

Submission for Review of Australian classification regulation

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I wish to remain anonymous.

1) Are the classification categories for films and computer games still appropriate and useful? If not, how should they change?

The current classification categories are sufficient; however, I do have some concerns about the diminishing threshold that separates the categories in recent years, in so far as how the guidelines are being interpreted by the Board, which I will address in further detail throughout this submission. While I am aware that there is a vocal minority that is requesting age-based categories (to succeed the G, PG, and M categories), I argue that the current categories are more useful as it allows parents and guardians to make informed decisions while taking into consideration the broad variability of a child's development, sensitivities, and impressionability; factors that age-based categories do not take into consideration as age-based categories imply that the material is suitable for all persons of a certain age and above, while the sort of material that may confuse or harm children cannot be so arbitrarily distinguished by age alone, and calls for age-based replacements of the current categories are therefore short-sighted.

Replacing the current categories with those that are age-based will also entail that any previously classified works will then have their classification categories substituted with an equivalent age-based counterpart, and this topic had been previously raised in a focus group (that I had attended) held by the Classification Board a few years ago. I recall raising concern that arbitrary age-based categories could potentially be harmful to children, particularly if the PG and M categories were to be replaced with new categories such as the proposed 5+ and 10+ categories, which would entail that any preexisting PG and M classified material would be considered suitable for children aged 5 or 10 and above respectively, which is certainly not the case, particularly as sexual content, coarse language, and adult themes are typically far too strong for what would be suitable for such young audiences to watch unsupervised.

Perhaps the public can be better informed as to the differences between the PG, M, and MA15+ categories, and PG can be better explained as being generally suitable for general audiences, however, parental guidance is recommended as some children may find the material to be confusing and/or upsetting rather than advising that it is recommended for viewing by those aged 15 years and over as the public may find it confusing to have three classification categories (being PG, M, and MA15+) that suggest that material classified at these categories are recommended for persons aged 15 and over when the majority of content at PG is suitable for most audiences, though particularly young and/or impressionable audiences may find the content distressing. Likewise, consumer advice at the M classification level is particularly useful for families, particularly considering the increasing number of family films that are classified at the lower end of the M classification level (mainly fantasy films containing themes and/or fantasy violence). Perhaps the Board may wish to consider accommodating moderate action/fantasy violence at the PG level in order to allow families to more easily distinguish between family-friendly material from

stronger material that is typically accommodated at the M classification level.

Incidentally, I commend the Board for providing at-a-glance charts detailing the impact levels of each classifiable element for most recently classified works via the ACB website, as well as providing more detailed descriptions of each classifiable element in certain works as of late 2019 (which seems to be limited to theatrical releases at present, though it would also be useful for games as well, particularly for material classified M and above, and also for material likely to appeal to children and/or families).

2a) Do the provisions in the Code, the Films Guidelines or the Computer Games Guidelines relating to 'themes' reflect community standards and concerns? Do they need to change in any particular classification category or overall? Are 'themes' understood and is there sufficient guidance on what they mean?

In recent years, the classifiable element of "themes" seems to have been applied more often in vague terms than what would be deemed useful to the general community, and I can understand that audiences may be confused about what this classifiable element actually entails. With increasing frequency, matters such as injury detail and threat are being subsumed under "themes" even though there may not be any other themes of concern in the work otherwise. In such instances, more specific consumer advice such as "injury detail" or "threat" ought to be used if the work does not contain any other thematic material of concern. In circumstances where there are themes in addition to thematic issues such as injury and threat, then consumer advice of "themes" alone would be sufficient. Likewise, issues of threat such as horror and peril are often subsumed under the classifiable element of violence anyway, which is sufficient when the work does not contain any other thematic elements to warrant flagging for "themes" in isolation.

The current application of the guidelines in respect to gambling is not adequately serving the needs of the community. While in recent years, the Board seems to have tightened the threshold of simulated gambling content (that is, gambling that entails the use of in-game/fictitious currency) that can be accommodated at the G, PG, and M classification levels. Given the serious issue of gambling in Australia and the potential for gambling to result in destitution and/or family breakdown, it is not an issue to be taken lightly, and I am inclined to agree with the Board in respect to how they are currently classifying gambling content in video games (where casino-themed games tend to be classified M for "Simulated gambling", however, I feel that a PG is sufficient in most cases where gambling is not the primary focus of the game).

