

A letter pleading for my freedom to choose

To whom it may concern in the Australian Government,

As an Australian citizen, I exercise my right to speak as freely as the Government allows me to. I write this letter with an agenda: to see the powers granted to the Australian Classification Board (abbreviated as 'the A.C.B.' or 'the Board') reduced in some capacity. It is my duty to stand firm on this issue regardless of any pushback, because the discussions taking place here may affect the future of all fiction in Australia. I will answer each question one by one.

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

With the introduction of the R18+ classification for video games, Australians were expecting to see a major reduction (if not a complete halt) on titles being Refused Classification. However, banning games not only continued, but it targets Japanese games more often than games created by Europe and America. In terms of content, Japanese games are not very different from Japanese animated films, TV shows and other media (broadly known as 'anime'). *Valkyrie Drive* has an anime and a video game, but the video game was banned for having the exact same type of content as the anime. I own the anime on my shelf to this very day.

Because films are considered to be for everyone, whereas video games are seen as children's toys, movies and TV shows are given more lenient treatment in terms of content. This is a double standard, and it makes you wonder why the R18+

classification exists if video games are still treated unfairly. **My proposed solution is not to ban these games, but to give them the R18+ rating instead. If that does not work, then allow video games to be rated X18+.** If the Government is concerned about the unproven impact of restricted video games on children, then by banning these games, you are telling us that you know parents buy MA15+ and R18+ games for their children anyway and are powerless to stop it. Not only that, but you are also admitting that you do not believe in one of the National Classification Scheme's core principles: that 'adults should be able to read, hear, see and play what they want'.

The Government should not be allowed to decide what I, as an adult, am allowed to read, hear, see and play. Only a small handful of Australians know that games like *Valkyrie Drive* even exist. Where is the 'impact' or 'harm' caused by these types of video games? Studies on video game impact do not actually prove that video games cause crime; in fact, crime all over the world is decreasing as video games and films become more popular than ever. As someone who has a Bachelor's Degree in Criminology, preventing crime is very important to me, and that is why I cannot agree with banning offensive video games.

Another criticism I have for the classification categories is the current legislation on the ownership of banned video games. In states like Western Australia, you are not allowed to own a game that was Refused Classification. But in states like Victoria, this is not the case. **I believe we should allow every Australian, regardless of the State they live in, to privately own copies of banned video games and films.** In a world where the Internet exists, it is impossible to prevent film and video game piracy.

Banning certain films and video games does not stop someone who really wants to consume that content. The Government should not make it harder for law-abiding citizens to pay money for the content they want to see.

2. a) **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 current provisions may reflect the poorly defined 'community' standards, but they **do not** reflect the standards and concerns of the *individual*. The Board uses 'community standards and concerns' as an excuse to ignore the opinions of those who do not agree with their decisions, as well as trample on the rights of the individual. In all my life, I have never heard of any stories from fellow Australians who were asked directly by someone from the A.C.B. whether or not they were fine with an offensive film or video game being available to the Australian public. Telling us you follow 'community standards' does not necessarily tell me that you actually listen to communities. I am a member of the community, but instead of listening to my concerns, you censor video games and films that I otherwise would have enjoyed in my own private time without bothering anyone else.

To answer the question specifically about the themes of a film or video game: No, I do not believe they reflect community standards, because I do not agree with what you consider to be the standards of everybody else. I understand what themes are, but someone else may not understand. I personally do not understand why themes are so

narrowly defined by a small selection of themes; why are themes defined *only* by serious topics like suicide? What does 'the level of threat or menace' even mean? I **would not bother to define 'themes', because it is too narrow.**

To go back to an earlier point I made about extending the X18+ rating to video games, I would like to propose the following: **In the event that a fictional, thematic incident occurs that is considered offensive, as long as the performers involved are consenting adults, it should never be asked if the material should be Refused Classification.** An adult's ability to perform relies entirely upon their consent, and the Government should otherwise not interfere with an adult's informed decision in offensive performances.

