However, one of the outcomes of this review must be to present a classification framework regardless of entertainment type that provides a full set of classification categories so that consumers can make informed decisions.

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?

Simply use the same classification categories and markings for all types of content. There is no reason to differentiate. Consumers find understanding and applying information easier if it is not complicated.

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?

It is important that the national classification framework as a solid legislative base. However, there is a need to take the process and administrative details out of the legislation and put them into guidelines, standards and codes of practice that can be readily adjusted to meet the changing technological and content environment.

The Act should restrict itself to bringing into law the broad policy framework of the scheme. Specific details such as procedures and standards should be placed in subordinate legislation and legislative documents.

The combined guidelines for films and computer games have been a useful tool for their users – the Classification Board and industry assessors. Their lack of detail provides the

flexibility that the Classification Board needs to make decisions that reflect constantly changing community standards. It also serves to make them applicable to different media types. For example, the guidelines talk about the need to consider interactivity. Some detractors have suggested that this is a waste, as cinema film isn't interactive. Well the guidelines only ask you to consider it – then you ignore interactivity because it doesn't apply – just like many of the other issues to consider don't apply in every case. The government has drafted new and separate guidelines for computer games as a part of its move to introduce an R18+ classification. This is a stupid move. If the government is concerned that some aspects of computer game content (such as interactivity) needs special consideration, that matter should be emphasised for all media types. This is necessary to future proof the guidelines against technological and content change.

Refused Classification (RC) category

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

Any online content prohibitions MUST match prohibitions for off-line content. Much of the negative comment from interest groups about the so-called ACMA blacklist is because they don't understand that the same content would be banned if produced off-line.

Much of the media comment on banning online content (or not banning it) is about the fact that it is online. Create a classification framework that treats all content the same and it won't matter where it is, if it's too offensive or criminal – it'll get banned. If it's not, it can be accessed.

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

As noted above under question 24, there should be no difference between off line and online. One RC code should apply to both. (Note - the lack of an R18+ classification for computer games makes the current arrangements very inconsistent)

On a separate issue, some of the content prohibited under the current RC guidelines and the X18+ guideline for film, does not necessarily reflect community standards, but rather regurgitates the views of some former Senators about some sexual activities.

Reform of the cooperative scheme

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

First they should be consistent. For example, some restricted magazines are not available in Queensland. There are different rules for the display of MA15+ films and games in Western Australia. South Australia maintains a separate classification body that has made separate classification decisions that apply only to South Australia.

If a new framework that has broad support in the community is developed from this review, then that should be taken as a mandate to encourage consistency in the States and Territories. If that doesn't work, the commonwealth should investigate the option of taking all classification and associated powers away from the States and Territories. They haven't managed the classification issues very well since the creation the current scheme – so no big loss if they are put aside.

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

It should be replaced. The scheme should be a co-regulatory scheme overseen through the commonwealth government – similar to the scheme for television.

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?

Yes. The States and Territories should give up all powers associated with the classification of entertainment content. They have performed poorly for decades. Creating a new scheme and then relying on the States and Territories to participate in a meaningful way would be a waste of effort.

Other issues

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

The most important element to improving the classification system in Australia, whether it is the existing system or a new one, is to provide ongoing education campaigns to ensure that the scheme is readily understood by consumers. An education programme should include exposure on television. There has been no attempt to comprehensively inform consumers (such as through a television advertising campaign) since the mid 1980s. Since then we have added the MA15+ category, added computer games to the scheme, and created a national scheme. It's no wonder that people don't understand.