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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?

ABOUT MLCS MANAGEMENT

MLCS Management is a boutique management consultancy specialising in providing strategic, policy and operations advice regarding the classification and censorship of entertainment content. We provide a unique service to assist businesses achieve market ready products in an environment of multiple legislative schemes and converging technologies.

Paul Hunt, Principal Consultant for *MLCS Management*, was the Deputy Director of the Classification Board and Office of Film and Literature Classification for six years. He is also a parent of teenagers who play computer games and a child of "Seniors" who play computer games.

SUBMISSION PERSPECTIVE

This submission is based on a number of perspectives reflecting my interaction with video and computer games over the last 30 years:

- Former Deputy Director of the Classification Board
- Former senior executive with the Office of Film & Literature Classification
- Consumer of entertainment media, including games, films and the internet
- Parent

Former Deputy Director of the Classification Board

One of the principal qualifiers to my appointment to the Classification Board (the Board), was that, together with the other Board members, we were broadly representative of the Australian community. This is designed to ensure that the Board reflects contemporary Australian community standards. As a member of the Board, I was always confident that we were truly representative of the community and reflected Australian community standards.

There were a very small number of instances where I felt the legislation and the guidelines restricted or prevented the board from reflecting community standards. The only significant area was the lack of an R18+ classification for computer games. When I made a decision, or participated in a decision, that a computer game was unsuitable for minors, I was forced to refuse classification for that game. It was not because I thought that the game depicted, expressed or otherwise dealt with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that it would offend against the standards of morality, decency and propriety generally accepted by reasonable adults. It was simply because the game was not OK for kids.

There were a few games, just like films and publications, that were too offensive, and I was comfortable to ban those games – just as I was comfortable banning films and publications. Not being able to restrict computer games to adults was an impediment to my ability to reflect Australian community standards.

Former OFLC Senior Executive

As a member of the senior management team at the Office of Film and Literature Classification (OFLC) I was familiar with the volume and content of complaints regarding both classification decisions and the structure and operation of the National Classification Scheme (NCS). Between 2000 and 2007 there were a few film and game decisions that elicited a response from the community and/or the media about either the “correctness” of the classification decision or the usefulness of certain aspects of the NCS. These complaints and other feedback are useful in assessing the relevance of the scheme and the Board’s decision making.

Perhaps two examples indicate how the NCS without an R18+ classification for games fails to reflect contemporary community standards: the film *Hannibal* and the computer game *Grand Theft Auto III*.

Hannibal was classified MA15+ by the Board. Community complaints resulted in a review of the classification by the Classification Review Board (CRB). The CRB decided that the film was not suitable for minors and classified it R18+, restricting it to an adult audience. Whilst some consumers felt this was an unsatisfactory outcome, most feedback indicated that the community was happy with the result. The NCS worked.

Grand Theft Auto III was classified RC by the Board, because the content exceeded that permitted in the MA15+ classification category. The distributor sought a review of the decision by the CRB. The CRB upheld the RC decision because it felt the game was “unsuitable for a minor to see or play”. The CRB also noted:

“In the absence of an R rating for computer games, as is available to the Review Board for films and videotapes, the Review Board classified the game RC. The Review Board was unable, in this instance, to uphold the other part of its duties in the classification of computer games, that being that adults should be able to read, hear and see what they want. The availability of an R rating would have seen this game released for adult consumption.

...

Perhaps the ministers responsible would give consideration to an R rating for computer games, as is available for films and videotapes, so that adults may see and hear and play what they want – legally.”

In the above examples, two products received different results, but both were assessed as suitable for the same adult audience. That the result does not reflect community standards is evident in the massive number of complaints and other correspondence, compared to any other Board decision during this period, received by the OFLC regarding both the RC decision of *Grand Theft Auto III* and the lack of an R18+ classification for games.

A consumer of Games, Films and the Internet

I consume entertainment from all of these media types or channels. I make no judgement on the media type or the channel through which it is delivered. An arbitrary decision regarding whether or not a product is a game or a film, resulting in allowing access to it or banning it, is illogical. Even the differentiation of classification schemes for TV, Online, Mobile, Cinema, DVD, and Game content is out-dated and non-responsive to the needs of Australian consumers.

