

# SUBMISSION TO THE REVIEW OF AUSTRALIAN CLASSIFICATION REGULATION



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The Australian Children's Television Foundation (ACTF) is a national children's media production and policy organisation that performs a wide range of functions in children's media: as a voice in policy matters; as a distributor of and investor in Australian children's content; as an instigator of new, innovative and entertaining children's media; and as a developer of valuable screen resources for the Education sector.

We welcome the opportunity to make a Submission to the Review of Australian Classification Regulation.

## INTRODUCTION

Media convergence, bringing with it the development of new technology, platforms and consumer products as well as new players, has made the reform of Australian Classification Regulation essential. The classification regime currently in place, as the Review Discussion Paper notes, has evolved into parallel and overlapping systems, which leads to duplication, potentially inconsistent classifications for the same program, unnecessary expense for content owners and confusion for consumers. The ACTF has firsthand experience of all these issues.

The Review Discussion Paper states that the purpose of classification is to provide information to consumers about content and to protect children from inappropriate content. Any new classification system should not only meet this purpose, it should be platform neutral, overseen by the one regulator, and consistently applied.

Before responding to the issues that are canvassed in the Review Discussion Paper, we would like to present a Case Study, which we will draw upon to inform our response.

## LITTLE LUNCH – A CASE STUDY

### THE SHOW

*Little Lunch* is a mockumentary style comedy series from Gristmill, based on the popular primary school books of the same name by Danny Katz and Mitch Vane. The show charts the antics that take place during the highly anticipated morning snack break at school, with each episode depicting six unique and distinctly identifiable students who retell the events of *little lunch* through their own perspective. The series focuses on year 5 students Atticus, Melanie, Tamara, Rory, Battie and Debra-Jo, and their teacher Mrs Gonsha. Premiering 20 July 2015 on ABC3, the series was a critical and commercial success charming audiences not only in Australia but across the globe.

The main cast all ranged in age from approximately 10 to 12 during filming, and the show is targeted towards the age it depicts – middle to upper primary school students. Since its premiere on ABC3, the ABC's then dedicated kids' digital channel, the show now lives on ABC ME which is aimed at school aged children. The series has also been available on the ABC's digital catch-up service, iview.

### CLASSIFICATION PROCESS

As the program premiered on the ABC, it received an in-house classification from the broadcaster. Programs on the ABC are classified in accordance with the ABC Code of Practice, which includes an Associated Standard on Television Program Classification. Whilst these standards share some similarities with the National Classification Scheme, they are not exactly the same. The classification given to *Little Lunch* by the ABC was G, and this classification is also currently visible on iview.

Once *Little Lunch* was released on DVD, it was required to be classified once more, this time by the Classifications Board. The application for this classification was made by Roadshow Entertainment. The series was split into two parts and the classification given was PG for both. This decision was made by an authorised assessor for the Classifications Board. The Authorised Assessor Recommendation Report - Classification of Television Series Film 'Part 1' and Authorised Assessor Recommendation Report - Classification of Television Series Film 'The Corridor Outside 6E' (together: 'the Assessor Reports') details the reasoning behind the PG classification with the deciding factor the "mild" themes present in the program.

Themes are described as "social issues such as crime, suicide, drug and alcohol dependency, death, serious illness, family breakdown and racism". Mild themes fall under a PG classification and "should generally have a low sense of menace and be justified by context". For comparison, for a G rating, themes would be very mild and "should have a very low sense of threat or menace and be justified by context". Examples of the themes singled out by the report include:

- Episode 1 - Debra-Jo draws a picture of a girl in space. Atticus says "Why are you making her boobies so big?" Debra-Jo replies "They're not boobies. They're her space controls." Atticus says "They look like big boobies." When Rory sees the picture, he giggles and says "Boobies."

<sup>1</sup> Authorised Assessor Recommendation Report - Classification of Television Series Film (December 2014) 'Part 1', page 2; Authorised Assessor Recommendation Report - Classification of Television Series Film (December 2014) 'The Corridor Outside 6E', page 2.

- Episode 16 - Atticus is explaining to Rory why two fraternal twins cannot be identical. “Max is a boy, Elsa is a girl. So they can’t be identical. Because there are parts of them that would not be identical.” Rory says “Ugh, disgusting.”
- Episode 21 - Atticus says “As she rolled over, there was another sound. It was like...” Atticus and each member of the group make passing wind noises. They all agree it come from Rory. Atticus says “Rory’s second favourite thing to do is fart.” Battie says “He loves it. He even writes the ones he’s most proud of in his journal.”

The Assessor Reports acknowledge that the series “pertains to the issues/themes that school-aged children face” and the themes depicted are in line with this tone, and that the target audience would be the same age. Despite this, the themes were still deemed sufficient to warrant a PG rating.

