



ALRC National Classification Scheme Review: Issues Paper

SBS SUBMISSION

General statement of principle

SBS's principle submissions to the Review are that:

- there needs to be consistency in the classification of 'like' material irrespective of the platform by which it is viewed;
- transparency and education through a well understood classification system coupled with technological advances such as parental locks are the most effective way of ensuring that children are protected from inappropriate content and that adults can make informed choices about what they view;
- a co-regulatory system is effective and flexible; and
- this should work with a central body, the Classification Board, setting broad classification principles, industry participants classifying material they broadcast or publish (the Board should continue to classify material where there is no appropriate industry participant) and a common regulator, the ACMA, adjudicating on complaints about classification.

Introduction

SBS is a national broadcasting service and operates under the *Special Broadcasting Service Act 1991* (SBS Act). SBS's principal function is to provide multilingual and multicultural radio and television services that inform, educate and entertain all Australians, and, in doing so, reflect Australia's multicultural society. SBS broadcasts to a national television and radio audience and delivers content online on its website www.sbs.com.au.

SBS currently broadcasts two national television services: SBS ONE – in analog and digital; and SBS TWO – digital only. SBS also operates two subscription television channels, World Movies and Studio, available on the Foxtel and Austar platforms.

SBS operates one of the most diverse radio networks in the world, broadcasting 68 language programs each week across its analog network covering Canberra, Newcastle, Sydney, Wollongong and Melbourne, and other major centres around Australia. SBS Radio also transmits five digital services into Adelaide, Brisbane, Melbourne, Perth and Sydney. SBS's digital radio services include the 24/7 music channels SBS PopAsia and SBS Chill.



SBS's online services extend and enhance SBS's television and radio programming, as well as creating and commissioning exclusive online content for SBS's website www.sbs.com.au.

SBS also delivers content on social media services such as Facebook and through third party platforms including YouTube, and IPTV (Sony Bravia) and mobile services (iPhone and iPad applications).

SBS welcomes the opportunity to provide a submission to this wide-ranging review of censorship and classification in Australia. SBS's submission will address those areas which are relevant to its services.

SBS and the current classification framework

SBS's broadcasting services are defined as 'National Broadcasting Services' under the *Broadcasting Services Act 1992* (BSA). As such, the program standards set out in Part 9 of the BSA do not apply to SBS. Instead, the SBS Act requires SBS to develop and publicise its programming policies, to develop codes of practice relating to programming matters, and to notify those codes to the ACMA. The SBS Codes of Practice set out SBS's programming principles and obligations, including its television classification policy.

SBS operates under the broader existing classification framework in respect of television content to the extent that it has adopted as part of its television classification code the 'Guidelines for the Classification of Films and Computer Games 2005' (Classification Guidelines) (Code 4, SBS Codes of Practice). SBS's television classification code is 'based on' the Classification Guidelines. In addition, the SBS television classification code contains further detail on how SBS will assess violence, sex and nudity, and use of language, setting out SBS's approach to classifying these elements. In respect of its online content, SBS is subject to the relevant provisions in the BSA.

SBS is externally accountable through provisions in the BSA which give the ACMA power to investigate, under certain circumstances, complaints that SBS acted contrary to its Codes of Practice (ss.150-153). Where ACMA finds that a complaint against SBS is justified, it can recommend that SBS take action, including encouraging SBS to comply with the relevant code of practice. If the ACMA has made such a recommendation, and SBS has does not respond within 30 days, the ACMA may give the Minister a written report on the matter, which the Minister must cause to be laid before each House of Parliament.



Approach to the Inquiry

The current classification scheme adopts an ‘old media’ view that applies stricter controls to delivery platforms that previously had greater influence than others and that assumes that consumers have limited control over what they, or their children, watch. These underlying assumptions are, increasingly, less valid and distinctions between distribution platforms will ultimately become meaningless.

SBS considers that, taking into account the disparities in regulation of content across various platforms, the current framework for the classification of audio-visual/audio content is inequitable. There is a need for a framework that applies across platforms in a consistent and equitable manner, and which takes into account the growing availability of tools which enable consumers to control access to content.

SBS submits that the following principles should underlie a new approach to classification in Australia, in order to address the existing irregularities – whether through improving elements of the existing framework, or developing a new framework.

- **Equity:** the regulatory burden for the classification of ‘like’ audio-visual/audio content services should be consistent across platforms.
- **Co-regulation:** the regulatory burden should be applied through ‘like’ services-based co-regulatory schemes.
- **No duplication:** industry bodies should be responsible for classification decisions under co-regulatory schemes, with oversight by one review body (see next).
- **Consistency and transparency:** there should be one set of national classification categories and explanatory guidelines which apply to all types of ‘like’ content services; and oversight by one review body (preferably the ACMA, as Australia’s converged regulator).
- **Consumer role:** the role of consumers in controlling the content they access should be recognised through consumer education and the development and refinement of tools (such as parental locks, internet filters).

