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ACMA Review Consultation
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Netflix, Inc. (**Netflix**) is pleased to provide some brief comments on the classification issues discussed in the Draft Report of the *Review of the Australian Communications and Media Authority (ACMA)*¹.

The current approach to classification under the *Classification (Publications, Films and Computer Games) Act 1995 (Classification Act)* requires different approaches depending on the type of content being classified, and the delivery mechanism by which the content is provided to the customer.

A regulatory gap in the classification system arising from this differential approach means that subscription video on demand (SVOD) providers cannot use the same self-regulatory approaches to classification as broadcasters (who use trained content assessors to classify content according to Australian classification standards) or the computer games industry (which uses an “approved classification tool” - the IARC global rating tool). There is currently no capacity for SVOD providers to self-classify the content supplied to their customers.

Efficient classification is critical to ensuring Netflix members in Australia are able to watch Netflix content at the same time as members in other territories. Netflix adds thousands of hours to its Australian catalogue each month. Many of these titles, including Netflix original content, have never been shown in Australia and need to be given an Australian classification and labelled with appropriate consumer advisories.

As Netflix increases its investments in content, more and more titles will need to be given an Australian classification. However, there are significant obstacles associated with classifying large volumes of content. Processing delays could result in content being premiered later in Australia than in other Netflix markets. Additionally, classification through the Board will result in increasing business costs. This is why broadcasters in Australia, who traditionally have been the largest distributors of first-run content, are able to independently classify content and internalise these processes and costs. In contrast, classification costs for the SVOD industry

¹ Department of Communication and the Arts *Review of the Functions of the Australian Classification and Media Authority*, Draft Report, May 2016 pp 41-42.

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will continue to increase as the range of online content choices for Australian consumers continues to expand.

Netflix is supportive of the technology-neutral approach to classification recommended by the Australian Law Reform Commission (**ALRC**) in its Final Report on Australia's classification system². In particular, Netflix is supportive of Recommendation 7-4 which provides that (other than for classes of content that must be classified by the Classification Board), media content may be:

- a. Classified by the Classification Board;
- b. Classified by an authorised industry classifier; or
- c. Deemed to be classified because it has been classified under an authorised classification system.

Netflix also supports the ALRC's Recommendation 6-4, which would allow the regulator of a new classification scheme to approve industry codes that provide for the voluntary classification and marking of classes of content that are not required to be classified by the Classification Board.

Against this background, Netflix thinks it is a sensible strategy for the Department of Communications and the Arts to undertake further work on the potential to expand the ACMA's remit to include the functions of the Board (as suggested in the ACMA Review Draft Proposal 7). This would also enable the Department to consider whether there may be significant policy and efficiency benefits that would flow from establishing a 'one stop shop' to co-locate all regulatory functions in relation to classification with a single regulator such as the ACMA.

Respectfully submitted,

_____/s/
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² ALRC *Classification - Content Regulation and Convergent Media*, Report 118, February 2012.