The Assessor Reports also examined the program for violence, sex, language, drugs and nudity. Whilst there was no language drugs or nudity in the program, the reports highlighted “very mild” violence and sex. Examples of sex in the series include:

- Episode 9 - Tamara suggests the group play kiss chasey. Tamara only chases Battie. Battie seems uncomfortable. When Tamara catches Battie, she grabs him in a side hug and kisses him on the cheek.
- Episode 15 - When trying to think of a game to play, Atticus yells out “Kisschasy!” Debra-Jo says “Atticus has been trying to play kisschasy for weeks.” Melanie says “It goes the same way everytime we play.” Debra-Jo says “Atticus is always it.” “Rory tries to be it” Melanie says. Debra-Jo says “And Melanie and I hide in the toilet’s until the bell rings!”

Only one example of violence was provided, from Episode One:

- Episode 1 - Melanie holds her hand in pain and lets out a piercing scream. Outside, Rory says “I didn’t mean to bite Melanie on the hand. I meant to bite her on the elbow. But she moved her arm and all of a sudden her hand was in my mouth, so I bit that instead.”

This case study demonstrates the confusion within the current classification system, whereby the same program can obtain two different classifications from the broadcaster and Classification Board, in addition to the confusion surrounding the criteria for G and PG.



## PART 1 CLASSIFICATION CATEGORIES AND STANDARDS

### 1. CLASSIFICATION CATEGORIES: ARE THE CLASSIFICATION CATEGORIES FOR FILMS AND COMPUTER GAMES STILL APPROPRIATE AND USEFUL? IF NOT, HOW SHOULD THEY CHANGE?

There is a clear need for the classification system to distinguish between programs which are suitable for children, and those that are not.

The current Australian classification categories M, MA 15+, R 18+ and X 18 + ratings are in our view straight forward and easy to understand for both consumers as well as content producers.

However, the G and PG classifications lack the same precision and have the potential to cause confusion.

#### 1.A.CLASSIFICATION CATEGORIES 'G' AND 'PG' ARE NOT A RELIABLE INDICATOR AS TO WHETHER A PROGRAM IS OR IS NOT SUITABLE FOR CHILDREN

Some 'G' classified programs are not suitable for children because a G classification only indicates that a program has very mild impact in any of the classifiable elements ("themes", violence, sex, language, drug use and nudity); it does not necessarily indicate that a G rated program is suitable for children.

Recent examples of G rated programs that are primarily intended for adults rather than children include documentaries such as:

- *Apollo 11* ("While highly educational, the detailed account of the Apollo 11 mission may be boring and difficult for children under 8 to follow"<sup>2</sup>);
- *Amazing Grace* (a documentary about Aretha Franklin "suitable for all ages though it may lack interest under 13"<sup>3</sup>);
- *House of Cardin* (a documentary about the life and design work of Pierre Cardin); or
- *3100: Run and Become* (a documentary about long distance runners).

#### **Potential improvements:**

In some international jurisdictions, the regulator has introduced a category that indicates to consumers that the program is classified as an educational program or is 'exempt' such as the category E in Canada.<sup>4</sup> This E classification indicates that, even though a program does not contain content that may be disturbing for young children, the program itself is still not necessarily intended as a children's program. An E category paired with an age recommendation may be beneficial for consumers to better assess the suitability of a program.

<sup>2</sup> Australian Council on Children and Media: <https://childrenandmedia.org.au/movie-reviews/movies/apollo-11>.

<sup>3</sup> Australian Council on Children and Media: <https://childrenandmedia.org.au/movie-reviews/movies/amazing-grace1>.

<sup>4</sup> Motion Picture Association Canada: <https://www.mpa-canada.org/film-ratings/>.

## 1.B CLASSIFICATION CATEGORY PG IS TOO BROAD AND 'OVER-USED'

It is the ACTF's observation that these days only a small number of children's films released in cinemas receive a G rating, with the majority being rated PG - Parental Guidance Recommended For Children Under 15 – indicating that the classifiable elements are “mild”, as opposed to “very mild”. A wide range of content fits into this spectrum (from *Frozen 2* to movies like *Spiderman Into The Spider-Verse* and *Fighter Preacher*).<sup>5</sup>

There might at one point have been a community perception that films and programs for small children would have a G rating and that programs for children over 8 years-old would have a PG rating. However, there are many films that we would expect to receive a G classification, that instead received a PG classification (e.g. the *Little Lunch* example in our case study).

It is our impression that the PG classification appears to be acting as a very broad “buyer beware” concept, suggesting that the responsibility for deciding whether a film's content is acceptable for children under the age of 15 belongs to parents and caregivers. We do believe that a regulator can make more precise and therefore more helpful recommendations than the PG rating in its current form.

