



AUSTRALIAN CHILDREN'S TELEVISION FOUNDATION

ACTF Submission to the National Classification Scheme Review – Discussion Paper 77 – September 2011

The Australian Children's Television Foundation ('ACTF') is pleased to have the opportunity to respond to the 2011 National Classification Scheme Review.

The ACTF is a national children's media production and policy hub and performs a wide range of functions in children's media: as a voice in policy matters; as a distributor of and investor in Australian children's television series; as an instigator of new, innovative and entertaining children's media and as a developer of valuable screen resources for the education sector

Introduction

We support the recommendations of the ALRC discussion paper aimed at harmonising the various classification regimes as they apply to children's content across a range of different platforms.

While differences in classification obligations for the same content across different platforms has existed for some time, the increasingly fluid and multiplatform consumption of content in a convergent media environment increasingly renders these inconsistencies an administrative burden for the industry and confusing for audiences.

Both producers of children's content, distributors of content and the community will benefit from greater consistency in the classification of material. It will provide parents, educators and care givers with a more consistent reference point for evaluating the suitability of content aimed at children.

As these issues have been dealt with extensively in the Discussion Paper we will not address them further other than to express our support for reforming the existing classification scheme, including through implementing **Proposals 5-1 to 5-4**. In particular, we support the introduction of a new *Classification of Media Content Act* ('**New Act**') that covers all media platforms and the establishment of a single agency with oversight of the New Act.

The remainder of this submission will address several issues or concerns with a number of the Discussion Paper recommendations concerning children's content.

Ch 6 - What Content Should Be Classified?

Proposal 6–1 The Classification of Media Content Act should provide that feature-length films and television programs produced on a commercial basis must be classified before they are sold, hired, screened or distributed in Australia. The Act should provide examples of this content. Some content will be exempt: see Proposal 6–3.

The Discussion Paper recommends that the Classification of Media Content Act should apply to ‘feature-length films and television programs *produced on a commercial basis*’ [emphasis added]. The intention behind this is to exclude the miscellany of short clips, amateur videos and other material appearing on YouTube and other online content platforms. It is also intended to confine classification to broad categories of material viewed by the community in large numbers, and where the community has a realistic expectation that such material will be classified.

We assume that television programs appearing on a commercial free-to-air broadcaster or a subscription television channel would be considered to be produced on a commercial basis.

However, does it apply to the public broadcasters, who currently self regulate? A significant amount of content broadcast by the ABC or SBS is in fact produced for commercial purposes, as it is also intended for sale on other platforms or formats (for example, iTunes and DVD).

The uncertainty that flows from the ‘commercial basis’ qualification would need to be resolved in some way.

If public broadcasters continue to self regulate, we would hope that they adopt the categories introduced by a New Act in order to ensure harmonisation of the classification categories. But furthermore, consideration needs to be given to whether content self classified by the ABC undergoes separate classification when it is made available on other platforms. Operational issues relating to classifying content across platforms is discussed further below in relation to Chapter 7.

Ch7 - Who Should Classify Content

Proposal 7-1 sets out the specific categories of content that must be classified by the Classification Board ¹. The effect of the accompanying **Proposal 7-2** is that all other material will be voluntarily assessed via ‘authorised industry classifiers’ to classify other content not specified in **Proposal 7-1**.

There are a number of issues relating to the operation of self regulation as discussed in the Discussion Paper.

¹ feature-length films produced on a commercial basis and for cinema release; computer games produced on a commercial basis and likely to be classified MA 15+ or higher; content that may be RC; content that needs to be classified for the purpose of enforcing classification laws; and content submitted for classification by the Minister, the Regulator or another government agency.

- *Authorised industry classifiers*

It is unclear whether ‘authorised industry classifiers’ could be employees of a content provider tasked with role, subject to certification, or whether it will need to be third party assessors. If they are third party assessors there doesn’t seem to be a strong policy reason to outsource this task outside of the Classification Board.

A footnote to **Proposal 7-1** states that a content provider may also submit material to the Classification Board if they choose, rather than ‘authorised industry classifiers’.

Further details on the operation of ‘authorised industry classifiers’ needs to be provided so that the industry can assess the impact of this part of the scheme.