There is a serious question to be asked about the mechanics in video games relating specifically to gambling. I believe simulated gambling should be left alone (and arguably should not even raise the game's age rating from G to PG), but I believe that **video games with gambling mechanics similar in nature to Electronic Arts' *Star Wars Battlefront II*** (where the player is given the *chance* to 'win' a prize that they cannot keep forever, and that will give them an advantage over other players) **should be automatically given an R18+ rating.** Gambling is an adult activity for people who understand the risks and are assumed to have some level of self-control. Allowing video games with gambling mechanics to be consumed by children without parental supervision is a glaring oversight for people who pride themselves on upholding 'community standards'.

b) 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 current provisions **do not** reflect 'standards'. For example, there is a joke on the Internet about the Government's use of the term 'High impact sexual violence'. It is poorly defined and used as a form of mockery by myself and others around the world to criticize the standards of the Australian Government. The *Atelier* video game series (which usually receives a PG or M rating) has received the R18+ rating at least once, because one character has a tragic backstory involving off-screen sexual assault. This does not happen with films and non-Japanese video games. The anime *Black Lagoon: Roberta's Blood Trail* features a graphic scene with one of the main female characters being violently and sexually assaulted by a police officer when she was a teenager. That anime did not receive the R18+ rating (nor do I believe it should).

This fear of violent content also prevents advertising from doing its job properly. The video game *Shin Megami Tensei: Deep Strange Journey* was supposed to have a woman holding a gun, but the gun was removed in both America and Australia. Censoring advertisements comes across as nit-picky, and they do not even reflect community standards. The film adaptations of Stephen King's horror novel *It* had a very small minority of complaints from parents who accused the posters of traumatizing their children. The character of 'It' is a scary clown – therefore, the advertisement did not cause any distress or panic outside of advertising a horror film for teenagers and adults to watch. If we are more terrified of advertisements for video games and films than the ones we see on cigarette packs, then Australia as a whole

looks silly to the rest of the world. **We should allow advertisements to be as offensive as they need to be depending on the content of the film or video game.**

To summarize: **I believe the *application* of this classification category needs to be less restrictive. 'High impact sexual violence' should either be more clearly defined or scrapped entirely.** Because we know video games and films do not cause violence, there is no need to strictly enforce these 'standards'.

c) 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?

They **do not** reflect any 'community standards', and I have two examples to prove this. I own hardcover copies of Stephen King's *It* and George R.R. Martin's *A Song of Fire and Ice* (better known as *Game of Thrones*). Stephen King's book depicts five boys having underage sex with one girl, in graphic detail. *Game of Thrones* originally depicts a 13-year-old girl being married to a 40-year-old man who plays with her nipples, and is subsequently groomed into having more sex over time. Neither of these books are banned in Australia (nor should they be).

If these kinds of books are allowed to be sold on the shelves of stores like Big W, then why are video games like *The Witcher 2* being censored for consensual interactions between Geralt and adult women? Japanese games like *Omega Labyrinth Z* are still being banned despite having literally no sex and nudity anywhere to be seen. The Japanese Government does not allow video games to display nipples or genitalia, and

they are so strict about this that even nipples on male characters have been censored.

If those kinds of games are allowed to be created and sold in Japan, then Australia should allow these games to be legally purchased, too.

The categories of sex and drugs also include the poorly defined 'incentives and rewards'. The PlayStation Vita game *MeiQ: Labyrinth of Death* was banned for this reason, even though games like *Senran Kagura*, *Moero Chronicle*, *Azur Lane* and *Omega Labyrinth Life* have similar 'incentives' presented in a similar fashion. The idea of 'incentives and rewards' is another example of the Government believing that video games cause crime by 'training' people into behaving a certain way. This is a false belief. **The classification of 'incentives and rewards' should be scrapped entirely.**

d) 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?

I find it funny that language is of concern to the Government of Australia, considering we are globally famous for calling each other horrible names. That being said, although I **do not** believe 'community standards' are necessarily reflected in the law (in fact, we are much cruder than the guidelines allow), **the current guidelines seem remarkably lax** (especially when compared to the 1990s), **and I strongly encourage leaving language alone in films and video games.** I do not mind the M/MA15+ rating being the minimum standard for allowing all swear words. The more lenient we are with swear words, the better.

e) 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?

They **do not** reflect 'community standards'. *DayZ* was initially Refused Classification because of the inclusion of cannabis. The ban resulted in the developers censoring cannabis in *all* versions of their game across the world. *Fallout 3* was initially banned for labelling an in-game item as morphine, which Bethesda also censored in all global releases and future sequels to the *Fallout* franchise. As a final example, I was actually one of many Australian citizens who spoke out against the initial banning of *We Happy Few* for its depiction of drug use despite my criticisms of the game's creators. The guidelines on the depiction of drug use are easily the most universally condemned aspect of any decision made by the Board, both nationally and across the world.