We also note that the age bracket of the PG classification (0 to 15 years-of-age) is very broad and that the capacity and ability to engage with different complexities amongst children differs vastly within this age bracket. Other countries have either introduced alternative categories that relate to different age brackets (e.g. Germany)<sup>6</sup> or have introduced additional guidance such as the United Kingdom and Canada.<sup>7</sup>

Meanwhile in the ACTF's experience, many schools have strict policies that they cannot show a PG rated film to students without parental permission. In some cases, this prevents a program such as *Little Lunch*, which is specifically produced for primary-school children, to be shown in the classroom.

### **Potential improvements:**

ACTF recommends to either add to the PG classification by introducing additional age brackets (e.g. 0+, 8+ and 12+) and implement a rating system (e.g. G, G8+ and G12+) that indicates the suitability of the content for these age groups more clearly, or to abolish the PG category altogether such as in the German system and replace it with a rating system that indicates the appropriate age group as described above.

## 1.C THE DIFFERENCE BETWEEN “MILD” (PG) AND “VERY MILD” (G) IS SUBJECTIVE AND NOT CLEAR ENOUGH

In our view, the G and PG classifications are not particularly helpful, and are more likely to confuse consumers. In the *Little Lunch* case study, an assessor concluded that some references to a game of kisschasy could be classified as “very mild” sex references and were therefore consistent with a G classification, but the episode was ultimately classified as PG for its mild social “themes”, which included an explanation that fraternal boy/girl twins cannot be identical and other comments about twins, flatulence and a lit sparkler.

<sup>5</sup> Content that is aimed at a younger audience over the last fortnight over the 28 January 2020 -10 February 2020 is classified rather as PG than G by a factor of 2: <https://www.classification.gov.au/classification-ratings/latest-classification-decisions>.

<sup>6</sup> In Germany the age brackets are 0+, 6+, 12+, 16+ and 18 years of age. *Freiwillige Selbstkontrolle der Filmwirtschaft*: <https://www.spio-fsk.de/?seitid=508&tid=72>. In Canada the ratings G and PG are assisted by a plus 14 years of age category. *Motion Picture Association Canada*: <https://www.mpa-canada.org/film-ratings/>. In the United Kingdom the ratings U (for universal, the G rating equivalent) and PG are assisted with 12A, 12, 15, 18 and R18 categories. *British Board of Film Classification*: <https://bbfc.co.uk/>.

We would have classified these as “very mild”, certainly in comparison to some of the themes in other films, which also received a PG rating (e.g. a film such as *A Monster Calls*, which has been “not recommended due to intense themes and disturbing scenes” for children under 13 years of age)<sup>8</sup>. On the other hand we are surprised that *Little Women* (2020) received a G classification, given its sad themes including serious illness and death. The Australian Council on Children and Media (ACCM) has found that this movie is not suitable for children under 7 years-old while it is ok for children aged 10 years-old and older.<sup>9</sup>

These examples show how subjective the current classification system is and also point to a lack of transparency in the classification process.

### **Potential improvements:**

We recommend to implement a regime that spells out age group appropriateness (e.g. by introducing categories such as G, G8+ and G12+) and to make transparent what the indicators are that differentiate the different groupings.

Furthermore, to assist parents, teachers and guardians with their assessment as to the suitability of a program, tools and catalogues such as online “know before you go” reviews could be properly established by the regulator. More transparent and detailed guidance could become part of the movie classification regime, empowering consumers to be better placed to decide the suitability of programs for children.

In summary, the ACTF contends that classification categories G and PG are not a reliable indicator as to whether a program is or is not suitable for children. Programs that merely lack any themes or actions that may place them into another category are not automatically suitable for all age groups. We recommend establishing an E category and accompanying such a rating with age appropriate indicators. Furthermore, the classification category PG is too broad and ‘over-used’ and the difference between “mild” (PG) and “very mild” (G) is currently not clear enough. We recommend introducing additional categories that signal the age appropriateness of a program in a more detailed way than the PG category currently is able to so that consumers are better placed to judge the age appropriateness of content.

## **2. CLASSIFIABLE ELEMENTS: DO THE PROVISIONS OF THE CODE RELATING TO “THEMES”, VIOLENCE, SEX, LANGUAGE, DRUG USE AND NUDITY REFLECT COMMUNITY STANDARDS AND CONCERNS? DO THEY NEED TO CHANGE IN ANY PARTICULAR CLASSIFICATION CATEGORY OR OVERALL?**

Prior to 2000, virtually every animated Disney feature film was classified as G. Over the 20 years since, the pendulum has swung more conservatively, to the extent that today, most are classified PG.

In 2015, *The Wiggles Rock & Roll* DVD for pre-schoolers was rated PG for containing mild themes of grief and loss. Twelve days after that classification was determined, it was re-classified as G.

