



Telephone: (07) 3211 6954
Reference: SPRP 39606

18 JUL 2011

Ms Sabina Wynn
The Executive Director
Australian Law Reform Commission
GPO Box 3708
SYDNEY NSW 2001

Dear Ms Wynn

I welcome the review of the National Classification Scheme and appreciate the opportunity to provide feedback to the Australian Law Reform Commission's (ALRC) Issues Paper.

The Queensland Commission for Children and Young People and Child Guardian (the Commission) is an independent, statutory body that has a legislated responsibility to promote and protect the rights, interests and wellbeing of children and young people. The ALRC's review is of significant interest to me because of the power that media platforms have to captivate, engage and influence children and young people, both in positive and negative ways.

I note and strongly support the terms of reference's recognition of both the impact of media on children, and the increased exposure of children to a wider variety of media including television, music and advertising as well as films and computer games.

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

I am of the firm view that the primary objectives of a national classification scheme should incorporate protections for children, clear advice to parents and caregivers and considerations of how to promote their wellbeing, positive development and best interests when classifying material.

Clarity and consistency in classification decisions and how this can enhance community understanding of classification guidelines, should form a key consideration in determining what content should be classified and regulated and how the access to this content should be controlled.

Given the complex and rapidly changing nature of media and media access, clear and consistent decision-making in relation to the classification of content across various media platforms should assist parents and caregivers to understand the type

of content which is restricted to adults and content which is suitable for children and young people.

A public community education campaign about the classification scheme, the types of media regulated by the government and the content that falls within each classification category should assist parents and caregivers to make informed decisions when regulating children's access to media, to the extent that this is possible.

To balance the benefits of media from entertainment, social and educational perspectives with the protection of children, consultation with independent child development experts should be undertaken to examine the specific impacts on children and young people, particularly with respect to the formation of their health habits, body image, and the use of alcohol and drugs and potential sexualisation issues. As research continues to develop in this regard, I would recommend consultation with relevant experts to assist in identifying key issues around children and young people's developmental needs, and exposure to potential risks.

Draft Guidelines for the Classification of computer games

On 15 July 2011, I provided a submission on behalf of all Australian Children's Commissioners and Guardians to the Australian Government Attorney-General's Department in relation to the new draft Guidelines for the Classification of Computer Games. This submission proposed several recommendations with respect to how the proposed guidelines could be improved to strengthen safeguards for children that may also be of interest to your inquiry.

One of the recommendations was that if an R18+ classification category is adopted, its introduction be delayed until the ALRC's review has been completed (to ensure that any recommendations the ALRC makes which relate to the safety and wellbeing of children can be taken into consideration). I have attached a copy of this submission for your information.

I look forward to the release of the ALRC's National Classification Scheme Review Discussion Paper later this year and the final report in 2012.

Should you or officers of the ALRC wish to discuss this further, please contact Ms Vicki Hall, A/Director, Strategic Policy and Research Program on (07) 3211 6987 or Vicki.Hall@ccypcg.qld.gov.au.

Yours sincerely



Elizabeth Fraser
**Commissioner for Children and Young People
and Child Guardian**

The Commission for Children and Young People and Child Guardian

promoting and protecting the rights, interests and wellbeing of all Queenslanders under 18

Advice to: Australian Government Attorney-General's Department and the Standing Committee of Attorneys-General
Topic: Commonwealth Guidelines for the Classification of Computer Games
Date due: 15 July 2011

Thank you for providing the Australian Children's Commissioners and Guardians (the ACCG)¹ with the opportunity to comment on the draft Commonwealth Guidelines for the Classification of Computer Games (the guidelines), which include the proposed criteria for an R18+ category for computer games. The Commissioners and Guardians collectively have a legislated responsibility to promote and protect the rights and wellbeing of Australian children and young people under the age of 18.

The 2010 submission made by the ACCG in relation to the classification of computer games did not support the introduction of an R18+ category. While the ACCG still has concerns about the introduction of an R18+ classification, it notes that the guidelines have made some positive attempts to consider the interests of children and young people in classifying computer games. However, it is the ACCG's firm view that more work needs to be done in developing clear guidelines for depictions of particular types of violence. To this end, the ACCG notes the *Review of the National Classification Scheme: achieving the right balance* report from the Senate Legal and Constitutional Affairs References Committee, which highlighted concerns in relation to the inadequate protection of children under the current National Classification Scheme and the ineffectiveness of enforcement mechanisms.

Summary of the Australian Children's Commissioners and Guardians' position:

The ACCG supports the specification in the guidelines that descriptions or depictions of child sexual abuse or any other exploitative or offensive descriptions or depictions involving a person who is, or appears to be, a child under 18 years will be refused classification.

