

23rd February 2010

Classification Review
Attorney-General's Department
3 -5 National Circuit
BARTON ACT 2600

Email: classificationreview@ag.gov.au

Submission: Should the Australian National Classification Scheme include an R 18+ classification category for computer games?

Australian Interactive Media Industry Association (AIMIA) is the peak industry body for interactive content and digital media in Australia.

AIMIA's membership represents the full spectrum of the digital media industry in Australia. Our members range from Australia's top digital media powerhouses, including the ABC, Sensis, Yahoo!, Google, BigPond, Foxtel, Disney, ninemsn and Fairfax Digital, to the country's best known interactive advertising, mobile content, web development, games design, and special effects companies. Members include developers, creators, producers, investors, service providers, educational institutions and students.

AIMIA exists to:

- Deliver services and initiatives that help AIMIA members grow their businesses in the Digital Media industry
- Develop and grow the markets for AIMIA member's services and products
- Identify and develop export opportunities in Digital Media for AIMIA members
- Represent AIMIA members and the Digital Media industry nationally and internationally with government, education, media and the broader business community

An R18+ Classification for Games

While traditional media continues to be available and regulated according to its specific formats, new media poses regulatory challenges. Much of the content traditionally found and regulated in its distinctive formats is now also found in new media, and particularly on the Internet – accessed via PCs and mobile devices. This convergence of content, coupled with the divergence of content regulation, is creating very real challenges faced in attempts to regulate new media in line with traditional media.

Perhaps one of the greatest inconsistencies in the content regulation mix is the lack of an R18+ classification for computer games.

Much of the content developed and distributed by AIMIA members is easily matched to traditional media forms, and subsequently readily matched to the appropriate content classification regime. However, an issue that is creating challenges for our members is the increasing irrelevance of traditional media type definitions to convergent content.

Whether one applies the requirements of the National Classification Scheme (the *Classification (Publications, Films and Computer Games) Act 1995* and associated enforcement legislation) or the Online Content Scheme (through the *Broadcasting Services Act 1992*), developers, distributors and consumers all stumble if they have a piece of new media that must be wedged under the definition of "film" "computer game" or "publication". Generally this issue is not problematic, except where the content is assessed¹ as likely to be suitable only for an adult audience. The "type" of content is then critical, as adult content "computer games" are not permitted in Australia.

It is becoming increasingly difficult to differentiate between various types of media, as the distinctions between them continue to blur as a result of technological advances and what is termed 'convergence'.

Convergence suggests that the notion that classification can be tied to methods of delivery or technical characteristics is no longer relevant. There are compelling reasons to harmonise the guidelines and the classification system for film and video and computer games, given the numerous examples of content which fit both definitions.

Convergence

The use of convergent technologies, such as personal computers and mobile phones, by Australian consumers is ubiquitous. They are capable of exploiting mass delivery technologies (such as broadband internet) and they are also able to combine conventional systems to create new convergent applications. A device such as an iPhone can be used to make a phone call, or it can be used to play a game, watch a film or read a publication. Indeed, some modern 'apps' combine all three of these activities, all through one single device.

Some of the practical outcomes of convergent devices and applications include:

1. interactivity in previously 'fixed' media such as films, and broadcasting (in addition to computer games and telecommunications) with the end-user selecting from a range of variables
2. multiple channelling and multiple viewing-angle transmission resulting in variable impact
3. multicasting resulting in multi-user interactivity, e.g. game playing and sharing of characters
4. metadata and classification labelling by content producers, and the end-user enabling the filtering of content

These developments are occurring in our media space – right now – and traditional distinctions between types of content and the manner in which they are delivered to consumers are crumbling. Convergence is challenging the notion that the implementation of classification can be tied to methods of content delivery or its technical characteristics.

Other convergence issues relevant to the R18+ classification include:

1. The blurring of distinctions between different types of media, such that it is becoming increasingly difficult and redundant to distinguish between them.

¹ Note: Many of our members employ staff who are trained content assessors (certified by the Director of the Classification Board) with the skills and knowledge to make assessments as to the probable classification of content. These trained assessors are able to determine whether content can be made commercially available according to the provisions of Schedule 7 of the *Broadcasting Services Act 1992*.

2. The blurring of distinctions between different delivery channels, such that it is becoming increasingly irrelevant to apply competing regulatory approaches to different channels when the same content is being delivered to the same platform.
3. The trend towards multiplayer networked games, resulting in the blurring of computer games with public communications.²

The legal situation in Australia regarding the classification of films and computer games delivered to consumers on convergent devices is currently unclear. Traditional delivery formats, such as the sale of boxed copies of games in retail stores, clearly require classification under the current national classification scheme. However, the same content delivered to a personal computer or mobile telephone may not fall under the national classification scheme, and may even fall under other Australian media classification schemes that permit an adult (R18+) classification. There has been considerable media discussion on this issue during the last two years. To date, content industries have not been given definitive answers by government regarding the classification requirements for online and mobile content.