As a consumer, I accept information from the government to assist me in making purchase, playing and viewing decisions. Not because I need it, but because others need it. I have been playing computer and video games for almost as long as I have been viewing films at the cinema. There is nothing mysterious about games. Some people like them and some don't. Similarly, some consumers like French Art House Film and some don't. That is no reason to leave out an R18+ classification.

The ongoing assumptions by some Censorship Ministers that games are only for children, and adult games will be more easily accessed by children than other adult products, such as films, ignores community feedback on these issues. I find it personally insulting, and I doubt the competence of persons who continue to make the decision to exclude an R18+ from our National Classification Scheme.

A Parent

As a parent, one of the tools I have used to make viewing and playing choices for my children is the classification decision by the Board. As my children have grown into their teenage years, it has been an ongoing struggle to manage their access to unsuitable content and products, including R18+ films, alcohol, etc. This is simply a reflection of how children work. I recall struggling against legal and parental controls as a teenager. My oldest son is now an adult. He is legally permitted to watch R18+ films and consume alcohol, but he can't play an R18+ game.

Some parents are irresponsible with the management of their children's behaviour. If the reason for excluding an R18+ classification for games is to limit the access of the children of incompetent or irresponsible parents, then we should ban R18+ films, restricted publications, alcohol, cigarettes, etc. from our society. Research shows that there is nothing special about games that requires a different response. Singling games out because of a desire to assist parents is misguided and irresponsible. It is also insulting to me as a parent to suggest that I am not competent enough to manage access to computer games in the same way that I manage access to other adult content or products.

REASONS TO INCLUDE AN R18+ CLASSIFICATION FOR GAMES

The following issues are no doubt discussed in detail in other submissions to the review, so I have only briefly commented on them below.

Computer & video game consumers

A recent research report by Bond University, *Interactive Australia 2009* (IA9)¹, found that the average age of Australian gamers is 30 years old and that 68% of all Australians play video and computer games. The IA9 report also showed 88% of households contain a device for playing video and computer games, and in 80% of households with children parents and children play computer games together.

Further harmonisation of the national classification scheme will provide Australians with a consistent and uniform system which will allow consumers to make educated and informed decisions on their entertainment choices, regardless of the medium or delivery method.

Lack of an R18+ inconsistent with classification principles

The Classification Act requires that "computer games are to be classified in accordance with the Code and the classification guidelines." The National Classification Code² 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.
- 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.*

The perceived conflict between the first two principles of the Code remains the focus of any discussion about an R18+ classification for computer and video games. Both 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.

¹ 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

² National Classification Code, cl 1.

Research

Internationally, research regarding the effects of media violence is treated with caution, and classification systems seek to restrict access to some content to adults only rather than banning content that is not universally offensive and excessive – as we do with games.

Research on the effects of media violence on young people is not entirely relevant to the decision to establish an R18+ classification for video and computer games. An R18+ classification is not for children and, as with other media that is unsuitable for children, systems and legislation should restrict access to them. For example, the UK's *Byron Report*³ talks in general terms about restricting access to some higher level content, and in some cases even banning games. However, it is clear in the discussion that the author assumes the existence of a restricted adults only category as one mechanism for restricting children's access to certain unsuitable content.

Convergence

It is becoming increasingly irrelevant and difficult to differentiate between the various types of media, as the distinctions between them continue to blur due to technological advances.

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.

Dealing with current generation products can also provide challenges for the Classification Board. Most DVD movie releases contain extra material, sometimes including interactive computer games. The DVD of the movie *Flushed Away* included three computer games. The Classification Board classified the DVD 'G' – as a film. The Classification Act provides the Board with the power to determine that the entire contents of the film (DVD) are better treated as a film rather than a computer game, or vice versa. This is quite convoluted and confusing, but the outcome serves consumers well – a G classification for a device (the DVD) that contains a mixture of content types. The situation becomes difficult if some part of the content exceeds the MA15+ classification and needs to be restricted to adults. The Board's power to determine if the product should be treated as a film or game could be the difference between granting an R18+ classification or Refusing Classification.

