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**By email:** [consultation@classification.gov.au](mailto:consultation@classification.gov.au)

19 February 2020

Dear Department of Infrastructure, Transport, Regional Development and Communications

**Submission to the Review of Australian Classification Regulation**

Ad Standards appreciates the opportunity to provide comment on the Review of Australian Classification Regulation consultation paper.

We would be pleased to discuss any aspect of our **attached** submission or provide you with assistance on any other relevant matters that may arise.

In particular we look forward to engaging further with the Department and relevant regulators and policymakers to ensure that the important role that Ad Standards plays within the media regulatory framework is valued.

Kind regards

Fiona Jolly  
Chief Executive Officer



# Review of Australian classification regulation

## Submission from Ad Standards

### 1. Executive summary

- 1.1. Ad Standards appreciates the opportunity to provide comments to the Department of Infrastructure, Transport, Regional Development and Communications (**the Department**), on the Review of Australian Classification Regulation consultation paper.
- 1.2. We understand that although advertising in general is not within the scope of this review, advertising for classifiable content such as film and game advertisements are within scope. Our submission therefore only relates to such forms of advertising.
- 1.3. Specifically, the purpose of our submission is to:
  - (a) inform the Department about the current advertising self-regulation system, and in particular its effectiveness in handling complaints about the content of film and game trailers;
  - (b) provide an opportunity for the classification framework to deliver a platform-neutral model, that ensures the content of relevant advertising reflects prevailing community standards in a consistent and accessible way and at no cost to the government; and
  - (c) highlight the reasons why Ad Standards should be the first key point of contact for all complaints regarding the content of film and game advertisements.
- 1.4. We have set out our detailed comments below.

### 2. Advertising self-regulation in Australia

- 2.1. Ad Standards is responsible for the administration of the complaint resolution component of the advertising self-regulation system. It supports the work of the Ad Standards Community Panel (**Community Panel**) which is the body established to consider community complaints about advertising and marketing communications against the provisions set out in the relevant advertising codes.
- 2.2. Self-regulation provides an effective and efficient way for advertisers to engage with consumers and to respond to consumers' concerns about advertising. It also ensures consumer protection by providing a free and fast route for consumers to express their views about advertising, and the means by which their complaints can be resolved through an independent adjudication process.
- 2.3. In a report released by [Deloitte Access Economics in August 2017](#), positive findings were made about the efficiency, responsiveness and cost effectiveness of the work of Ad Standards. The report focused on the differences between self-regulation of complaints handling and direct government regulation, finding that the self-regulatory approach achieves similar outcomes to government regulation in compliance and effectiveness, and performs better in terms of cost, efficiency and responsiveness.



- 2.4. Further details on the current advertising self-regulation system and the role of Ad Standards can be found on our website [here](#).

### 3. Complaints about advertisements for films

- 3.1. Over recent years Ad Standards has received a large number of complaints about advertising for horror and violent films on free-to-air and subscription television as well as online.
- 3.2. For example, between 1 January 2019 and 31 January 2020 we received around 332 complaints about advertisements for films, with over 80% of those complaints being made in relation to movie promotions broadcast on Free-to-Air TV, and only 2 of those complaints raising an issue other than the portrayal of violence.
- 3.3. Although broadcasters receive and resolve complaints made under the broadcaster codes through their own complaints system, a significant number of complaints about advertisements are also received by Ad Standards. Most complaints about the content and placement of advertisements for films and computer games are referred by broadcasters to Ad Standards.

### 4. Existing platform-neutral solution

- 4.1. Ad Standards supports the premise behind the reform work being undertaken as part of the Government's response to the ACCC's Digital Platforms Inquiry regarding the need to develop a platform neutral framework for advertising content.
- 4.2. This approach is consistent with the existing self-regulation and complaints handling system administered by Ad Standards, whereby film and game advertisements are treated in the same way as advertisements for other products, services and media content.
- 4.3. The Community Panel already determines complaints about advertising screened on or displayed in cinemas, subscription television, free to air television, commercial radio, print publications, outdoor billboards, posters in publicly accessible places, advertising on motor vehicles as well as all internet platforms.
- 4.4. We therefore recommend that the classification framework in whatever form it takes (self-classification, regulatory or otherwise) include:
  - (a) **Recognition of the AANA Code:** require that in assessing the suitability of a film or game advertisement, its content must be considered against the provisions of the AANA Codes; and
  - (b) **Referral to Ad Standards:** require that all film and game advertisement complaints be referred to Ad Standards for resolution.
- 4.5. The key benefits of this approach are that:
  - (a) the complaints system operates at no cost to the consumer or to the government, as it is funded through a voluntary levy based on advertising spend;
  - (b) a uniform set of standards which are technology and platform neutral, allows for more consistent treatment of advertising content issues. This will better reflect a modern content market and effectively establish a 'one-stop-shop', for the advertising of films



and video games in Australia across all media;

- (c) the AANA Codes have the flexibility to quickly respond to recurring issues and evolving advertiser and content service provider practices, as well as adapting to changing consumer needs and expectations; and
- (d) there is a high rate of compliance by advertisers, including online content service providers, to abide with the decisions of the Community Panel and remove content if a complaint is upheld.

## 5. Definitions of “film” and “computer games”

- 5.1. Our final comments relate to the proposal to re-define the terms “film” and “computer games” in the *Classification (Publications Films and Computer Games) Act 1995 (Classification Act)*, which technically cover a broad range of online content.
- 5.2. We agree that the definitions in the Classification Act should be made clearer in terms of the content that must be classified, and recommend that any revised definitions of “film” and “computer games” should retain the current advertisement exclusions (sections 5 and s.5A(3) of the Classification Act ), such that an advertisement for a publication, film or computer game is not required to be classified.

## 6. Conclusion

- 6.1. In conclusion, the current advertising self-regulation system provides an effective, transparent and robust mechanism for consumers to raise concerns about the content of film and game advertisements.
- 6.2. Transferring the complaint management process to Ad Standards would effectively establish a ‘one-stop-shop’ for the community and industry, and harmonise the regulatory framework in respect of film and game advertising.
- 6.3. This would greatly improve clarity and consistency for consumers and would provide a single point of contact for those responsible for advertising those products and services across all media (broadcast and online). Additionally, it provides a robust, independent and fair system for assessing whether or not an advertisement meets the broader community’s standards.
- 6.4. We would be pleased to discuss our submission further with the Department, and how our proposal for the recognition of the AANA Codes and the referral of complaints to Ad Standards could be implemented into the classification framework.

**19 February 2020**