

Submission to the Review of Australian Classification Regulations

By Joshua Braico

Introduction

I am a male in my late 20s who has been playing video games for most of my life, and I currently am working as a game developer in my spare time to create my own video games as an artistic pursuit. I have followed the changes in how game ratings are handled here in Australia as well as content classification internationally, and advocated for the R18+ rating to be introduced for video games.

One of my side-interests is the exploration of sexuality in an interactive format. I find excessive and “realistic” violence more concerning than explicit but consensual sexual interactions between consenting adults. While this has partially informed my comments regarding the subject matter at hand, my primary concern is the imbalance between television/film and video games regarding how classification is handled.

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

The low-impact classification categories are fairly appropriate and useful. However, the X-18+ rating being restricted to films is arguably questionable in terms of purpose. This notably violates the very first principle of the code outlined in Part 1 - “adults should be able to read, hear, see and play what they want”.

This inevitably begs the question of why adults are not permitted to legally purchase video games with content that would fit within the X-18+ rating. If the classification system should be platform-agnostic, it only stands to reason that the X-18+ rating should also not be limited to just films. The only potential argument to the contrary would be the assertion that video games have a different psychological effect from other mediums due to their interactive nature, but at present there is yet to be credible evidence produced via scientific studies to support such a conclusion, and until that changes, there is simply no credible reason not to apply the same ratings across mediums.

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?

The provisions regarding “themes” are reasonable and are fairly well understood.

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?

The provisions regarding violence generally reflects community standards and concerns, and there is little reason to change them.

However, a growing perception that there is an imbalance between how realistic violence is classified and how sexual content is classified should arguably be considered: see answer 2c.

As well, there should be consideration provided to expanding the definitions of clarifying “sexual violence” and “sexualized violence” to encompass examples that may not be immediately obvious, along with consideration for whether “simulated” examples of these involving content that is not live-action footage should be classified in the same way, much like how “simulated sex” is considered less objectionable than non-simulated sex, for the sake of “covering every base”, so to speak, as some people may consider such content not involving real people in any shape or form (voice acting aside) to be less offensive, though this also varies based on context and presentation.

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?

While community standards and concerns regarding sex have not changed dramatically, there are a couple of concerns regarding how sex is classified in comparison to violence, also the definition of “simulated sex” and how it relates to video games with explicit sexual content being classified, and the subjective nature of the age of illustrated/modelled fictional characters.

The first concern is largely subjective and the balance can vary from individual to individual, but even anecdotal evidence that a portion of the adult population considers explicit, consensual sex to be no worse than or potentially less offensive than realistic violence should be taken into consideration – it can be argued that heavy amounts of violence, even for a positive purpose, is an inherently harmful act, whereas explicit sex between two consensual adults can be (and often is) a harmless and potentially positive act (and often is when proper care is taken to avoid unwanted pregnancies and transmission of STDs), with sex being an important part of the creation of a new human life.

Of course, this involves contextual nuances that can tip the scales one way or the other. For example, the Mortal Kombat series heavily features “Fatalities” (an optional ‘finishing move’ where the winner in a fight violently murders the other combatant) that were originally novel when the original arcade games were released and more a novelty with some absurd elements, but more recent instalments in the series have featured increasingly detailed and realistic depictions of these “Fatalities”, to the point where many people now consider them to be off-putting compared to older games, myself included. They arguably have no narrative value, and the increasingly realistic depictions of violent murder simply exist for shock value and as a means to “raise the bar” above previous instalments. In comparison, non-simulated sexual interaction between two consenting adults can potentially be considered less objectionable by some.

The second concern regards the potential ambiguity of “simulated sex”, as the difference between simulated and non-simulated sex can be the difference between an R18+ classification or X18+. For example, would “simulated sex” cover *all* potential cases of sexual content in video games outside of live-action videos? I would argue that for the sake of consistency, that should indeed be the case.

The last concern regards how entirely fictional characters without any live-action representation may be inappropriately viewed as “underage” due to certain physical characteristics regardless of context, and can result in “false positives”. While there are instances where certain characters are quite blatantly underage (including blatantly childlike characters being stated to be significantly older than they look), abstraction of human features via stylised presentation can potentially blur the lines between a non-adult character and an adult character, especially when it comes to features of the human body that are, to a point, not necessarily indicative of age – breast size, height, body shape, hair, dress, etc. Even works that take care to contextualise the setting to attempt to remove ambiguity can be victims of this effect, as I know of one example of an adult-content game in a university/college setting being removed from an online store due to being deemed to have underage characters despite said characters not having notable indicators of underage status and context indicating adulthood.

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 provisions are appropriate, and there is no reason that I can see where modification is necessary.

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?

While many types of recreational drugs are considered illegal in Australian law, there has been a steady shift in community attitudes towards less harmful drugs such as marijuana and cannabis (with some arguments to be made that certain drugs can actually be less harmful to adults than legal drugs like alcohol and tobacco, that the “gateway drug” claim is not

substantiated by evidence, and that the “war on drugs” was started for entirely political purposes instead of for actual public health reasons (as admitted by White House Domestic Affairs Advisor John Ehrlichman, who served under President Nixon and admitted that the purpose of the “War on Drugs” was entirely to disrupt the anti-war left and black communities, and that the actual harm of the drugs the Nixon administration targeted were largely falsified)), but also towards the handling of drug use in general. It cannot be overstated that a large percentage of the population no longer sees lower-risk drugs as being worse than alcohol and tobacco, and thus it can be argued that the current guidelines need to be reconsidered to reflect newer community views on drugs.

As well, the provisions regarding “incentives and rewards” in regards to drugs are largely regarded as questionable and unnecessary by the video gaming community, partly due to the above changing attitudes, but also a complete lack of academic evidence that such content actively causes users to perform actual drug use. This provision has also caused classification issues for certain games due to content that is largely seen as a non-issue in other regions.

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?

The provisions involving nudity are generally sensible and do not need changes.

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?

The classifications themselves in terms of categories are largely sensible and require no changes.

There is an argument to be made that the classification of media needs to be more consistent. While this is a result of human error, people observing the classification of various works have noted that the classification board can be inconsistent in their rulings.

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

This is becoming an increasingly complex question in an evolving media market, but in the simplest terms, content that should be required to be classified would be standalone media products sold to consumers. However, this also needs to take into account subscription services such as Netflix or Xbox Game Pass, which provide products as a subscription package rather than as standalone products that one can own permanently, with the closest equivalent being cable TV subscriptions, which the national classification scheme does not apply to.

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)?

Absolutely. There is no discernible reason to not be consistent in terms of classification in regards to various formats and mediums. As stated in answer 1), even in the case of the interactive medium of video games, academic evidence provides little to no evidence to suggest that treating interactive formats differently is necessary.

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?

Self-classification of the vast majority of media will be necessary as time goes on. More media is being published every day, especially online, and, arguably, immediate enforcement of every published piece of media is virtually impossible. In my personal opinion, government-approved classification tools with oversight by a single Government regulator to review specific cases either brought on by appeal or by consumer complaint would be the most practical method.

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

A proper review authority should be separate from the standard classification board, to ensure that there is no conflict of interest and bias.

But there is also potential room for public consultation in specific cases where community standards may not be entirely clear-cut, with a period of time allowing members of the community to provide their own input.

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?

The current co-operative scheme largely induces inconsistencies, and also fairly pointless in the case of media that can either be moved across state borders or accessible online. A purely federal scheme would allow for complete consistency across the country in terms of rules and regulations on this front.

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

To my knowledge, there largely no issues not already covered or not already within the scope of this review.