With that said, I am even more concerned about the presence of gambling material in games and other applications that are not being appropriately flagged by the Board. With increasing frequency, video games on both dedicated consoles and mobile devices contain material that encourage the spending of real-world currency in order to increase one's

likelihood of success in a game (among other incentives). Many games nowadays contain what is known as “loot boxes” which contain a random assortment of in-game items that require real-world money to purchase. Likewise, other games, such as Pokémon Shuffle, encourages spending real-world money to collect "jewels" which increase one's likelihood of winning levels throughout the game, but without any certainty of success, and such games are troublingly often marketed to children and families. Some legislative changes have been made in parts of Europe in order to regulate the practice, and I think that similar changes to address gambling content in video/mobile games in Australia is long overdue, particularly as such material is routinely accommodated at the G classification level with no disclosure of gambling material whatsoever.

Games that contain any such elements should be treated as any real-world gambling activity would be (and the legal restrictions that entail) and ought to be restricted to adults with an R18+ classification, perhaps featuring consumer advice such as “Chance-based gameplay involving real-world currency”. Likewise, any other software that allows for betting/gambling on real-world circumstances or events can likewise be classified R18+ simply for “Gambling”, or perhaps to be more specific, “Gambling involving real-world currency”.

Other themes of concern include depictions of adultery, for example. While the G classification permits the depiction of couples in bed and restrained depictions of implied sexual activity, the impact of such depictions is increased in the context of an adulterous/unfaithful relationship, and such material ought to be subsumed under “themes”, and necessitate a higher classification level, even if such a depiction in isolation, and without the implication of an adulterous relationship, could be accommodated otherwise at the G classification level. Likewise, other types of amoral and/or undesirable behaviour that could set a poor example for impressionable children should be scrutinised with greater care, in so far as their permissibility at the G classification level is concerned.

Flagging of “themes” at the G classification level is usually too vague and broadly interpreted in most circumstances to be of any use to concerned members of the public. I feel that classifiable elements should only be flagged for material at the higher end of the G classification level as opposed to flagging the mere presence of a classifiable element. One of the most bizarre examples was the recent flagging of “Very mild themes” in *Dr. Kawashima’s Brain Training For Nintendo Switch*, which is an educational/self-improvement game, and the only themes I was able to identify were in the form of vintage newspaper articles from the 1950s and 1960s which appear as part of the “Reading Aloud” activity, and in a few of the tips/factoids that appear during the course of normal gameplay. Such material is highly unlikely to be of concern to members of the community, nor are the themes in question likely to cause distress or upset children (or the software’s target audience of 20-80 year olds for that matter). In such cases (and there is scarcely enough

time in the day to exhaustively cite the multitude of other examples that exist), superfluous consumer advice at the G classification level ought to be omitted.

2b) Do the provisions in the Code, the Films Guidelines or the Computer Games Guidelines relating to 'violence' reflect community standards and concerns? Do they need to be changed in any particular classification category or overall?

I am mostly satisfied with the way in which the classifiable element of violence is being classified by the Board, however, I do have concerns regarding the way in which sexual violence is being classified specifically for video games.

Upon revision of the classification guidelines in preparation for the introduction of the R18+ classification for games, I had noticed that the guidelines concerning sexual violence had been tightened so that material that could have been previously issued a lower classification category would now be given an automatic R18+ classification for material that is merely interpreted by the Board as being even vaguely akin to an act of sexual violence or other forms of non-consensual behaviour, even those that are devoid of overt sexual context.

My concern prior to 2013 was that there would be a sudden abundance of R18+ rated games, merely for containing "references to sexual violence", even though the material would have been classified more leniently prior to the introduction of the R18+ classification. More troublingly, it has resulted in material that would have ordinarily have been classified M or MA15+ being issued an adult classification, which diminishes the usefulness of an adult classification and undermines the public estimation of the classification categories and their intended purpose to the community, especially as any "references to sexual violence" in question have been (in my experience with such games) incidental at best. Perhaps the most ridiculous examples were the reclassifications of two games from the long-running *Atelier* series, where PG classified installments in the series were subsequently reclassified as R18+ (even though the "references to sexual violence" in question appeared in original PG submissions of the games). This sends mixed messages to the community, particularly as references to and restrained depictions of sexual violence are readily accommodated at the M classification level and above for film/TV, and yet the very same material in a video game would likely be refused classification. Generally, the impact of non-interactive elements in video games are less impactful than the equivalent content in a live-action work due to the disparate degrees of realism between the two forms of visual expression.