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.

³ Byron, T, March 2008, 'Safer children in a digital world – the report of the Byron review', (the 'Byron Review'); <http://www.dcsf.gov.uk/byronreview/>

Type of content in R18+

Despite the assertions from some commentators, an R18+ classification would not result in the increased availability of, or accessibility to, games containing excessive violence or sex. Material within the R18+ classification must be strictly limited with permissible content set out in the classification guidelines consistent with film. The current guidelines were drafted in 2002 and anticipated the possible inclusion of an R18+ classification for computer and video games. If the draft R18+ classification had been introduced, the material available in this category would have been legally restricted to adults and limited in its scope.

ANY MATERIAL EXCEEDING R18+ GUIDELINES MUST STILL BE CLASSIFIED RC – REFUSED CLASSIFICATION. It is important to note that material classified X18+ or RC (explicit sex or extreme violence) is not allowed in the R18+ classification for films and must not be included in an R18+ classification for computer and video games.

THE OTHER QUESTION – WHY DON'T WE ALREADY HAVE AN R18+ FOR GAMES?

During the introduction of the games classification scheme the *Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Standards* and Censorship Ministers excluded an R18+ classification for computer games from the NCS based on three assumptions that have subsequently proved to be incorrect:

Incorrect Assumption 1. - Computer and video games are only for children

There is a perception that computer and video games are only for children, but more than 70 per cent of players in Australia are older than 18, and 20 per cent are more than 39 years old. The average age of computer and video game players in Australia is 30 years. This is a natural progression of the first generation of computer and video game users.

Incorrect Assumption 2. - The level of technology involved with the use of computer and video games means that many parents do not necessarily have the competency to ensure adequate parental guidance

Australian research between 1994 and 2009 (the current life of the computer and video games classification scheme) indicates that Australian parents are comfortable with the technology and content of computer and video games.

Personal computers and gaming consoles all offer parental control tools in their new gaming systems. For example, parents can set the classification threshold on their child's video game console or personal computer to PG for pre-teens and then no games rated M or MA15+ can be played on the console (or PC) unless the parent first enters a password.

Parents do not require government policy to provide any more tools than exist for other media to assist them in managing their children's access to computer and video games. This is in part because parents are gamers too.

Incorrect Assumption 3. - Due to their interactive nature, it was thought computer and video games may have greater impact, and therefore greater potential for harm or detriment, on young minds than film and videos.

There are still too few studies on the influence of computer and video games to draw any safe conclusions about their effects. Some studies indicate that playing computer and video games can lead to aggressive behaviour. Other studies do not support that conclusion.

Whilst research is inconclusive, as noted above, Australian Government commissioned research has stated that “there is no known psychological peculiarity of the computer and video game experience which indicates that a differential classification system should be applied to this medium”⁴.

It is distressing to see our elected representatives and policy makers get it so wrong. It is even more distressing to discover how incompetently they managed the issue at the time. The Senate Select Committee heard limited evidence from industry and the community – and decided to ignore most of it. After reviewing the Hansard reports of the hearings where the former Chief Censor and Deputy Chief Censor gave evidence, it is clear that the committee was diverted by other issues - resulting in poor decisions about the scheme for games.

The proposed scheme for games initially included a classification restricted to adults, with advice regarding content to come from industry, and classification decisions resting with the Board. Former Senator Brian Harradine hijacked the discussion to focus on the decision of the Review Board to classify the film *Salo* R18+ (overturning a ban). Senator Harradine used this example as a reason to not trust the Boards to make responsible decisions about computer games.

Whilst Senator Harradine can be admired for his strong convictions and tenacious efforts to restrict or ban truly offensive products such as *Salo*, his interference in this instance resulted in uninformed recommendations by the Senate Select Committee and subsequent uninformed decisions by censorship ministers. So we don't have an R18+.

In addition, Hansard records that when using the term “computer game”, the Senators and the officials giving evidence were referring to both “games” and “computer generated images”. At the time, a number of PC-CDROM explicit sex films and still images were being brought into the consumer market as a new product. It is understandable that this form of “computer generated image” may have been a cause for concern among Senators.

