

ABOUT THE MPDAA AND AIDA

The Motion Picture Distributors Association of Australia - **MPDAA** - is a non-profit organisation representing the aligned interests of a number of theatrical film distributors in Australia – Paramount Pictures Australia, Sony Pictures Releasing, Universal Pictures International, Walt Disney Studios Motion Pictures Australia and Warner Bros. Entertainment Australia. The MPDAA members make available and promote the supply of a range of screen content to entertain all Australian audiences. Formed in 1926, the purpose of the MPDAA is to advance and support the interests of theatrical film distribution, particularly regarding copyright, piracy, classifications and other relevant matters.

The Australian Independent Distributors Association – **AIDA** - is a not-for-profit association representing independent film distributors in Australia, being film distributors who are not owned or controlled by a major Australian film exhibitor or a major U.S. film studio or a non-Australian person. Collectively, AIDA's members are responsible for releasing to the Australian public approximately 75% of Australian feature films which are produced with direct and/or indirect assistance from the Australian Government (excluding those films that receive the Refundable Film Tax Offset).

The comments made in this submission are representative of the views of the public exhibition (cinema release) distribution companies represented by the MPDAA and AIDA

INTRODUCTION

The MPDAA and AIDA appreciate the opportunity to comment on the current cost recovery arrangements for classification services and provide feedback on the future design of these arrangements.

We understand that the Department of Communications and the Arts is undertaking a review of the fees charged for classification services under the *Classification (Publications, Films and Computer Games) Act 1995*.

The MPDAA and AIDA appreciate the work of the Department and the Board and reiterate our conviction in the underlying principle of the classification system: that it should provide consumers who are actively seeking guidance on the content of filmed entertainment with enough information to make informed decisions at the point of purchase, about what they or their children watch.

It is equally our view that classification is considered a cost of business and a requirement for a legitimate content distribution enterprise. We believe that where industry is reliant on the Department and the Board for specific services, and where those services are efficient, timely and provided at a reasonable cost, it is acceptable to pay moderate, justifiable fees.

While Government modelling shows that fees for the classification of Public Exhibition (PE) films will potentially decrease by 20-30% over time, some of the MPDAA and AIDA distribution companies currently rely on the Classification Board for their film ratings and are generally satisfied with the system.

Our members strongly believe that there has been insufficient time to assess the operational and financial impacts on distribution companies since the September 2023 legislation allowing industry to self-classify PE films using accredited assessors.

The MPDAA and AIDA support the view of the ANZSA submission that the continuation and completion of the Stage 2 Classification reforms (2024 consultation) are likely to result in further changes that will impact distribution operational arrangements and in turn the costs of classification for public exhibition films.

Adding to the ongoing volatility in the global and local cinema environment, film distributors believe that changes to classification costs should be deferred until current changes to the classification arrangements are completed, the Classification Branch and Board have explored and implemented cost-saving operational efficiencies and distribution companies have had time to interact with and adopt new classification operational processes.

RESPONSES TO THE STAKEHOLDER ENGAGEMENT PAPER

1. Views on the current fee structure

The MPDAA and AIDA query why the reduced number of Public Exhibition films submitted to the Board¹ has not resulted in the reduction to the cost of providing the classification service, particularly given that distributors have absorbed increased costs in staff and resources to train assessors and provide self-classification decisions.

That said, we submit the following feedback:

- For PE films submitted to the Classification Board, the current fee structure linking the cost to the length of the film is reasonable. We understand that current changes are underway to the delivery of films to the Board that may increase the speed and efficiency associated with this operation, and potentially lower costs for all parties.
- Any film classified by Tools or Accredited Assessors should not be subject to any fees regardless of the size of the company submitting those titles or the volume of titles lodged in the classification database.

The MPDAA and AIDA wish to take this opportunity to talk further about classification reviews and the role and cost of the Review Board.

The cost of classification reviews has long been a contentious issue for film distributors. The Review Board meet in response to a valid application for a review of a decision made by the Classification Board. The **Classification Fees – Cost Recovery Impact Statement 2011-13** established the cost of a review as \$28,000, although the cost recovery fee to industry was set at \$10,000. This is believed to be *“a level that deters potentially vexatious or speculative applications that may compromise the review process or cause delays that may delay the public release of the material and cause financial hardship to the original applicant”*.

