SCREEN PRODUCERS AUSTRALIA

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Screen Producers Australia's submission in response to the Review of Australian Classification Regulation Discussion Paper

Screen Producers Australia (**SPA**) was formed by the screen industry to represent large and small enterprises across a diverse production slate of feature film, television and interactive content.

As the peak industry and trade body, we consult with a membership of more than 500 production businesses in the preparation of our submissions. This consultation is augmented by ongoing discussions with our elected Council and appointed Policy Working Group representatives. Our members employ hundreds of producers, thousands of related practitioners and drive more than $1.2 billion worth of annual production activity from the independent sector as well as nearly $1bilion in export earnings and tourism expenditure generated by the screen industry as a whole.

On behalf of these businesses we are focused on delivering a healthy commercial environment through ongoing engagement with elements of the labour force, including directors, writers, actors and crew, as well as with broadcasters, distributors and government in all its various forms. This coordinated dialogue ensures that our industry is successful, employment levels are strong and the community's expectations of access to high quality Australian content have been met.

We are pleased to have the opportunity to provide this brief submission on the review of Australian classification regulation. In preparing this submission we have had the benefit of reviewing drafts of the submission of the Australian Children's Television Foundation (**ACTF**) and the Motion Picture Distributors Association of Australia (**MPDAA**).

[redacted]

Introduction

Classification is a hallmark of professional content. It provides members of the public with important information about the content with which they engage and in so doing, builds consumer confidence. As such, the classification regime is an important part of the framework that ensures a diversity of content is made available to Australian audiences in a way that is safe and appropriate. It is against that background that SPA makes this brief submission.

As a matter of principle, SPA supports the review of classification regulation in Australia as part of the broader move towards platform neutral media regulation. However, while it makes sense for all content and delivery platforms to be subject to the same regulatory regime, in our view, the regime needs to be flexible enough to accommodate differences that currently exist between types of content and delivery platforms and also accommodate changes that will evolve over time.

The review also raises the broader issue the role of self-regulation. While SPA is not opposed self-regulation per se (for example, in the implementation of the classification regime) we consider it vital that the Government establish strong regulatory standards in order to ensure consistency and transparency (for example, the classification categories). In our view, Government oversight is also key to the effectiveness of any regulatory regime.

Finally, while we note that this review is not concerned with issues of content regulation, SPA is of the view that this is an important part of the factual matrix in designing a classification regime. SPA's specific comments in response to the Discussion Paper are set out below.

Classification Categories

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

In this era of global content, it is important that the Australian classification system remain comparable with international standards. While in general terms, SPA believes that the classification categories are still relevant, we are of the view that there is room for the recognition of further sub-groups within a particular classification. As the ACTF states in its submission, the **G** and **PG** ratings lack the same degree of specificity as other classification categories. For this reason, SPA supports the introduction of further categories within the **G** and **PG** ratings. This will help facilitate access to appropriate content by young audiences. We refer to the ACFTF's submission provides examples of how this issue is approached in other jurisdictions.

SPA is of the view that there is room to recognise different sub-groups within the **G** rating. For example, in SPA's view, the classification system should also identify content directed at pre-school and children's audiences by adopting the **P** and **C**

ratings which are currently set out in the *Australian Children's Television Standards* and implemented by the *Commercial Television Industry Code of Practice*. In SPA's view, introducing these new categories would be valuable for the existing classification regime. For example, it would assist parents to source appropriate educational video games for their children. However, a key benefit of introducing these new categories would be in facilitating a single classification regime for all content across delivery platforms.

The PG category would also benefit from greater specificity. A good example is the **PG 13** rating referred to by the MPDAA in its submission. SPA supports the MPDAA's submission in favour of the classification categories being expanded to incorporate a **PG 13** rating.

Classifiable elements

SPA has no specific comments on the existing classifiable elements. However, we note, as a matter of principle , that is important that they are:

- principle-based;
- transparent; and
- able to adapt to changing social norms.

Other Comments

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?

SPA does not have any specific comments other than to observe that it is vital that it is vital that the classification system is consistent, easy to understand and navigate and should avoid unnecessary duplication. It must also be based on clearly articulated principles.

Content to be classified

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

The classification system acts as a hallmark for professional content. SPA believes that this should continue into the future. As a general statement, SPA is in favour of all content other than user-generated content being subject to classification requirements. As recommended by the ALRC, the requirement to classify should be subject to exemptions.

The new policy that YouTube has been required to implement in relation to children's content is a good example of how content on social media platforms could be regulated, i.e. by imposing an obligation on the platform to regulate the content they host. SPA is aware that these issues are being looked at in the context of the Online Safety Act Review.

Applying the same classification standards across delivery formats

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)?

In the interests of consistency and streamlining the classification process for both content creators and delivery platforms, SPA believes that a single set of classification guidelines should apply. However, as noted in our response to question 1, this will require some changes to better reflect audience segmentation. For example, the C and P classifications which currently only apply to content broadcast on commercial free-to-air television. This will avoid unnecessary duplication and expense and facilitate the distribution of classified material to Australian consumers. It is also in line with ALRC's recommendation in 2012.

Classification Process

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

SPA is in favour of a move towards a self-regulatory model that is cost-effective and user-friendly. As noted at the outset, it is essential that self-regulation is based on clear standards set by Government and is subject to regulatory oversight.

In SPA's view, this model would need to be able to cater to SME content distributors who aren't in a position to develop their own tools (such as Netflix) or to employ staff classifiers. We believe that such a model would lend itself to the broader classification categories set out in our response to question 1.

The classification process should be overseen by a single regulator. For example, the ACMA. This would ensure consistency in decision making.

Classification Review

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

Ordinary administrative law principles should apply to the review of classification decision by the regulator. This could either be carried out by a specialist arm of the Administrative Appeals Tribunal or by an expanded Classification Review Board. Such decisions would also be subject to judicial review by the Federal Court of Australia.

Governance

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?

It is essential that a new classification process would need to be developed in consultation with the states and territories in order to ensure a truly national system.