- *Voluntary classification across platforms*

There is a potential operational issue concerning voluntary classification of programs across all platforms.

Proposal 5-2 outlines that a new classification scheme would include:

“c. a single set of statutory classification categories and criteria applicable to all media content;”

while **Proposal 5-4** provides that the definitions of definition of ‘media content’ and ‘media content provider’ should be:

“platform-neutral and apply to online and offline content and to television content.”

A problem with this process is that for it to be workable, the proposal seems to assume that the content provider will seek classification for a program in respect of all platforms.

The nature of the screen content industry is that the various rights in a program are often divided between a range of broadcasters and distributors. For example, a broadcaster that has television rights wouldn’t want to incur expense of seeking classification for DVD distribution of the same program if it did not have those rights and had no intention to acquire them.

If a standard classification will apply across all platforms we need further information on its operation.

As various rights holders may have an interest in the same program across different platforms, how will duplication of the classification process be avoided? If there is a situation that two classifications are determined, and those classifications differ, who will determine which classification of a program will apply? Will it simply be the first application that is arrived at? Or will there be a system in place to maintain voluntary classifications to avoid duplication by ‘authorised industry classifiers’ or the Classification Board?

The Discussion Paper highlights the need to avoid unnecessary duplication and contradictory results in the classification process, but further work is required to establish how a platform neutral classification scheme would operate in practice.

Ch 9 - Classification Categories and Criteria

Proposal 9–2 The Classification of Media Content Act should provide for a C classification that may be used for media content classified under the scheme. The criteria for the C classification should incorporate the current G criteria, but also provide that C content must be made specifically for children.

Existing P and C classifications

We are concerned that the ALRC’s Discussion Paper has confused the purpose of the existing P and C classifications set out under the Children’s Television Standard ‘(CTS)’, which has a specific purpose related to content quotas, with the purpose of classification under the existing OFLC scheme.

The existing P and C classifications are administered by the ACMA to classify programs as P or C provided they meet several criteria set out in the Children’s Television Standard². As stated in the Discussion Paper, the classifications do not simply identify material:

“...‘suitable for’ children, but [identifies material] designed specifically to meet children’s needs and interests.”³

The criteria are broad ranging and include several subjective elements. Material that currently meets the criteria would naturally exclude content that could be considered potentially harmful or disturbing to children. However, this is not the aim of the criteria.

Their aim is to ensure that P and C classified material that goes towards meeting each commercial free-to-air broadcaster’s children’s local content quota are developed with a child audience in mind, and also achieve a minimum quality standard in respect of the quality of the production. This is because the P and C classification form part of the local content requirements that each commercial free-to-air broadcaster must meet, and the criteria have been established to ensure broadcasters do not fulfil their obligations by commissioning cheap low quality material with poor production values.

Furthermore, the CTS P and C classification only apply to the commercial free-to-air broadcasters, and not to subscription channels or the ABC.

We strongly resist any argument that the existing P and C classification should watered down so that the only criteria is ‘suitability for children’. We also oppose consolidating the existing classifications as they deal with ensuring minimum standards of program quality, rather than protection from harm as is the case with general classification.

² Children’s Television Standard sets out the following criteria:

- is made specifically for children;
- is entertaining;
- is well produced using sufficient resources to ensure a high standard of script, cast, direction, editing, shooting, sound and other production elements;
- enhances a child’s understanding and experience; and
- is appropriate for Australian children.

³ Discussion Paper, 9.21.

Separate C Category?

A separate C category could have merit as it could assist parents, caregivers and educators with an easily identifiable category for selecting programming suitable for children. However, it should not be confused with the specific criteria set out in the existing CTS C classification.

A proposed C category would cover a broad cross section of children, ranging from toddlers to early teens, all at very different stages of development and with distinct needs and interests in relation to screen content. Content aimed at pre-schools is a valuable presence on Australian screens. A new P category could provide parents, caregivers and educators with a clear indication of material suitable for a pre-school audience.

However, consideration needs to be given as to how these new categories would co-exist with the existing classifications.

Our submission has focused on several conceptual and operational issues we have identified in the Discussion Paper. We look forward to engaging further with the ALRC in the outcome of this review paper.