Acknowledging that the fee is potentially a deterrent for vexatious review applications, it has also become a deterrent for distributors seeking a genuine change to the Classification Board’s decision. Despite the Department’s view that the \$10,000 fee *“recognises the increased commercial benefit to distributors that may succeed in obtaining a more favourable classification on review”*, the box office revenue required to recoup that cost is substantial. That revenue is never guaranteed. Nor does the

¹ <https://www.classification.gov.au/about-us/research-and-publications/classification-board-and-review-board-annual-report-2023-2024> - Classification Board and Classification Review Board Annual Reports 2023-24: *“The number of Board decisions for public exhibition films decreased by 4% compared to the previous year.”*

review fee take into consideration the distribution company's resourcing costs to manage the review process.

Between 2011 and 2023 there have been 36 classification reviews. 7 of these were requested by parties other than the film's distributor. Of these, 4 resulted in no change to the rating while 3 were refused classification (See Table 1).

29 titles were submitted for review by film distributors. Only 4 of the rating decisions made by the Classification Board were upheld by the Review Board (See Table 2).

86% (25 titles) of the films submitted to the Classification Review Board by distributors successfully had the rating reduced after review (See Table 3).

The MPDAA and AIDA distribution companies request Government consider that, where a classification review results in a lower rating, it can be argued that the original Board decision was flawed. The distributor should not be required to pay for that review.

Additionally, distributors believe that it is time to question many of the assumptions underlying the operations of the Review Board. These include:

- challenging the notion that reasonable "Australian community" representation can only be achieved by the inclusion of people from different States²;
- considering new and evolving technology and common-sense operational changes to reduce the cost of reviews; and
- questioning the need for the Classification Review Board and considering a process that might effectively achieve the same outcome. For example, a second film assessment could be undertaken by different members of the Classification Board to those who determined the first rating.

Of equal importance is the ever-diminishing time between the classification of the film and its' release. Given the high cost of reviews, there is an expectation of greater efficiency and promptness on the part of the Review Board. There is a growing imperative to reduce the time between an application for a rating review and the review board decision to no more than 3 days after the application is lodged. Distributors believe more efficiency may be achieved by implementing the changes outlined above.

The need for comprehensive reforms that drive cost and operational efficiencies in the Review Board processes is even more essential in the competitive and short theatrical-window environment.

2. Business impact of revised or newly introduced fees

The MPDAA and AIDA note that the industry's adoption of self-classification by third-party approved classification tools and/or trained and accredited classifiers has shifted some of the workload from the Classification Branch and Board to distribution companies. The result has been an increase in staff responsibilities, time and resources for those companies classifying their own films.

We believe it is worth highlighting the box office revenue remains significantly lower – **23%**³ – than the 2017-2019 three-year average. Cinema admissions have been heavily impacted, going from 84 million

² The Classification Act specifies that the Review Board must be "*broadly representative of the Australian community*".

³ Comscore Film Source Report to Sunday 6 July 2025 (Reports are for subscribers only)

in 2019 to 55 million admits in 2024. Pandemic shutdowns and the subsequent changes to how Australians watch films have substantially impacted the financial viability of cinema releases for distributors and exhibitors alike and a return to the financial levels previously achieved looks increasingly unlikely.

Other challenges to the public exhibition sector include the cost-of-living crisis, the rising number of theatrical releases that result in a shorter cinema life for many films, the ongoing impact of film piracy and the diminishing time between the distributor receiving the film and its' release date.

Distributors are facing large marketing cost increases across ever-expanding and evolving platforms while our exhibitor partners have had to invest in improved seating, sound, picture, and food and beverage to attract patrons and meet new expectations. Despite this, the box office revenue remains unstable and unpredictable.

In response, distribution and exhibition businesses are having to reassess and transform their operations to find efficiencies and reduce costs. Taking on additional costs in the current economic climate is untenable.

Any proposal to increase classification fees will not only place strain on distribution and exhibition businesses but also put into question the purpose of the Australian Government Cost Recovery Policy where Departments are expected to “*analyse the effect on competition, innovation and the financial viability of the directly affected individuals and organisations...*”.⁴

Efficiencies in the Classification Branch and Board processes are needed now to lower costs and improve turn-around times.