The *Little Lunch* case study demonstrates that the assessments relating to “themes” appear to lean in a very conservative direction.

<sup>8</sup> Australian Council on Children and the Media: <https://childrenandmedia.org.au/movie-reviews/movies/monster-calls-a>.

<sup>9</sup> Australian Council on Children and the Media: <https://childrenandmedia.org.au/movie-reviews/movies/little-women1>.

Each of the examples in the Assessor Reports would hardly raise an eyebrow, and we struggle to understand why they have rated a few episodes as PG, rather than G.

In conclusion, ACTF does not have any issues with the “themes” per se that are being used to assess the different categories. However, we have found in our dealings with the classification system that the lack of transparency is problematic: it is often difficult to understand why an assessor reached a certain conclusion. We are also critical of the methods used in Australia: the case study of *Little Lunch* shows that the mere mention of certain themes is enough to categorise a program as PG rather than G. We recommend the review look closely at the framework for assessors and the methods used and recommend an approach taken by the British Board of Film Classification (BBFC) which establishes a guidance which allows for a more nuanced approach: as long as a program is “set within a positive framework” and offers “reassuring counterbalances to any violence, threat or horror”, it can still be in a G category.<sup>10</sup> This allows the BBFC to take into account the context in which “themes” are brought into the program, which in turn leads to a more nuanced and therefore better overall categorisation regime.

## **PART 2 MODERNISING CLASSIFICATION LEGISLATION**

### **1. CONTENT TO BE CLASSIFIED**

We agree with the proposed future definition of classifiable content, which essentially covers professionally produced content for exhibition or distribution via theatrical, broadcast, streaming, download-to-own, DVD or other commercial means.

It would be impractical to include User Generated Content published on YouTube and other social media platforms, which is (or should be) subject to the take down provisions and regulatory regimes that apply to those platforms.

### **2. APPLYING THE CLASSIFICATION STANDARDS ACROSS DELIVERY FORMATS AND CLASSIFICATION PROCESSES**

“A single set of statutory classification categories and criteria applicable to all media content” as recommended by the Australian Law Reform Commission (ALRC) review is an essential reform to eliminate duplication and provide clarity.

All episodes of *Little Lunch* were classified G by a trained classifier at the ABC prior to broadcast. For a DVD release they were then required to be classified by the Australian Classification Board which returned a mix of G and PG ratings. As outlined previously, the ACTF found the PG classifications mystifying. It is equally disconcerting (and confusing for consumers) that the end determinations were inconsistent with the ABC’s classification.

<sup>10</sup> British Board of Film Classification: <https://bbfc.co.uk/sites/default/files/attachments/BBFC-Classification-Guidelines.pdf>.



The ACTF has had regular experiences like this, where material that has already been classified by a broadcaster under the system administered by the Australian Communications and Media Authority (ACMA), must be separately classified to be able to be distributed commercially to the home market. This is an unnecessary process.

The ACTF recommends that:

- A single new classification framework should be overseen by the ACMA (the regulator);
- The regulator should be responsible for the provision of robust and consistent classification tools and training for industry;
- All platforms (broadcasters, distributors, streamers) should be able to self-classify where they have trained classifiers to do so;
- If an entity releasing a title does not have trained classifiers they would need to have that content classified by an ACMA approved classifier using the same classification tools and overseen by the regulator;
- Material should not need to be classified twice. If a trained classifier at a broadcaster classifies content, that classification should be sufficient on all other forms of release of that content;
- The reasons for classification decisions should be transparent and readily available and there should be a process whereby a classification can be disputed.

### 3. REVIEWS OF CLASSIFICATION DECISIONS

The ACTF notes that requests to review decisions of the Australian Classification Board are infrequent.

A fee of \$10,000 to review a decision on the classification of a blockbuster cinema release might be considered comparatively modest, but the same amount to review a classification decision on a small children's DVD release is outrageously prohibitive. This would explain the small number of requests to review a decision.

In a harmonised regulatory framework overseen by the ACMA, all review decisions should be made by the ACMA.

Given that in most cases the initial classification will have been made by trained classifiers employed by industry, it would be appropriate that reviews of those decisions go back to the regulator, where a conflict of interest would not exist.

Any review regime should be efficient, user friendly and affordable. For example, review fees could be scaled to the size of the market for the content.



## CONCLUSION

The ACTF would like to see reform to the Australian Classification Regulation that includes:

- More clarity between the differences of a G and PG rating;
- An E classification for documentaries combined with an age range for the intended audience;
- Consideration for age brackets for G and PG ratings for intended audience or suitability for a specific age range;
- Or abolish the PG rating altogether and establish an age specific rating system;
- A nuanced approach to content classification as demonstrated by the British Board of Film Classification;
- More transparency in the classification process; and
- A harmonised regulatory framework overseen by the ACMA, including reviews of classification outcomes.