

Classification - online submission

Published on 20 May 2011. Last modified on 13 July 2011.

<http://www.alrc.gov.au/content/classification-online-submission>

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QUESTIONS

Please answer as many or as few of these questions as you wish. There is a space at the bottom of this page to provide any additional comments, and/or upload supporting files or a pre-prepared submission.

Q1:

In this Inquiry, should the ALRC focus on developing a new framework for classification, or improving key elements of the existing framework?

The current classification system is far from effective in delivering key outcomes expected by Australians, and this inquiry should focus on improving key elements of the existing framework and ensuring that uniform standards are applied and enforced in all Australian states and territories.

Q2:

What should be the primary objectives of a national classification scheme?

The scheme should ensure that classification standards accurately reflect the accepted moral and ethical standards of the Australian people across all media forms and platforms. In particular, the scheme should make specific provisions for the protection of children and young people from content that is inappropriate for their age and developmental stage. The scheme should provide mechanisms to ensure that content which fails to meet the accepted community standards is not sold or distributed in Australia, including sale and distribution through various online media.

Q3:

Should the technology or platform used to access content affect whether content should be classified, and, if so, why?

Regardless of the type of technology or platform, it cannot be guaranteed that content accessible via a particular technology or platform but which fails to meet accepted community standards for other media will not become freely available to minors or adults who may find it harmful or offensive. Further, those who seek to bypass the intent of legislation and regulation will seek to exploit differing standards as loopholes, and both the technology and the platforms are in a constant process of change and convergence. Therefore there should be uniform content standards across all media technologies and platforms.

Q4:

Should some content only be required to be classified if the content has been the subject of a complaint?

This may become necessary due to the volume of content and the public resources available for monitoring, but the intent should be to classify all content (i.e. products) and it may be appropriate for this to be done by the producers/distributors and the costs passed on to consumers, with enforceable penalties for cases of deliberate mis-classification. Social media content should be self-regulated by those who use the specific social media platforms until and unless this becomes problematic with respect to maintaining accepted community standards.

Q5:

Should the potential impact of content affect whether it should be classified? Should content designed for children be classified across all media?

Yes, because of the power of communications technologies to reach large indiscriminate audiences, and to avoid legal loopholes exploited by unscrupulous producers and agents.

Q6:

Should the size or market position of particular content producers and distributors, or the potential mass market reach of the material, affect whether content should be classified?

These factors should be taken into consideration in determining classification of products but other factors should also be taken into account such as the potential for distribution in a wider market or on a different platform. The goal should always be to maintain classification standards that reflect accepted community standards and not to make special allowances for so-called special audiences or market segments.

Q7:

Should some artworks be required to be classified before exhibition for the purpose of restricting access or providing consumer advice?

Yes. Artworks that portray children in an offensive or exploitative manner, including images that may be perceived as sexualised or pornographic representations of children, should be refused classification in order to protect children from exploitation and to maintain accepted community standards.

Q8:

Should music and other sound recordings (such as audio books) be classified or regulated in the same way as other content?

Yes.

Q9:

Should the potential size and composition of the audience affect whether content should be classified?

No. See my comments on question 6 above.

Q10:

Should the fact that content is accessed in public or at home affect whether it should be classified?

No.

Q11:

In addition to the factors considered above, what other factors should influence whether content should be classified?

Where unclassified content has been classified according to similar accepted community standards in other jurisdictions, those classification decisions should be taken into consideration and steps should be taken to

ensure that a more liberal classification is not applied in Australia without very good reason and close scrutiny.

Q12:

What are the most effective methods of controlling access to online content, access to which would be restricted under the National Classification Scheme?

The NSW Council of Churches strongly recommends mandatory filtering of all internet content at the ISP to exclude all content classified R18+, X18+ or RC, with opt-in access to R18+ content in situations where reliable age verification is available.

Q13:

How can children's access to potentially inappropriate content be better controlled online?

Children's access to potentially inappropriate content may be better controlled online by funding effective education strategies including advertisements, parental education and child education including in all public schools.

Q14:

How can access to restricted offline content, such as sexually explicit magazines, be better controlled?

Access to restricted offline content, such as sexually explicit magazines, may be better controlled by prohibiting display and sale of such content in physical environments to which children have access.

Q15:

When should content be required to display classification markings, warnings or consumer advice?