3. Factors for future cost recovery arrangements for classification services

The MPDAA and AIDA assert that the Government should be seeking to improve operational efficiency and manage costs more effectively⁵ within the Branch and the Board rather than passing on increased costs to industry.

An exception would be to assign reasonable fees to the classification accreditation of authorised assessors. This activity requires Government overview to ensure ongoing (and evolving) compatibility with community standards and that rating decisions of all public exhibition films are in line with those the Board would have made.

The MPDAA and AIDA concur with the assessment in the ANZSA submission that “*it would be appropriate to reconsider the decision that cost recovery is an appropriate process and recommence the cost recovery decision-making process. This requires the completion of a Charging Risk Assessment ('CRA') and a Policy Impact Assessment ('PIA'). The AGCR policy clearly provides for this; in fact, it recommends 'an entity proposal is required for new or amended activity' (emphasis added)*”.⁶

⁴ <https://www.finance.gov.au/government/managing-commonwealth-resources/implementing-charging-framework-rmg-302/australian-government-cost-recovery-policy#-part-iii-cost-recovery-process-guide> Paragraph 50

⁵ The Australian Government cost recovery policy states that “*beyond financial accuracy, a robust cost recovery model enables agencies to improve operational efficiency, manage costs effectively, and demonstrate value for money to stakeholders*”.

⁶ <https://www.finance.gov.au/government/managing-commonwealth-resources/implementing-charging-framework-rmg-302/australian-government-cost-recovery-policy#-part-iii-cost-recovery-process-guide> Figure 7 - Cost recovery checkpoints for Stage 1

4. Transitional arrangements that support industry adaption to a revised costs

Should any increased classification costs be adopted, the MPDAA and AIDA concur with the AHEDA proposal that sufficient time, staged introductions and comprehensive communications are considered to allow industry to adapt to new arrangements and mutually agreed costs.

5. Further Feedback

The MPDAA and AIDA are concerned about the suggestion that the Classification Board develop a greater focus on monitoring and quality assurance of self-classification and 3rd party Tool decisions with the implication that distributors will contribute to the cost of this. After all, self-classification decisions are being made by Accredited Classifier who are trained and accredited by the Classification Branch.

Raising fees to allow for the Classification Board to increase their “quality assurance” role seems to be a duplication of work and may erode the very efficiencies gained from the move to self-classification.

We concur with the rationale for Board monitoring, as stated in the Classification Board and Classification Review Board Annual Report 2023-24, that all third-party classification decisions are “*broadly consistent with Board practices and Australian community standards*”.

Compliance by Accredited Classifiers and classification Tools could be supported by penalties based on those that currently exist under Section 22P of the Classification Act⁷ but revised for relevance to new operational processes.

The MPDAA and AIDA agree that the risk factors that trigger a Board check are “*if it [the film] is the subject of a complaint, contains content of concern to the community or is attracting media attention*”⁸ and propose that the Board’s role in monitoring and quality assurance of PE decisions made by Accredited Classifiers or third-party Tools are limited predominantly to films which meet those risks.

An initial assessment of complaints by the Branch or Board is essential to ensuring that this principle is not abused by vexatious litigants or special interest groups. Additionally, where a review does not result in a different rating to that made by the Board, a Tool or Accredited Classifier, the application of a cost could provide a deterrent to complaints from such parties.

CONCLUSION

The PE industry is and always has been dynamic and perpetually evolving. But, since the pandemic in particular, the need to adapt to challenging market conditions and audience expectations has been more critical. The integration of training, accreditation, workload, responsibilities and commensurate costs of classifying films for public exhibition is a part of this evolution. All the while distribution companies are making tough business decisions to ensure the viability and sustainability of the theatrical cinema experience. We hope that Government can support these efforts through the evaluation of their own operations and not necessarily by increasing costs for the classification of PE films.

The MPDAA and AIDA appreciate the opportunity to comment on the Stakeholder Engagement Paper. We remain ready to provide further information should this be of assistance.