I feel that sexual violence should be scrutinised by the Board for video games more or less in the same manner as it is currently being applied to film. Of course, sexual violence relating to incentives and rewards ought to be refused classification as it currently is, as well as interactions that afford the player the option to carry out an act of sexual violence.

In respect to live action films, I feel that the Board is occasionally too lenient in respect to films that contain gruesome sadistic violence, particular installments in the *Saw* franchise that have been classified MA15+ even though they contain frequent and graphic depictions of bloody sadistic violence and gore, as well as sustained psychological threat and horror. While I am not fond of such films, I feel that they are better situated at the R18+ classification and are not suitable for minors. This is not to state that horror films generally ought to necessitate an R18+ classification, however those that place undue emphasis upon sadism (colloquially referred to as "torture porn") should not be accessible to minors, particularly as such imagery could profoundly disturb and/or cause irreparable psychological damage to minors in their formative years, and considering the unprecedented occurrence of mental health problems in the community today, the impact the films and games may have ought not to be underestimated.

2c) Do the provisions in the Code, the Films Guidelines or the Computer Games Guidelines relating to 'sex' reflect community standards and concerns? Do they need to be changed in any particular classification category or overall?

Depictions of adolescents (or adult actors portraying adolescents) involved in sexual activity seems to be occurring with greater frequency in recent years, and often in an irresponsible manner. I feel that viewing impact is increased when adolescents are depicted involving themselves in activities such as "sexting" and subjecting others to or being objects of humiliation, such as the sharing of intimate images with peers and the like.

Similarly, I believe that the depiction of prepubescent children in sexualised attire and/or being encouraged to behave in a sexualised matter ought to be refused classification due to the long-term societal damage that permitting depictions of children in such a manner could entail.

Those issues aside, I think current guidelines pertaining to the classifiable element of sex generally reflect community standards.

2d) Do the provisions in the Code, the Films Guidelines or the Computer Games Guidelines relating to 'language' reflect community standards and concerns? Do they need to be changed in any particular classification category or overall?

The classifiable element of coarse language has been mishandled in recent years due to the increasingly arbitrary fashion in which it is being scrutinised, as opposed to assessing the manner, frequency, aggressiveness, and context of its use, as well as taking into consideration the intended target audience of the work. For example, coarse language that would ordinarily be deemed to be "very mild" in impact under ordinary circumstances could perhaps necessitate a PG classification if the work is likely to be viewed predominantly by children (as children may be more susceptible to repeating any use of coarse language uttered in work that is targeted to them).

Furthermore, I am concerned that the Classification Board has, in recent years, been flagging uses of words that the sensible majority would not even consider to constitute coarse language, particularly words such as “heck” (which in itself is an entirely inoffensive euphemism for “hell”, which is readily accommodated at the G classification level anyway) and “jerk” (which I have had no idea anybody in Australia would even consider to constitute “coarse language”, let alone that which warrants flagging at the G classification level). Likewise, flagging material for “coarse language” due to the use of words such as “hell” and “damn” seems anachronistic and more in line with American sensitivities as opposed to those that pertain to our collective sensitivities. Only in severe circumstances would such words warrant flagging (such as their use in a children’s content; otherwise, their impact is arguably negligible to the majority of sensitive Australians).

The seemingly sudden introduction of otherwise innocuous words to the pool of what the Board considers to constitute “coarse language” seems to be a consequence of either modelling the application of our guidelines too closely on the BBFC (which considers such words to warrant flagging) or pandering to a vocal minority of activists who make unreasonable complaints that are inconsistent with generally accepted community standards. The sudden paradigm shift is a far cry from what the G classification had previously (and frequently) accommodated, which included terms such as “bastard”, “ass/arse”, and less frequently, terms such as “crap”, “bitch”, “whore”, and “pissed”. In fact in rare cases, including *E.T.*, the word “shit” has been permitted at the G classification level; now, I am not suggesting that the Board ought to be so lenient that terms such as “shit” are permitted at the G classification level, however, classifying material as PG for merely containing a single use of “ass” or “crap” is inconsistent with decades of past G rated decisions, but also undermines the PG classification as it routinely allows for more frequent uses of stronger terms. In circumstances where any of the previously-mentioned words are used frequently, aggressively, and/or in a context that may warrant concern (for example, if a child were to utter such words, as opposed to an adult, and/or if such language were used in a cruel/demeaning fashion), then of course, a PG classification would be more appropriate. The fact that words such as “bastard” and wordplay involving words such as “shit”, and colloquialisms such as “bitching” are used quite often on broadcast television, often with a G rating (and in advertising), during the day, and without arousing public outcry, should suggest that the general public are generally unfazed by such language, at least as far as what could be accommodated at the G classification level, and that the Board’s assessment of coarse language should have remained consistent with past decisions, though, as I have mentioned before, common sense ought to be exercised concerning material that is specifically aimed at children.