Once again, like with violent and sexual themes, it is believed by members of the Australian Government that depictions of drug use (especially as an 'incentive or reward') is seen as an endorsement of drug use and therefore is 'training' people to take drugs. This is also false. Cannabis is currently being debated by Australians because there is increasing evidence suggesting that cannabis might not be as bad as people think. This divide in the community is not reflected in the Board's decisions to ban games, as prior to the *DayZ* controversy, Australian gamers were already playing the game without the developers contacting the Board or submitting a report to the International Age Rating Coalition (or I.A.R.C. for short). The *Saints Row* franchise was being sold in Australia without censorship before drugs were depicted as a game mechanic.

At the very least, **drug depictions should warrant a maximum R18+ rating, not Refused Classification. The context should not matter.**

f) 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?

Please refer to my answer on Question 2(c), the one talking about sex. All of my criticisms also apply to this question.

However, I also would like to talk about advertising with nudity. Video games like *Deception 4* censor their front-cover artwork due to skin exposure (game developers usually do this with games released in the West without seeking the Board's advice). This censorship of advertising and artwork **does not** reflect 'community standards', because I can go down to a beach and see nudity and exposed skin way more often than I could in video games and films. **The Board should be more lenient on depictions of nudity in general.**

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

Anime and foreign films seem to be treated with some respect when receiving classifications. I would prefer this trend to continue and extended to all films and video games, especially offensive ones. If the Board can loosen restrictions on offensive

content so that creators do not censor their own films for a lower rating, that would be good.

b) 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?

If context is important, then the Board needs to consider the most important context of all: **If it is fiction, then it should not be banned.** I am firmly against censorship and would prefer films and video games be treated with the same respect as books. In the past, books were banned for the exact same reasons that films and video games are being banned for. **The Board needs to reaffirm the first core principle of the National Classification Scheme:** Adults should be allowed to choose. Banning games takes away my individual right to choose because the Government values group rights above all. I strongly object to the actions taken by the Board, because what I choose to do with my life should not be up for a 'vote'.

I also believe **all previously banned media should be reviewed under any new changes in the Board's guidelines.** They should be given a second chance to be sold to Australians who were interested in the banned content. **All borderline and offensive games should not be retroactively banned,** either. If they were sold in Australia at least once, then it is too late to prevent that content from circulating either online or in physical spaces.

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

Ideally, I would prefer none of it be classified. But if I had to make a compromise, I **would prefer we leave classifications to physical media in retail stores.** If a piece of media has both a physical and digital version, then the digital version is fine with the same classification. Digital storefronts like Steam should not have to classify every single game on their store, because if the Board cannot do that, then neither can private companies. An easier solution would be **if a game received classification or is otherwise sold in countries like Japan and America, then Australia should follow the examples of those countries and allow media to be imported or sold without trouble.**

Otherwise, I **strongly disagree with requiring all video games to be classified either by the I.A.R.C. and/or the Board.** The I.A.R.C. specifically has automatically banned games like *Grand Theft Auto V* and *Kingdom Come: Deliverance* even though they were already available in retail stores, all because of additional content released to the public after their initial launches. As the Government has revealed it costs anywhere between \$430 and over \$2,000 to receive a classification (as well as a \$420 fee to speed up the process), this proposal is an attempt to take more money from game developers both big and small. A banned game or film being reviewed requires \$10,000 (unless waived) to be looked at and left to the discretion of people who are not in tune with 'community standards' outside of the ones they already agree with. This is unaccountable power in the hands of unelected officials, and therefore **any proposal to force all game developers around the world to pay a fee to receive an Australian classification should be outright dismissed.** Proposals like this will

discourage smaller game developers from releasing their games in Australia, and therefore force Australians who are interested to pirate their hard work instead of giving them money (expecting people who want something to just never own it is unrealistic). Much like with adult magazine companies, **game developers should be allowed to provide their own content descriptions** for titles that are not applying for a classification.