⁷ <https://www.classification.gov.au/for-industry/accredited-classifiers#:~:text=Your%20accreditation%20may%20be%20revoked%20in%20certain,period%20and%20you%20do%20not%20complete%20it.>

⁸ <https://www.classification.gov.au/about-us/research-and-publications/classification-board-and-review-board-annual-report-2023-2024> - Page 48 Board Quality Assurance – Strategic Monitoring Outcomes

TABLE 1**2011-2022 REVIEW BOARD DECISIONS REQUESTED BY OTHER APPLICANTS (NOT THE DISTRIBUTOR)**

	Title	Review applicant	Review Date	Original classification	Review classification
1	A Serbian Film	Minister Home Affairs and Justice	19/9/2011	R 18+	RC
2	The Human Centipede II	Minister Home Affairs and Justice	28/11/2011	R 18+	RC
3	ACMA INV-0000-3781	Australian Federal Police	23/10/2013	R 18+	RC
4	Rampage	Minister at request SA AG	13/12/2013	MA 15+	MA 15+
5	Split	Consumers of Mental Health (Inc)	25/1/2017	M	M
6	Cuties	The Australian Christian Lobby	23/10/2020	MA15+	MA15+
7	The Kerala Story	Alliance against Islamophobia	18/10/2023	MA15+	MA15+

TABLE 2**2011-2022 UNSUCCESSFUL REVIEW BOARD DECISIONS REQUESTED BY DISTRIBUTORS**

	Title	Review applicant	Review Date	Original classification	Review classification
1	Blair Witch	Roadshow Films	15/9/2016	MA15+	MA15+
2	Hellboy	Roadshow Films	5/4/2019	R18+	R18+
3	Spiral: From the Book of Saw	Studiocanal Australia	7/5/2021	R18+	R18+
4	Pieces	Third Story Pictures	30/9/2022	MA15+	MA15+

TABLE 3**2011-2022 SUCCESSFUL REVIEW BOARD DECISIONS REQUESTED BY DISTRIBUTORS**

	Title	Review applicant	Review Date	Original classification	Review classification
1	The Twilight Saga: Breaking Dawn – Part 1	Hoyts Distribution	14/11/2011	MA 15+	M
2	Happy Feet Two (2D)	Roadshow Films	19/12/2011	PG	G
3	Happy Feet Two (3D)	Roadshow Films	19/12/2011	PG	G
4	Prometheus (2D)	20th Century Fox	4/6/2012	MA 15+	M
5	Prometheus (3D)	20th Century Fox	4/6/2012	MA 15+	M
6	Behind the Candelabra	Roadshow Film Distributors	20/6/2013	MA 15+	M
7	American Hustle	Roadshow Films	5/12/2013	MA 15+	M
8	Inside Llewyn Davis	Roadshow Films	12/12/2013	MA 15+	M
9	Blended	Roadshow Films	2/5/2014	M	PG
10	Boychoir	Becker Entertainment	4/3/2015	M	PG
11	Blinky Bill the Movie	Studio Canal	10/12/2015	PG	G
12	X-men: Apocalypse	20 th Century Fox	16/5/2016	MA15+	M
13	Teenage Mutant Ninja Turtles: Out of the Shadows	Paramount Pictures	7/6/2016	M	PG
14	Embrace	Transmission Films	13/10/2016	MA15+	M
15	The Nut Job 2: Nutty by Nature	Roadshow Films	20/11/2017	PG	G
16	Jigsaw	Studio Canal	20/11/2017	R18+	MA15+
17	We happy few	Gearbox Publishing	3/7/2018	RC	R18+
18	Bumblebee	Paramount	11/12/2018	M	PG
19	Rocketman	Paramount	21/5/2019	MA15+	M
20	Ascendant	Maslow Entertainment	6/4/2021	MA15+	M
21	The Suicide Squad	Universal Pictures	15/6/2021	R18+	MA15+
22	The Children in the Picture	DNX Media	27/9/2021	MA15+	M
23	Ghostbusters: Afterlife	Sony Pictures Releasing	30/10/2021	M	PG
24	Good Luck to you Leo Grande	Roadshow Films	30/6/2022	MA15+	M
25	Sissy	This is Arcadia	14/9/2022	R18+	MA15+

NOTE: All data from <https://www.classification.gov.au/about-us/corporate-reporting/annual-reports>