In respect to classification tools, perhaps they ought to err on the side of caution due to the lack of context provided by the applicants, but it is disproportionate and doing a disservice to the audience by giving a PG classification for mere passing uses of “ass” and/or “crap”, that would historically have been permitted at the G category, particularly considering that the PG classification routinely accommodates stronger and more frequent uses of terms such as “shit” (and its many variants), “arsehole”, “dickhead”, “cock”, “prick”, “piss off” etc., and it is understandable that audiences may be confused when they see a PG classification

for "Mild coarse language" when one such work may contain a single use of "crap" (*Smallfoot* being one such example), while another work that has been classified as such may contain a multitude of stronger uses of coarse language that would be of greater concern to most sensible parents, rendering a single use of "crap" negligible in comparison.

Furthermore, the Board is neglecting the use of the descriptor "infrequent" to describe coarse language in particular. Considering how lenient the M classification level is in respect to coarse language (relative to other jurisdictions), the Board is not adequately serving the needs of the community by neglecting the use of such terms. The M classification routinely accommodates dozens, sometimes in excess of 100 uses of "fuck" (and its variants), even in an aggressive manner, and will often flag such material as "Coarse language", while another M rated work that contains only one or two uses of "fuck" and a few uses of milder terms will also receive the same consumer advice (as opposed to "Infrequent/Incidental coarse language" as it would have in the past). The consumer advice ought to reflect the frequency of content that has warranted the assigned classification category, and not necessarily what could have been accommodated at lower classification levels (unless perhaps the milder uses are frequent and/or at the upper limit of what can be accommodated at the PG classification level).

I am also concerned about the use of the word "cunt", and the Board issuing arbitrary MA15+ classifications to works that contain infrequent/unaggressive/non-sexual uses of the word. Considering how accommodating the M classification is in respect to the word "fuck" (and its variants), I believe it is doing a disservice to the audience when one M rated work can contain over 100 uses of moderate impact coarse language, while use of "cunt" is considered grounds for a restricted MA15+ category, irrespective of context. One of the most absurd examples in recent memory was the classification of the film *Lady Bird*, which, in its uncut form, was classified MA15+ for "Strong coarse language and brief nudity". The film contained only occasional use of "fuck", some use of mild coarse language, and two passing uses of "cunt" in the space of a single scene, however, they were not uttered in an aggressive or callous fashion. It was used as a jeer, but not in such a fashion to increase the viewing impact to strong. The guidelines specifically state that strong coarse language ("cunt") should be unaggressive and/or infrequent, however, in recent years, it seems as if that condition is being ignored while such coarse language is considered grounds to merit an MA15+ classification by default, regardless of aggressiveness, frequency, or context. If such an occasion arises that such language is used in an aggressive/demeaning manner (for example, a scene of domestic conflict where a spouse aggressively calls another a "cunt"), or if it is used in a descriptive and/or sexually explicit fashion, or if such vulgarities are uttered by a child, then yes, an MA15+ classification would be more appropriate. And while I am personally not fond of the word, I do not believe that it should default to MA15+ except in severe circumstances, however, I am not suggesting that it should be permitted as liberally as the word "fuck" is permitted at the M classification level. While I cannot vouch for the entirety of the community, I find that a work with frequent uses of "fuck" to be more impactful than a film with only occasional/infrequent use of "fuck" that may also just happen to include one or two conversational uses of "cunt" such as what was present in the film *Lady Bird*.

2e) Do the provisions in the Code, the Films Guidelines and the Computer Games Guidelines relating to 'drug use' reflect community standards and concerns? Do they need to be changed in any particular classification category or overall?

I am mostly satisfied with the way in which the classifiable element of drug use is scrutinised by the Board.

