



TELSTRA CORPORATION LIMITED

Submission to the Department of Infrastructure, Transport, Regional Development and Communications on the review of Australian classification regulation

19 February 2020



01 Introduction

Telstra welcomes the opportunity to respond to the review of Australian classification regulation being undertaken by Mr Neville Stevens AO and the Department of Infrastructure, Transport, Regional Development and Communications (the **Department**).

Telstra has previously expressed its strong support for the development of a harmonised, platform-neutral media regulatory framework. Most recently, in our response to the ACCC's Digital Platforms Inquiry Final Report, we stated that:

“Telstra agrees that a harmonised, platform-neutral regulatory framework governing content production and delivery in Australia should be developed. It has long been recognised that Australia’s legislative, regulatory and policy frameworks in these areas are no longer fit for purpose, focused as they are on platform-specific regulation, with limited recognition of the shift to online services and the convergence of formerly disparate methods of content production and delivery. These outdated frameworks create market distortions through regulatory disparity; further, by seeking to regulate dynamic markets through static, prescriptive regimes, they are unlikely to be effective in achieving their original objectives.”¹

Consistent with this statement, we support the review of Australian classification regulation, noting that this review forms part of the Government's broader commitment to media reform in response to the ACCC's Digital Platforms Inquiry Final Report.

We set out below some specific comments in response to the Department's consultation paper. Our comments are limited to Part 2 of the consultation paper, which focuses on redesigning current classification laws to suit the modern content market while continuing to provide relevant and appropriate classification information to consumers.

We have provided a separate submission to the Department in response to its consultation regarding a new Online Safety Act.

02 Comments in response to Part 2 of the consultation paper

2.1. Content to be classified

The Department's consultation paper states that:²

- the definition of “film” in the Classification Act is broad, and technically covers all content online apart from online games and online advertisements; and
- the definition of “film” needs to be updated to provide clarity to industry about what content must be classified, noting that it is not practical or feasible for all online content to be classified in the same manner.

¹ Telstra, Submission to Treasury regarding ACCC Digital Platforms Inquiry Final Report, 11 September 2019, page 9.

² The Department, Review of Australian classification regulation, January 2020, page 13.



The Department has proposed that a future definition of classifiable film content should cover the following professional and commercial formats made available in Australia:³

- films in cinemas;
- films and episodic series on physical media (DVD and Blu-ray);
- films and episodic series broadcast on television and related online catch-up TV services (e.g. ABC iView, SBS on Demand, TenPlay, 9Now, 7plus);
- commercial video-on-demand services (e.g. Netflix, Stan, Amazon Prime Video, Disney+, Apple TV+); and
- films and episodic series on digital storefronts (e.g. Apple iTunes, Google Play).

Telstra agrees with the Department that, given the significant and increasing volumes of content available today, classification laws should be updated to clarify what content must be classified, taking into account consumer expectations in the current media landscape, while also recognising the impracticalities of requiring all online content to be classified the same way. As the Convergence Review stated in its Final Report:

“The volume of media content available to Australians has grown exponentially. ... As it is impractical to expect all media content to be classified in Australia, the scope of what must be classified should be confined to feature films, television programs and higher-level computer games. ... A classification obligation that applies to content must be focused on material for which Australians most need and demand classification information.”⁴

Given the exponential growth of online media content, we also note the importance of having robust online safety laws operating in parallel with classification regulation. This is necessary to ensure Australian consumers are able to make informed decisions about the content they consume, and to ensure that harmful online content – including content which may not be (and may not be required to be) classified – can be managed appropriately. In addition, it will be important to ensure that, as classification and online safety laws are reformed, they work together efficiently and effectively to inform and protect consumers while minimising duplication and avoiding inconsistencies.

2.2. Applying the same classification standards across delivery formats

As noted above, Telstra strongly supports the development of a platform-neutral media regulatory framework, including the development of a single set of classification categories and criteria for classifiable content across all delivery formats.

Content-specific, platform-specific and provider-specific classification rules can be inconsistent and inflexible.⁵ In addition, they can give rise to confusion for consumers if the same content is classified differently across different platforms, and for providers of content if there is a lack of clarity about what and how to classify content for different delivery formats.

³ The Department, Review of Australian classification regulation, January 2020, page 13.

⁴ Convergence Review Final Report, March 2012, page 131.

⁵ The Department, Review of Australian classification regulation, January 2020, page 14, citing the Convergence Review Final Report, March 2012, page 40.



On top of this, we are concerned that outdated, platform-specific regulatory frameworks may serve to create market distortions through regulatory disparity, while failing to achieve their underlying objectives.

For all these reasons, we agree that a single set of classification guidelines should apply to classifiable content across all delivery formats.

2.3. Classification processes

The Department's consultation paper highlights a number of issues with current classification processes, including the fragmented nature of applicable processes for different delivery platforms, the problem of regulatory overlap when the same content is broadcast on television and made available in other formats, and the impossibility of the Board classifying everything available to consumers due to the large volumes of content available online.⁶

With these considerations in mind, the consultation paper suggests that a new classification framework could be established to enable industry to self-classify content across all platforms, overseen by an Australian Government regulator. Industry self-classification could be done using trained assessors or approved classification tools, and monitored by the regulator to ensure the accurate and consistent application of classification guidelines.⁷

Telstra agrees that, in developing a new classification framework, simplifying and streamlining current classification processes is an important objective. The use of approved classification tools could be a practical and efficient way to produce classification ratings and consumer advice, potentially allowing greater volumes of content to be classified more quickly and allowing consumers to access that content more quickly as well. In this context, we note the International Age Rating Coalition tool appears to allow large volumes of online and mobile games to be classified in a cost-effective and timely manner, using a global classification questionnaire to generate localised ratings. As more content is generated and distributed on a global basis, tools which facilitate efficient classification across multiple jurisdictions are likely to be increasingly important.

As a final comment, we note our view that, in developing a new classification framework, it will be important to clearly and appropriately delineate responsibility for ensuring classifiable content is appropriately classified before it is made available in Australia. This is particularly so, given the increasing number of channels through which content is made available to consumers. In our view, obligations to classify content should rest primarily with the producers of that content, rather than third party aggregators or distributors. Content producers are likely to be most familiar with the aspects of their content bearing on classification. Further, this would help ensure consistency of classification in circumstances where the same piece of content is available on different services and across different platforms.

⁶ The Department, Review of Australian classification regulation, January 2020, page 15.

⁷ The Department, Review of Australian classification regulation, January 2020, pages 15 and 16.