



Terms of Reference – Review of Australian classification regulation

Background

Classification plays a crucial role in helping Australians make informed decisions about content they or those in their care watch, read and play.

The current National Classification Scheme (the Scheme) exists to provide a framework by which films, video games and certain publications made available in Australia receive a rating and consumer advice that provides a safeguard to the Australian public that content is consumed by the appropriate audience.

It is a joint scheme between the Commonwealth and the states and territories and was established in 1995. The Commonwealth Classification (Publications, Films and Computer Games) Act 1995 establishes the framework for classification of content, and state and territory classification legislation regulates the advertising, availability and sale of classifiable content.

The Scheme applies to online and physical video games, films and episodic series on all platforms including in cinemas, on DVD and online (such as streaming services and subscription video on demand) but not to programs broadcast on television. Classification of television programs is regulated under separate codes of practice covering free-to-air broadcasters, subscription television broadcasters, the ABC and the SBS.

In 2012, the Australian Law Reform Commission's (ALRC) report 'Classification – Content Regulation and Convergent Media' found that classification legislation 'does not deal adequately with the challenges of media convergence and the volume of media available to Australians'. The Convergence Review Committee's report in 2012 endorsed the findings of the ALRC review. Consistent with these reviews, the Australian Competition and Consumer Commission's (ACCC) Digital Platforms Inquiry final report recommended that 'a new platform-neutral regulatory framework be developed,' including 'creating a nationally uniform classification scheme to classify or restrict access to content consistently across delivery formats' (Recommendation 6).

The ALRC review was conducted before the popularisation of online streaming and video on demand services and the significant increase in online and mobile games available in Australia. This review will build on the ALRC report in the context of today's diverse media content market.

Consistent with the agreement of the Council of Attorneys-General, a review of the National Classification Code, the Guidelines for the Classification of Films (Films Guidelines) and the Guidelines for the Classification of Computer Games (Games Guidelines) will also be undertaken to ascertain whether they continue to reflect contemporary community standards. The National Classification Code and the Films Guidelines were last reviewed in 2002, and the Games Guidelines were last reviewed prior to the introduction of the R 18+ category for games in 2013.



Scope

An independent expert will be appointed to conduct the review, supported by the Department of Communications and the Arts.

The review will cover:

1. Opportunities to harmonise the classification of, or restriction of access to, content across different delivery platforms including broadcasting services (commercial free to air, national broadcasting and subscription television), online stores and services, cinema releases, and physical product (e.g. boxed video games and DVDs).
2. The design of a contemporary Australian classification framework, including:
 - a. What content requires classification
 - b. Consistency of classification categories, standards and access restrictions across media formats
 - c. Classification decision-making processes, including mechanisms for review, and
 - d. Governance arrangements, including the suitability of the current cooperative scheme.
3. Opportunities to update classification decision-making standards, including a comprehensive review to update the National Classification Code, the Films Guidelines, and the Games Guidelines.

The following issues are out of scope:

- Broader content regulation issues outlined in Recommendation 6 of the ACCC's Digital Platforms Inquiry. Content regulation reform is a significant undertaking that needs to be broken down into interrelated processes.
- Regulation of sexually explicit content online, which will be considered in possible reforms to the Online Content Scheme in Schedules 5 and 7 of the Broadcasting Services Act 1992.

Timing

The review will be completed and a report provided to the Minister by April 2020, for subsequent presentation to state and territory classification Ministers through the Council of Attorneys-General's process.