When the National Classification Scheme in its current form commenced in early 1996, computer generated images came under the definition of film or “interactive film”. So there is an R18+ classification (and indeed an X18+ classification) for this type of content. We are now used to seeing all sorts of content on computer screen as well as television screens, but in 1993 some key individuals simply lumped all content seen on a PC screen under the heading of “computer games”. The type of content that concerned Senators and Censorship Ministers in the early 1990s is now classified as R18+ and X18+ film. As recently as 2006, computer generated images seized by police in Queensland were referred to as “computer games” under that state's classification enforcement legislation.

⁴ *Computer Games and Australians Today*, Kevin Durkin and Kate Aisbett, Sydney, 1999.

So any attempt by Senators and officials to prevent access to interactive sex CD-ROMs by omitting an R18+ classification for computer games has failed. This was simply due to a lack of understanding about the technology and the product. Whilst it was unfortunate, it can serve as an example of why the principle of basing classification restrictions on technology type is a very poor approach.

THE CURRENT DEBATE

Some of the issues raised in the media about the R18+ classification for games are incorrect and misleading. They are simply the repetition of slogans and rhetoric that have no basis in fact. Some of this rhetoric is repeated in the Discussion Paper under the heading *“Some arguments against including an R 18+ classification for computer games”*. It is understood that there is a need for the Australian Government to attempt to present a balanced discussion paper to allow for the community to make considered submissions. However, the arguments against an R18+ classification consist largely of unsubstantiated emotional outbursts, and it is disappointing that they have been included in a document designed to elicit measured responses.

In media interviews during 2009⁵, South Australian Attorney General, Michael Atkinson, repeated a number of common themes about the potential content that would be brought into the country with the introduction of an R18+ classification. Anyone can speculate in general terms about what would be permissible in an R18+ classification, even though it is ultimately the Classification Board or all Censorship Ministers, not an individual Attorney General, who can determine what content is permissible in a given classification category.

The current combined Guidelines for the Classification of Films and Computer Games were created in response to Censorship Ministers’ concerns about the relevance of separate guidelines in an era of media convergence. Apart from the statement that the R18+ classification does not apply to computer games, the requirements of the guidelines are identical for films and games. Therefore the R18+ section of the guidelines provides a description of the type of content that would be permissible in R18+ games.

There have been suggestions that an R18+ classification would include “sexual abuse, criminal activity, and extreme violence”. The guidelines do not permit their existence in the R18+ category. In addition, the RC (Refused Classification) category in the guidelines specifically prohibits child sexual abuse, detailed instruction or promotion in matters of crime or violence, and very high impact (extreme?) violence.

Any assertion that an R18+ classification for computer games would permit sexual abuse, criminal activity and extreme violence is misleading.

Further Examples of Current Incorrect Assertions

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

⁵ *“Exclusive: Michael Atkinson talks Aussie game classification”*, By Laura Parker, GameSpot AU, posted Jan 27, 2009 2:14 pm AEST, and *“Atkinson Argues His Case, Says He Doesn’t Trust Classification Board”*, by David Wildgoose, kotaku.com.au, posted at 2:00 PM on March 16, 2009

content. Concerns are frequently raised that playing violent computer games has a greater negative effect on people than viewing the same degree of violence in films.”

I attended and presented at the International Ratings Conference (hosted by the then OFLC) held in Sydney in 2003. In one discussion panel at the conference, a 3-1 majority concluded that many of the claims made about research on aggression and the media were unfounded. The panel included international media scholars including Professor Guy Cumberbatch, Professor Kevin Durkin, Dr. Jeff Brand and Professor Craig Anderson.

None of the current research talks about “the specific negative effects of interactivity on players”. This is a mistaken belief created 20 years ago as video and computer games were emerging as a mainstream form of entertainment. Research indicates that the relationship between depictions of violence in the media and subsequent acts of violence is extremely complex, with a number of variables, such as family circumstances, parental influence, poverty, health and substance abuse, determining who will be affected and in what way. The research not only fails to provide concrete evidence that there is a connection between violent media and aggressive behavior; it also fails to distinguish between video games and other forms of media. Some of the research discusses correlations between violence and aggressive behaviour, and there is considerable academic argument regarding the validity of the methodology used in these studies. None of the research states that interactivity increases impact or effect. Quality policy making is not achieved through basing regulation on unfounded concerns from a small, but vocal, uninformed part of the community.