All Australian classification markings, warnings or consumer advice should be clearly visible on the product and packaging of offline products, and clearly visible to potential and actual consumers of all online products especially where there is potential exposure of content that is inappropriate for children. See also comments on social media content in question 4 above.

Q16:

What should be the respective roles of government agencies, industry bodies and users in the regulation of content?

The future roles of government agencies, industry bodies and users in the regulation of content should be the same as their respective current roles except where reforms are required to ensure that the classification system is more effective and adequately covers new technologies and platforms.

Q17:

Would co-regulatory models under which industry itself is responsible for classifying content, and government works with industry on a suitable code, be more effective and practical than current arrangements?

Possibly, so long as such a regulatory regime maintains accepted community standards. See comments on question 4 above.

Q18:

What content, if any, should industry classify because the likely classification is obvious and straightforward?

I would recommend this to be restricted to G classification (or equivalent) because industry does not have the same accountability to the people as the parliament or public regulatory authorities.

Q19:

In what circumstances should the Government subsidise the classification of content? For example, should the classification of small independent films be subsidised?

It may be appropriate to introduce a trial state subsidy scheme for the classification of content which potentially enhances Australia's economic/trade prospects or culture/education needs, or as part of a more comprehensive cultural subsidy scheme. This should not be extended or adapted into an industry classification scheme.

Q20:

Are the existing classification categories understood in the community? Which classification categories, if any, cause confusion?

The existing classification categories appear to be generally understood and accepted in the community with the exception of the M and MA15+ classifications which may cause confusion to some due to the same letter "M" being used. The educational advertising is well done on television.

Q21:

Is there a need for new classification categories and, if so, what are they? Should any existing classification categories be removed or merged?

The existing classification categories should remain with the exception of the X18+ category which should be abolished and content classified under that category should be refused classification. In addition, the NSW Council of Churches strongly opposes an R18+ classification for computer games on the grounds that approving such classification will lead to an increase in the distribution of highly violent computer games resulting in learned behaviours and attitudes that are completely contrary to accepted community standards.

Q22:

How can classification markings, criteria and guidelines be made more consistent across different types of content in order to recognise greater convergence between media formats?

This is a matter for the relevant Commonwealth departments and federal agencies to determine in consultation with relevant stakeholders.

Q23:

Should the classification criteria in the *Classification (Publications, Films and Computer Games) Act 1995 (Cth)*, National Classification Code, Guidelines for the Classification of Publications and Guidelines for the Classification of Films and Computer Games be consolidated?

Yes, but only if it is clearly demonstrated how consolidation of these criteria serves the stated aims and goals of the National Classification Scheme.

Q24:

Access to what content, if any, should be entirely prohibited online?

All content classified R18+, X18+ or RC should be prohibited, with the exception of opt-in access to R18+ content in situations where reliable age verification is available.

Q25:

Does the current scope of the Refused Classification (RC) category reflect the content that should be prohibited online?

I believe that the current scope of the Refused Classification (RC) category does generally reflect the content that should be prohibited online, with the qualification that we cannot accurately predict what changes may come to online content, technologies and platforms. If possible, the same accepted community standards should be applied to offline and online content.

Q26:

Is consistency of state and territory classification laws important, and, if so, how should it be promoted?

Yes. Content classification should be a Commonwealth responsibility with one National Classification Scheme and uniform laws and regulations across all Australian states and territories.

Q27:

If the current Commonwealth, state and territory cooperative scheme for classification should be replaced, what legislative scheme should be introduced?

The federal government should seek to improve and expand the current National Classification Scheme with uniform laws and regulations across all Australian states and territories.

Q28:

Should the states refer powers to the Commonwealth to enable the introduction of legislation establishing a new framework for the classification of media content in Australia?

No. See responses to questions 1 and 27 above.

Q29:

In what other ways might the framework for the classification of media content in Australia be improved?

The NSW Council of Churches recommends less industry and academic representation and more community representation on classification boards, in order to more accurately reflect the prevailing moral and ethical standards of the community.

Other comments:

I make this submission on behalf of the NSW Council of Churches (<http://www.nswchurches.org>) as its Public Affairs Director. The Council is grateful to the Federal Attorney-General, Robert McClelland MP, for calling this inquiry, and to the Australian Law Reform Commission for conducting it. The Council will be happy to assist the Commission in its deliberations to the fullest extent possible.

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