I do feel that some video games are classified too harshly in respect to drug use, particularly when they are refused classification for merely containing use of fictitious substances, which ought to be considered a mitigating factor, however, I can certainly understand that incentivising the use of real-world illicit substances would necessitate refusal of classification.

2f) Do the provisions in the Code, the Films Guidelines or the Computer Games Guidelines relating to 'nudity' reflect community standards and concerns? Do they need to be changed in any particular classification category or overall?

Nudity is perhaps the most inconsistently classified of all classifiable elements, presumably due to the variable attitudes between members of the Board concerning what degree of nudity is appropriate at each category, and in what context.

As a general rule, animated nudity is less impactful and of negligible concern when compared with real-life depictions of nudity, and likewise with depictions of natural nudity, including that of infants and breastfeeding mothers, though any depiction of bare breasts should perhaps be flagged if accommodated at the G classification level.

In respect to nudity, the following factors should perhaps come into play: frequency, target audience, whether the nudity is intended to provoke a response (to shock, amuse, and/or titillate), whether the nudity is presented in a medical/educational context, in which case the impact could be reduced to mild/very mild. Nudity depicted in a comic context should also be a mitigating factor, and I have noticed a number of MA15+ rated films with brief depictions of comic genital nudity that I feel could have been accommodated at M.

A character's buttocks being exposed while changing clothes or who otherwise loses their clothes in a comedy of errors could be accommodated at the G classification level, while an instance of a character deliberately exposing themselves to provoke a response would perhaps be better situated at the PG category. Likewise, a character whose buttocks are exposed after getting out of bed after implied sexual intercourse has taken place would perhaps also be better situated at the PG classification level due to the implied sexual context the complements the depiction of nudity. I also agree with the Board subsuming the classifiable element of nudity under the consumer advice of "sex scene/s" if the nudity in question takes place during such scenes.

In respect to nudity in video games, I feel that it is an overreaction to bump a game up to an R18+ classification merely for containing breast nudity (or other non-genital nudity) in

relation to incentives and rewards when the same adult category also allows for complete full-frontal nudity with or without such nudity being incentivised, and incentivised breast nudity could perhaps be accommodated at MA15+ with R18+ reserved for explicit full-frontal nudity.

3a) What aspects of the current Code, Films Guidelines or Computer Games Guidelines are working well and should be maintained?

3b) Are there other issues that the Code, the Films Guidelines and/or the Computer Games Guidelines need to take into account or are there any other aspects that need to change?

I believe that most of my concerns have been addressed in other parts of my submission, though I would be happy to discuss or clarify any points that I have raised with the Board.

4) Considering the scope of entertainment content available in a modern media environment, what content should be required to be classified?

Ideally, most film, TV, online videos, streaming content, and software ought to be classified, however, I understand that it may not be entirely feasible to do so, at least not in a fashion that can be tightly regulated.

I think it would be useful if content-sharing websites such as YouTube can accommodate an IARC-style tool where users can fill out a survey in order to generate classification categories for multiple jurisdictions.

5) Should the same classification guidelines for classifiable content apply across all delivery formats (e.g. television, cinema, DVD and Blu-ray, video on demand, computer games)?

Ideally, yes. Obviously due to the element of interactivity, video games will invariably need to be scrutinised by a slightly different set of standards, however, the perceivable impact of the classifiable elements between the classification categories should be more or less the same between all platforms, yes. While classification tools can be used to provide audiences with an estimation of a film/game's content, it should not entirely replace traditional peer-reviewed classification decisions (if such decisions are available).

6) Consistent with the current broadcasting model, could all classifiable content be classified by industry, either using Government-approved classification tools or trained staff classifiers, with oversight by a single Government regulator? Are there other opportunities to harmonise the regulatory framework for classification?

No comment.

7) If a classification decision needs to be reviewed, who should review it in a new regulatory framework?

I think the current system is mostly fine, however, I do have concerns that occasionally, the guidelines are being applied less consistently by the Review Board, and that their decisions are occasionally inconsistent with the majority of decisions made by the Board, which may cause confusion among audiences who may have certain expectations as to what could ordinarily be accommodated at the various classification categories.

Incidentally, the cost of reviewing classification decisions is prohibitively expensive for all but the major studios, which puts smaller distributors/modest productions at a disadvantage.

8) Is the current co-operative scheme between the Australian Government and the states and territories fit for purpose in a modern content environment? If not, how should it be changed?

No.

9) Are there other issues that a new classification regulatory framework needs to take into account?

Context is king.