“The need to protect minors from material that may harm them is considered to outweigh the principle that adults should be free to read, hear and see what they want.”

The National Classification Code does not give any greater weight to any of the four classification principles. If it did give a greater weight to the protection of minors than the freedom of adults, we would not have restricted films and publications. The legislation and the current conduct of the National Classification Scheme cannot support this argument. There is no indication in any of the research noted in the Discussion Paper, or indeed in any research, that the principle of protecting children from exposure to harmful content is compromised by the inclusion of an adults only classification/ratings category for computer games.

“The introduction of an R 18+ category may increase distributors’ willingness to bring out games with higher level content. As a consequence, more material that is unsuitable for minors may be distributed and available in Australia, with more minors able to access it.”

An influx of high impact content in games as a result of the introduction of an R18+ classification is very unlikely. Largely, higher impact gaming content is not commercially successful in consumer markets, and is therefore not released through traditional “bricks & mortar” or major online retail outlets. Smaller scale R18+ type content is currently available worldwide on the internet. Introducing an R18+ will not increase its availability. The continued absence of an R18+ classification does not, and will not, decrease its availability.

“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.”

This is a misrepresentation of the problem. An R18+ classification for games will make the system more uniform and therefore more readily understood by Indigenous communities and other non-English speaking peoples.

The problems are due to the Australian Government's failure to undertake a comprehensive information or education program regarding the national classification scheme and the classification categories for 25 years. Enabling parents to draw a meaningful distinction between content restricted to adults and content available to minors is imperative for the entire Australian community. Any education or information program MUST include specific mechanisms to address particular issues associated with Indigenous communities and other non-English speaking people.

It has not been suggested that the concerns with adult film content in indigenous communities in the Northern Territory will be addressed by removing the R18+ film classification from the National Classification Scheme. Therefore, it would follow that continuing to leave an R18+ classification for games out of the National Classification Scheme is not the answer to these issues.

It is interesting to note that the South Australian Report on the Children in APY Lands⁶ includes the following statement: ..."Some children were in overcrowded homes. Some parents and other carers were abusers of drugs or alcohol and afforded little protection to, or supervision of, children. Pornography was available in some homes and watched by children of all ages." The availability of pornography to children (referring in this case to R18+ sex films on subscription television) would appear to be another outcome of broader social and parenting issues, rather than a causative element. In addition, the pervasiveness of television in our society, and the differentiated classification scheme used for television, may have an impact on community understanding on the suitability of television content for minors.

My assessment of this issue is developed from relevant research, and from working directly with Indigenous communities in the remote Kimberley region of Western Australia.

"There is no demonstrated need to change existing restrictions."

There is a demonstrated need. Children are currently accessing unlabelled game content that would be restricted to adults if the existence of an R18+ classification permitted it to be managed by a responsible local industry in partnership with government. Convergence means that an arbitrary differentiation between two similar digital media forms (films and games) is creating inconsistent and confusing outcomes in our community.

The *Interactive Australia 2009* research shows that 91% of Australian are in favour of introducing an R18+ classification for games. Channel 7's *Sunrise* program ran a poll⁷ in December 2009 with 97% of respondents answering YES to the question "*Would you like R18+ rated games permitted?*"

The risk of possible harm is theoretical. Effects research is inconclusive. In addition, a comprehensive system of legal restrictions will help to prevent children's access to inappropriate content. There is a real need.

⁶ 'Children on Anangu Pitjantjatjara Yankunytjatjara (APY) Lands – A report on sexual abuse', South Australian Government

⁷ http://post.polls.yahoo.com/quiz/quizresults.php?poll_id=50754

“An R18+ classification for games will greatly increase the risk of children and vulnerable adults being exposed to damaging images and messages”

There already exists a considerable body of works containing potentially damaging images and messages, including films and publications, to which children and vulnerable adults may be exposed. Games that should be restricted to adults are widely available to Australians through the internet. Adding an R18+ classification will not increase the amount of adult material available, but will provide labeling information to assist parents to make informed decisions.