Clearly these are matters that must be resolved. Providing for an R18+ classification category for computer games may assist the government to resolve the gaps and cross-over created by convergent devices and applications.

Consumers of Interactive Media

The interactive media industry provides content choices for all types and all ages of consumers. Research shows that globally the age of computer gamers is increasing as the first generation of gamers matures and continues to use this entertainment medium. The average age of Australian gamers is 30 years old and 68% of all Australians play video and computer games³.

From the polls and surveys available from the Attorney-General's Department website it is clear that Australians would like consistency in their classification information. The significant differences between the Broadcasting and Film schemes under different regulatory bodies create confusion. The difference between games and films – the lack of an R18+ - adds to consumer uncertainty. Many consumers (IA9 reports 63%) are not aware that there is not an R18+ classification for games, and would be further confused if they understood this inconsistency existed.

LACK OF AN R18+ INCONSISTENT WITH CLASSIFICATION PRINCIPLES

The Classification Act requires that computer games are to be classified in accordance with the National Classification Code and the classification guidelines. The National Classification Code⁴ states that classification decisions are to give effect, as far as possible, to the following principles;

- Adults should be able to read, hear and see what they want.

² *An Overview of New and Emerging Technologies, Convergent Communications Research Group (CCRG), University of Adelaide, March 2005.*

³ Interactive Australia 2009, (2009 IEAA Report) National Research prepared by Professor J Brand, Bond University for the Interactive Entertainment Association of Australia, 2008, www.igea.net/category/industry-research

⁴ National Classification Code, cl 1.

- Minors should be protected from material likely to harm or disturb them
- Everyone should be protected from exposure to unsolicited material they find offensive.
- the need to take account of community concerns about:
 - (i) depictions that condone or incite violence, particularly sexual violence; and
 - (ii) the portrayal of persons in a demeaning manner.

Some media commentary suggests that children cannot be protected if an R18+ classification is introduced. Both classification code principles – protection of minors and freedom of access for adults – can be managed harmoniously, and this is currently achieved both with film and publication content in Australia, and through classification systems for games in all other western countries.

If an R18+ classification for films (and two restricted to adult categories for publications) can balance the requirements of the Principles to the National Classification Code, there is no reason why that balance cannot be achieved with the third category of media classified by the National Classification Scheme – computer games.

Restricting adult access to content because it is unsuitable for minors is inconsistent with the principles of the National Classification Code. Adults should be allowed to access most content (except where criminal or other community standards are breached) and some content should be restricted from access by minors to protect them. This is consistent with the Principles of the Code, our scheme for films and publications, research (local and international), and international ratings schemes.

Type of Content in R18+

AIMIA's understanding of the National Classification Scheme, developed through the knowledge base of our industry's Trained Content Assessors, is that there are strict requirements regarding what is permitted in the R18+ classification for films (and the restricted classifications for publications). The combined classification guidelines for films and computer games have been written in a non-media specific manner and are applied to both games and films. The R18+ classification guidelines for films can be applied very simply to games – just as the other classification categories are.

There has been some media comment, particularly during the last 12-24 months, suggesting that an R18+ classification would result in the increased availability of games containing instructions in criminal activity and excessive violence or sex. An R18+ classification for games will not make any of this material available. The R18+ classification prohibits explicit sex, sexual abuse and extreme violence. The Refused Classification category in the guidelines also specifically prohibits material that promotes or provides instruction in criminal activity.

AIMIA understands that any content exceeding the R18+ guideline would be classified Refused Classification.

There is some evidence in the media that some consumers believe all RC gaming content would be suitable for the R18+ classification. This is not the case. The lack of an R18+ classification for games is diluting the very serious nature of the RC classification category.

Proposed ISP Level Internet Filtering

The growth of the internet and increasing high speed broadband penetration allows the interactive media industry to provide products through many new channels and business models. Internet filtering aims to limit the material, services or content accessible by a consumer by preventing, through technical means, the flow of digital content to the device by which a consumer accesses that content. Filtering of the internet is technologically feasible – though its efficacy and efficiency is debatable.

The Government's policy is to require ISPs to offer a 'clean feed' internet service to all homes, schools and public internet points accessible by children, such as public libraries. The stated intent of the ISP level filter policy is to prevent Australian children from accessing any content that has been identified as prohibited by the Australian Communications and Media Authority (ACMA).