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

The overarching objective should be to provide advice to consumers to inform their viewing choices and to provide them with the means to control what they have access to (whether for themselves, or their children). This does not infringe on the right of everyone to be able to read, hear and see what they want, and takes into account the need to protect children from harmful and disturbing content.

Another important objective should be to ensure that industry (in general terms, content producers and distributors) can be confident about their decision-making in respect of their commissioning, purchasing and editorial output.

SBS submits that content which community standards deem should not be available at all should be dealt with under criminal legislation.

What content should be classified and regulated?

'Like' audio-visual/audio content services should be classified in a consistent manner across platforms. That is, whether or not content should be classified and regulated, should be platform and technology neutral.

The way in which content is accessed is becoming more varied and less consistent, with technology affecting both public and private means of consumption. Content is available in homes on a variety of devices, in public through mobile devices, and even the unofficial safeguard of cinema staff vetting audiences has been weakened by the ability to purchase tickets online.

Whether particular elements of the classification regime should be retained or modified will need to be assessed in the light of changes in consumer behaviour, technology and whether and how similar content is regulated in other contexts.

For example, SBS believes that time zones are no longer required for free-to-air digital channels, given that there are appropriate mechanisms for consumers to control the type of content that can be accessed through devices such as parental locks.

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

'Like' audio-visual/audio content services should be classified in a consistent manner across platforms. SBS does not consider that music and other sound recordings should be classified in the same way as other content. However there should be some form or regulation for audio services. SBS considers that the current self-regulatory scheme for music and sound recordings in Australia (ARIA/AMRA Labelling Code) is appropriate.

How should access to content be controlled?

SBS submits that consumer education (including media literacy education in school curricula) and the availability of tools such as parental locks and filtering software in conjunction with a consistent classification marking scheme should be relied on to control access to content.

When classification markings, warnings or consumer advice should be displayed, will depend on the development of relevant co-regulatory schemes. SBS considers that the current standards in place for broadcasting services should continue as the most effective means of providing advice to consumers.

Who should classify and regulate content?

Industry participants should be responsible for classification decisions in relation to the material they broadcast or publish. Where there is no appropriate or sufficiently resourced industry participant classification should be undertaken by the Classification Board.

A government agency (preferably the ACMA) should be responsible for oversight of the relevant regulatory schemes as well as consumer education, including information on appropriate consumer tools (software filters).

Classification categories and criteria

SBS considers that the existing classification categories are generally well understood by audiences. There may be some confusion in respect of the M and MA15+ classification categories given that the M category is *not recommended*, while the MA15+ category is *not suitable*, for people under 15 years of age. The Review may wish to consider whether these classifications should be clarified or changed.

SBS's television classification code is based on the Classification Guidelines, with the addition of a MAV15+ category. SBS applies an MAV15+ category to material warranting the application of the MA15+ classification for the element of violence. The Commercial Television Industry Code of Practice has an equivalent category known as the AV (Adult Violence) classification. However the ABC Codes of Practice, the ASTRA (subscription broadcast television) Codes of Practice, and the BSA do not refer to it, and it is not a classification category under the *Classification (Publications, Films and Computer Games) Act 1995*.

In its next codes review SBS may drop the MAV15+ category as the content which falls within that category could be classified MA15+, with consumer advice acknowledging that it contains 'strong violence'. This would lead to greater consistency across industry.

While SBS considers the current classification categories to be suitable, the categories and the time zones in which they may be shown on free-to-air digital television should be reviewed in light of the greater control over content that digital television allows through the availability of parental locks. Such technology may be used by parents or guardians to block content based on its classification, effectively limiting the available broadcasting schedule to one household containing children, while simultaneously leaving it open to adults in another.

Australian audiences have consistently indicated they support the principle that adults should be able to make their own choices in regard to content. Australia has become more diverse over time, and audiences expect the opportunity to see the best of the world's content.

With these considerations in mind, SBS believes that it is appropriate to reconsider the ban on terrestrial television channels broadcasting material classified R18+. Such material is freely available on DVD and over the internet and, as previously noted, access by children can be blocked using commonly available technology. Indeed such content protected by a parental lock may be more secure than similar material brought into a house on DVD.

Many of the films enjoyed by SBS audiences are classified as R18+ and have to be modified for broadcast in Australia even though they can be seen in full and as intended by the film maker in other countries, or on a DVD in Australia.

Reform of the cooperative scheme

SBS submits that there should be one set of national classification categories and explanatory guidelines which apply to all types of 'like' content services; and oversight by one review body (preferably the ACMA, as Australia's converged regulator). In today's digital media landscape, the concept of state boundaries is no longer applicable.

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