“The absence of an R18+ classification keeps the most extreme material off the shelves; it prevents children and vulnerable adults from being exposed to sexual abuse, criminal activity, and extreme violence in video games; it prevents children and vulnerable adults from virtual participation in sex, criminal activity, and extreme violence”

An R18+ classification for games will not make any of this material available to children and vulnerable adults. 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 like the other classifications. The R18+ classification prohibits sexual abuse and extreme violence. The Refused Classification category in the guidelines also specifically prohibits material that promotes or provides instruction in criminal activity.

“In cinemas, the age of moviegoers can be regulated, and at the video store people must provide ID to hire R18+ videos. Once electronic games are in the home, access to them cannot be policed and the games are easily accessible to children. These days, older children (18-30) are often living in the family home with younger children (under 18). This means games belonging to older children or parents can easily make their way into the hands of those under 18.”

This assertion makes little sense. Yes, R18+ videos/films can be bought or hired (with ID) at a store. When taken home, the videos can fall into the hands of younger children. Also, if there was an R18+ for games, R18+ games could be bought or hired (with ID) from a store. When taken home, the games could fall into the hands of younger children. This argument uses one half of the story for one product and the other half of the story for the other product – but it’s still just one story. Either adult (R18+) content can be safely consumed in the home or it can’t – media type is irrelevant.

Computer and video games can be accessed by children in the same way as films on video and DVD. There is no logical reason to suggest that the restrictions and sanctions that apply to films and already apply to MA15+ classified games cannot apply to R18+ classified games.

Access to R18+ films and restricted publications brought into the home must be managed by parents. The same applies to R18+ narrowcast subscription television content. Parental locks for games consoles and PCs are an additional safeguard that isn’t available for other media forms, but they should only be used as a tool to assist parents in their responsibilities. Any concerns about parental ability to manage access to restricted content apply to all media forms – not just games.

Parental inability to manage minors’ access to restricted content (including games) is influenced by their limited knowledge base on classification. Government and industry research over the last decade has indicated a low level of community understanding of the

national classification scheme. The Australian Government has not undertaken a broad community based education or information program on classification since the mid-1980s. Introducing an R18+ classification for games may be a useful trigger for a comprehensive education campaign by government.

"... the makers of *Grand Theft Auto IV* altered the game before submitting it for an MA15+ classification, and *Silent Hill: Homecoming* is under revision by its makers after being knocked back by the Classification Board. The lack of an R18+ classification is not preventing very many adult-themed video games reaching the shop shelves--but it is ensuring that scenes that don't comply with a MA15+ rating are removed. ... that's a great result for consumers and has little impact on the profitability of game developers."

These are "adult themed games". I am deeply disturbed by this attitude and I wonder is it better to have these games modified for an adolescent audience, or have them restricted to an adult audience?

"Some of the kinds of games that ... would be available on the Australian market under an R.18+ classification include *Blitz the League*, an American football game where illegal performance enhancing drugs can be dispensed by the gamer to the football players ... Another is *Narc* ... which allows a gamer to choose that his game character take illegal drugs, including heroin, speed, L.S.D., marijuana and ecstasy. The gamer can have his character take ecstasy so it is immune to attack and the character can escape. ... These are all activities that are illegal for individuals in the real world so why ask governments to give people the right to do them virtually?"

The classification guidelines state "material that contains drug use ... related to incentives or rewards is Refused Classification". Introducing an R18+ will not change this.

If time is taken to actually review recent Classification Board RC decisions on games, most state very clearly that the game is RC only because it exceeds the MA15+ classification, not because it meets the RC requirements of the Code and Guidelines. However, in the case of both examples cited above, *Narc* and *Blitz the League*, an analysis of the Board reports clearly shows that even with an R18+ the games would still be RC. Using these games as an example of the content that would be available in an R18+ classification for computer games suggests a deliberate attempt by the commentator to mislead the community, or alternatively a complete lack of understanding of the requirements of the Classification Guidelines.