The blurring of distinctions between different types of media (e.g. games and films) discussed above will be impacted by ISP level filtering if an R18+ classification is not introduced for games. A significant part of the content developed and distributed by AIMIA members is simple interactive audio visual content. Much of that content has the characteristics of both films and games.

If content is assessed as suitable for adults only, and suitable age verification systems are in place, it will not be blocked by the proposed filters. However, a decision that the content is better described as a game (rather than a film) will mean the content is likely to be Refused Classification and it will be blocked. (Section 15 of the *Classification (Publications, Films and Computer Games) Act 1995* grants the Classification Board the power to make this decision when it receives an application to classify it as a film or game.)

Under Schedule 7 to the *Broadcasting Services Act 1992*, ACMA must refer content to the Classification Board in certain circumstances to obtain a classification decision. In practice, it is understood that ACMA routinely makes decisions regarding the "likely" classification of content. (An analysis of Classification Board Annual Reports and ACMA Annual Reports from 2005/06, 2006/07 & 2007/08 indicates that the Classification Board made 39 RC, X18+, R18+ and MA15+ decisions on material submitted by ACMA. Over the same period, ACMA reported 1159 decisions regarding Prohibited or Potentially Prohibited content.)

AIMIA is not aware how much information sharing occurs between the Classification Board and ACMA regarding the application of Section 15 of the Classification Act. If, as it appears from the reported statistics, ACMA is routinely making "classification" decisions related to the restricted classification categories, it would be simpler for government, industry and consumers if the increasingly irrelevant distinction between games and films is removed. The only regulatory impediment to removing this irrelevant distinction is the lack of an R18+ classification for games.



AUSTRALIAN INTERACTIVE MEDIA
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Conclusion

Australia is out of touch with the rest of the world in classifying computer games. Other countries treat computer games with the same care as other audiovisual content such as films.

Children's access to inappropriate content or substances is of constant concern to the community and parents. Some of the most contentious issues for discussion in Australia are about children using illegal drugs, using legal drugs (alcohol, tobacco, etc), and viewing restricted content. **The continued exclusion of an R18+ classification for computer games is illogical and potentially damaging to consumer management of content for themselves and those in their care.**

Any enlightened culture will continue to be concerned about children's access to material that is only meant to be for adults, but that freedom comes at a cost: responsibility, trust and education. Parents and other adults in society must take responsibility to manage and restrict access to "adult" content. Lobby and interest groups must not force a set of beliefs that do not necessarily match broader community standards on others, but must trust their fellow Australians to manage their own lives and their families' lives. Governments, in partnership with industry, must educate consumers, particularly parents, about classification schemes and content suitability.

Technology changes make the treatment of different media types in different ways redundant. Convergence is challenging the notion that the implementation of classification can be tied to methods of content delivery or its technical characteristics. The blurring of distinctions between different types of media is such that it is becoming increasingly difficult and irrelevant to distinguish between them.

The argument for harmonising not only the guidelines but also the classification scheme for films and computer games is becoming compelling. There are numerous examples of content which fit both definitions, particularly interactive films, and it would be better to avoid having to make a distinction.

The Australian community would be better served by the national classification scheme if an R18+ classification for computer games was introduced. Adult gamers would be treated like adults, and parents would have a complete toolkit to manage children's game playing. In addition it would bring Australia into alignment with the rest of the world.

Yours sincerely,

signed

John Butterworth
Chief Executive Officer
AIMIA

Attachments

Attachment A – Submission Template Responses

Attachment A SUBMISSION TEMPLATE RESPONSES

Should the Australian National Classification Scheme include an R18+ classification category for computer games?

YES

Adults should not be prevented from playing R 18+ level computer games simply because they are unsuitable for minors

5) strongly agree

The R 18+ classification category sends a clear, unambiguous message to parents that the game material is unsuitable for minors

5) strongly agree

Consistent classification categories for films and computer games are easier to understand

5) strongly agree

A new classification will supplement technological controls on minors' access to age-inappropriate computer games

5) strongly agree

Comparable classification systems internationally have an adult rating for computer games - international parity is desirable

5) strongly agree

Consumers access games which would be R 18+ illegally – it would be better if they were legally available with appropriate restrictions

5) strongly agree

Computer games should be treated differently from films given the specific, negative effects of interactivity on players, particularly their participation in violent and aggressive content.

1) strongly disagree

It would be difficult for parents to enforce age restrictions for computer games.

1) strongly disagree

Minors would be more likely to be exposed to computer games that are unsuitable for them.

1) strongly disagree

An R 18+ for computer games would exacerbate problems associated with access to high level material in Indigenous communities and by other non-English speaking people

1) strongly disagree

There is no demonstrated need to change existing restrictions.

1) strongly disagree