The ACCG recommends that:

1. in relation to depictions of sexual violence across the M, MA15+ and proposed R18+ classification, the guidelines be reviewed to ensure that the M classification category is subject to a stricter test regarding what is acceptable under the guidelines. The current wording of the proposed guidelines implies a potentially weaker threshold for acceptable depictions of sexual violence in the M category compared to the MA15+ and the R18+ category

¹ Contributing members of the Australian Children's Commissioners and Guardians are: Commissioner for Children and Young People and Child Guardian, Queensland, Ms Elizabeth Fraser; Children and Young People Commissioner, Australian Capital Territory, Mr Alasdair Roy; Guardian for Children and Young People, South Australia, Ms Pam Simmons; Commissioner for Children, Tasmania, Ms Aileen Ashford; Commissioner for Children and Young People, New South Wales, Ms Megan Mitchell; Office for Children – Acting Children's Guardian, New South Wales, Mr David Hunt; Child Safety Commissioner, Victoria, Mr Bernie Geary; and Children's Commissioner, Northern Territory, Mr Howard Bath.

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2. the potential impact of depictions of domestic and family violence is expressly taken into account when classifying or refusing to classify material
3. a public education campaign be implemented to develop awareness about the types of material which may be present in computer games available for purchase in Australia, and
4. a final decision in relation to the introduction of an R18+ classification for computer games be delayed until completion of the Australian Law Reform Commission's (ALRC) National Classification Scheme Review. Furthermore, in the event that a decision is made to adopt an R18+ classification for computer games, its introduction should be delayed to enable any recommendations made as a result of the ALRC Review, which provide for the safety and wellbeing of children to be implemented.

1. Require a stricter test for M classifications regarding depictions of sexual violence in computer games

The guidelines indicate that some level of sexual violence is acceptable in not only the proposed R18+ category of games, but also in the MA15+ and the M categories. The M category has no legally enforceable age restriction on who can buy these games, whereas MA15+ classified games are available for purchase by young people aged 15 and over. In effect, this would mean that children and young people could have access to video games containing depictions of sexual violence.

The guidelines also appear to contain a possibly weaker threshold for acceptable depictions of sexual violence in the M classification category compared to the legally restricted MA15+ and R18+ categories. The guidelines specify that for the M classification, sexual violence should be *very limited and justified by context*. Conversely, the MA15+ AND R18+ guidelines specify that *sexual violence may be implied, if justified by context*. This appears to allow for sexual violence to be actually exhibited in M rated games, yet possibly only implied in games subject to stricter classification.

Although the ACCG notes that the hierarchy of impact detailed in the guidelines means that the impact of particular material in the M classification can only be *moderate*, the ACCG recommends that greater clarity is provided in relation to acceptable depictions of sexual violence across the various categories and that a stricter test for acceptable depictions of this type of violence be applied for the M and MA15+ categories than for the R18+ category (should this category be introduced).

The ACCG supports the guidelines' specification that gratuitous, exploitative or offensive depictions of sexual violence or sexual violence related to incentives and rewards will be Refused Classification.

2. Expressly consider the potential impact of domestic and family violence when classifying video games

The ACCG is concerned that the guidelines do not contain any particular detail on how domestic and family violence will be considered for classification purposes. The

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introduction of an R18+ category of video games could potentially result in high impact domestic violence content games being legally distributed in Australia.

The ACCG recommends that the guidelines provide guidance on how this type of violence would be dealt with for classification purposes and that the potential impact of this type of violence is expressly taken into account when classifying (or refusing to classify) material.

3. Public education campaign to explain the nature of material in computer games

A public education campaign should be undertaken to provide consumers, particularly parents and care givers, with information about the nature of material which may be present in computer games sold in Australia.

The education campaigns should be tailored for particular contexts, for example taking into account how an R18+ classification category might have implications for the restrictions on classified material imposed on prescribed areas in the Northern Territory by the Commonwealth government intervention.

4. A final decision on the introduction of an R18+ classification be delayed until the completion of the ALRC's National Classification Scheme Review and if the R18+ classification is to be adopted, its introduction be delayed to enable any recommendations made as a result of the ALRC review to be implemented

The ACCG notes the specific mention in the Australian Law Reform Commission's terms of reference for its National Classification Scheme Review of '*the impact of media on children and the increased exposure of children to a wider variety of media including television, music and advertising as well as films and computer games*'.

In the event that the decision is made to implement an R18+ classification for computer games, the introduction of this category should be delayed until the completion of the Australian Law Reform Commission's National Classification Scheme Review. This would enable any recommendations from this review which provide for the safety and protection of children and young people to be taken into account.

Please do not hesitate to contact Clea Viney, A/Senior Policy Officer, Policy, Strategic Policy and Research Program (ph:07 3211 6954; e-mail Clea.Viney@ccypcg.qld.gov.au) should any aspects of this advice require clarification.