"There have been media reports that Amazon decided it would not allow a 'third-party merchant' to sell *Rapeplay*, a Japanese video game, on its site. It was reported that the gamer could simulate rape in the game. It was also reported that the game manufacturer had other game-titles including *Battle Raper* and *Artificial Girl*. These kinds of depraved and sickening games are well protected from sale in Australia under our current classification regime. Studios have tried their luck with titles that have been restricted for sexual references and nudity. *Leisure Suit Larry: Magna Cum Laude* was Refused Classification in September, 2004 and was reported to include 'implied sexual activity', nudity and sexual references."

The argument that any changes to the classification scheme will result in games containing sexual violence being available in the Australian market is misleading. In fact, it is simply untrue. Unless the RC guideline is significantly altered (and all Censorship Ministers have to agree to that), there is no way that games such as *Rapeplay* will be allowed in Australia.

Suggesting that they would indicates an ignorance of the beliefs of the vast majority of supporters for an R18+ classification who unequivocally reject the inclusion of this sort of material in our system. It is good to note that the Attorney General's Department's Discussion Paper clearly states that, even with the introduction of an R18+ classification, games such as *Rapeplay* would remain RC.

In addition, linking games that include sexual violence to games that include nudity and sexual references (such as *Leisure Suit Larry: Magna Cum Laude*) is disingenuous, and creates false perceptions in some minds.

CRITICISM OF THE DISCUSSION PAPER & THE VALIDITY OF RESPONSES

I note that there has been some media comment regarding the quality of the discussion paper and the validity of responses.

I have made some critical remarks in this submission regarding the validity of including some of the arguments against an R18+ classification for games. However, I understand that it was necessary to include them to meet the need of some (one?) censorship minister who wanted to include arguments against an R18+. Whilst the Attorney General's Department has done an excellent job in attempting to provide arguments against an R18+, some commentators, including me, are critical because the arguments are so weak and unfounded that it is almost impossible to express them in a meaningful way. I think those persons who do not want an R18+ should applaud the government for at least attempting to add credence to their arguments.

Another criticism from some commentators (notably the SA Attorney General⁸) is that the discussion paper does not include images of the type of game that would be R18+. Any desire to include such images suggests a very poor understanding of the requirements of the National Classification Scheme, including the classification guidelines.

One of the fundamental requirements of the *Guidelines for the Classification of Films and Computer Games* is that of considering context. Including "pictures of the games" in the discussion paper presumably means including still images, or even film clips of game play, captured from games. These images or clips would be then viewed outside the context of the entire work. Making a judgment on out of context images would be contrary to one of the fundamental requirements of the national classification scheme. For example: in a film, a series of disjointed images of naked breasts might be restricted to an adult market. However, if those images were shown in their original context of an educational film about self examination techniques for breast cancer detection, they would be made available to a wider audience. This example is not intended to draw a comparison between educational and entertainment product, but is simply used to illustrate the reason why context is so important in classification decision making.

⁸ For example: "*Atkinson Argues His Case, Says He Doesn't Trust Classification Board*", by David Wildgoose, kotaku.com.au, posted at 2:00 PM on March 16, 2009 and "*Aussie's heavily pro-R18+ in consultation*", by Randolph Ramsay, GameSpot AU, Posted Feb 10, 2010 9:27 am AEST

Including the types of games “currently above the MA15+ rating” would mean including extracts from RC material for public consumption – a notion that raises some concerns. If the material is refused classification it should not be distributed to the public by censorship ministers. Anyone interested in the debate can look to the Discussion Paper and guidelines and see the limitations that currently exist for R18+ films and would be extended to R18+ games. If that isn’t enough, it is quite simple to access information and content examples online.

In February 2010, Mr. Atkinson told gamespot.com.au that “I think the majority of the population are unfamiliar with these games, and without images, they won’t be able to imagine them in their mind’s eye. They’ll have no idea how violent or sexually depraved they are, and what kind of torture, drug use, and blood spatter they include.” He also reported to have said that “R18+ was an issue that most Australians didn’t care enough about.” Once again he is exaggerating the level of content that is permissible under the guidelines at the R18+ classification. Of even greater concern is the fact that Mr. Atkinson does not understand that most Australians are gamers, and therefore the majority of the population is familiar with game content. (As noted above, 68% of Australians play games and 88% of all Australian households have gaming equipment.) All responses, including those from gamers, are responses from the Australian community. Whilst Mr. Atkinson may wish to marginalise gamers, and put down the knowledge of all Australians, I trust the Government will accept all submissions at face value as representative of the Australian community’s feelings on this issue.