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)?**

I have an example of this very inconsistency. The anime *Kill la Kill*, for almost the entire duration of the show, was classified M and MA15+, but then went straight up to R18+ because of one episode featuring 'High impact animated sexual violence'. How can one TV show, where all episodes were already available for legal streaming via Crunchyroll, have three different classifications over the course of its DVD and Blu-ray release schedule? **I propose that classifications be more context-sensitive and lenient toward films and video games where the content is available to watch through online platforms like YouTube, because banning media does not stop people from seeing the offensive content in different contexts.** Legal streaming means people are already consuming content before the Board and the I.A.R.C. are even aware of the content existing. **If content is already available online through legal means, then forcing content to be classified is meaningless,** especially if it ends up being inconsistent and unfair.

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?**

The A.L.R.C. and A.C.C.C.'s proposals are decent first steps on improving and deregulating the powers held by the Board. Their criticisms indirectly tackle the fact that the Board's powers are too centralized and need to be broken down into smaller fragments. **I would be happier to see the industry provide their own classifications without the need to go through a single Government regulator.** I do not trust the Board to represent my interests when it comes to approving films and video games for release in Australia; there is no guarantee that Board members are required to be politically, ideologically and spiritually neutral. I do not know of any individual regulators who represent my opinions on media classification.

My solution would be as follows: Only allow trained classifiers to step in when people in the industry have questions about content descriptions. The creators of films and video games should already understand their content on a deeper level than any regulator ever could, and **therefore should not need the approval of a single regulator.** Another solution would be to **promote the chance for citizens to file complaints over deceptive classifications (not complaints over the content itself).** **When enough complaints are filed** (a minimum of 200 seems fair), **the Board should conduct a review process with the creators** (preferably in person) and then **negotiate with the creators for more accurate classifications.** This should not require a fee unless the Board finds the creators guilty of deception.

If there is a way to **vote for the Board members the same way we vote in elections**, then that would be helpful, as I can then vote for candidates who would represent my interests.

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

I would like to begin my answer by agreeing with the stakeholders mentioned by the A.L.R.C.. Bias and conflict of interest are very common in the Board's decisions and during the review process. Japanese games are targeted with higher ratings by regulators who have no understanding of Japanese culture, and they do not show these video games the respect they deserve. Out of the three mechanisms proposed by the Board, **I would prefer a separate body be introduced to review classification decisions**. Integrating the Review Board into the wider A.C.B. would make the mechanism even more biased, because there would be nothing stopping a regulator who banned one game from showing up during the review process and ban the game again.

I would also like to point out that **an easier way to streamline the review process would be to have Review Board members and designated buildings be placed in every State in the country**, rather than only in Sydney. Alternatively, **each State can approve films and video games to be released in their own States, and if the Board bans media in one State, interested consumers can still import or visit other States**

to buy what they want. This allows more freedom for Australians to make informed purchasing decisions and would decentralize the Board's authority.

And lastly, I do agree that \$10,000 to review a game is too expensive. I am sure smaller Japanese developers would want to contest the Board's decisions if they could afford it.

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?

With the advancement of technology in today's society, **the current scheme does not work.** The Internet bypasses State powers in many ways, but for media specifically, there is nothing stopping someone from importing a banned game in Victoria and then mailing it to Western Australia. It is not the Board's job to micromanage the Australian Post Office. **I am in agreement with the A.L.R.C. in that all States need to apply a universal standard** when it comes to advertising, sales, et cetera. It makes no sense for one State to allow the ownership of a banned game and for others to not. Australian gamers and filmgoers should not be divided by State borders and punished for living in the wrong place at the wrong time.

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

The framework needs to represent the interests of real Australian gamers and filmgoers. The generational gap between the public and the Board members is plain

as day. There is demand from gamers like myself to see the Board's powers reduced and for censorship to stop hurting the films and video games I am interested in. I have watched and played a large amount of media, and I have never committed a crime or acted inappropriately. I do not enjoy media passively and without thinking about what I am seeing. I am confident all Australians do the same thing.

Dear Government, I sign this letter as an authentic representation of my beliefs as a criminologist, a consumer, a member of the public, the youngest son of my beloved family, an advocate of free speech, and an Australian citizen. It is my dream to see the Australian people live in a freer and fairer society, and the proposed changes I have stated in this document would be the first of many steps to achieve that goal.

Sincerely signed,

Kyle A. Brown