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. Tailored education programs are required for some parts of our society, including remote indigenous communities.

When the classification of computer games was added to the responsibilities of the national classification scheme in the mid 1990s, there was little understanding of the medium

amongst regulators. The scheme that was introduced had some very good elements, such as requiring industry experts (authorised assessors) to provide detailed analyses of game content to assist the Classification Board in its decision making role. Unfortunately, there was little success in assessing community attitudes to the classification of computer games. The advice of the Chief Censor and Deputy Chief Censor was ignored, and an R18+ classification for computer games was dropped from the scheme.

The decision to exclude an R18+ classification for computer games from the national classification scheme was based on three assumptions:

- Computer games are only for children.
- The level of technology involved with the use of video and computer games means that many parents do not necessarily have the competency to ensure adequate parental guidance.
- Due to their interactive nature, computer games may have greater impact, and therefore greater potential for harm or detriment, on young minds than film and videos.

Each of these assumptions is incorrect:

- Computer games are played by people of all ages. The average age of Australian gamers is 30, which aligns with international averages.
- Parents are confident in the use and management of computer game technology. This is in part because parents are gamers too. (It is interesting to note that current government policy provides laptop computers to most high school students. These laptops can access all of the R18+, X18+ and RC material on the internet - and any system of filters won't stop it all. Parents have not been given any training or education to assist with managing this technology. I assume it is because the government thinks that parents are capable of managing their children's access to technology.)
- Whilst research is inconclusive, there is no known psychological peculiarity of the computer game experience which indicates that a differential classification system should be applied to this medium.

When the initial decision was made to drop an R18+ classification, the Senate Select Committee, and subsequently SCAG (Censorship) Ministers, agreed that further research should be undertaken to assess the validity of the reasons for creating a scheme without an R18+ classification. In the chain of events that followed, SCAG (Censorship) Ministers missed the opportunity to complete the process and introduce the R18+ classification in 2002.

- In 1999, OFLC commissioned research concluded that adults are now regular users of computer games and that there is no reason for a differential classification system for them. In addition, Australian parents are confident and competent in managing children's access to computer games.
- Dr Brand's analysis of submissions to the guidelines review in 2000-2002 concluded that a single classification standard for films, videos, DVDs and computer games should be developed, including an R18+ classification for computer games.

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 an arbitrary distinction due to a policy and regulatory anachronism.

Even though opportunities to create a comprehensive family friendly classification scheme have been missed, this failure can be overturned at any time. Censorship Ministers have an ongoing opportunity to repair the gap in the national classification scheme by agreeing to introduce an R18+ classification for computer games.

The Government has only asked the Australian community on one previous occasion if they would like an R18+ classification for computer games, as part of the 2000/2002 guidelines review. The answer then was an emphatic "YES". During the decade since the question was last asked, research and polls have indicated overwhelming community support for the introduction of an R18+ classification.

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 safely manage children's game playing. In addition it would bring Australia into alignment with the rest of the world.

The current discussion is an opportunity for the Australian Government to take a leadership role with its State and Territory colleagues and repair the dangerous gap in the National Classification Scheme created by past mistakes. The Australian Government and Censorship Ministers have made the wrong decision about this issue in the past. There is a need to follow South Australian Attorney General Michael Atkinson's advice on a recent similar issue regarding the rights and freedoms of Australians – an attempt to restrict political comment on the internet: "When one gets public opinion wrong, as I did, one has to change one's mind."⁹

Sincerely,



Paul J Hunt
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Encl. Attachment - Responses to submission template questions

⁹ SA backs down on internet comment curbs, <http://www.abc.net.au/news/stories/2010/02/03/2808495.htm>, Feb 3, 2010 7:55am AEDT

Responses to Submission Template Questions

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