THE LAW SOCIETY OF NEW SOUTH WALES
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Classification Review
Attorney-General's Department
3–5 National Circuit
BARTON ACT 2600

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26 February 2010

An R 18 + Classification for Computer Games – Public Consultation

Dear Sir/Madam

The NSW Young Lawyers Communications, Entertainment & Technology Law Committee is pleased to provide the **attached** response to the call by the Attorney-General's Department for submissions.

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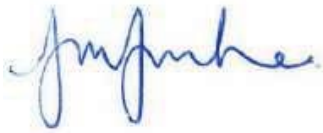
The Communications, Entertainment & Technology Law Committee (CET) aims to serve the interests of lawyers, law students and other members of the community concerned with areas of law relating to:

- information and communication technology (including technology affecting legal practice);
- intellectual property;
- advertising and consumer protection;
- confidential information and privacy;
- entertainment; and
- the media.

As innovation inevitably challenges custom, CET promotes forward thinking, particularly about the shape of the law and the legal profession as a whole.

Contributors to our written submission included Stephen Chang, Mitch Kelly, Edwina Whitby, Joshua Cavaleri, David Killen, Michael Camilleri and Adam Flynn. If you have any questions about our submission, please contact Adam Flynn (Chair) and Ju Young Lee (Vice Chair): cet.chair@younglawyers.com.au.

Yours sincerely



Adam Flynn
Chair

Ju Young Lee
Vice Chair

Communications, Entertainment & Technology Law Committee

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An R 18+ Classification for Computer Games – Public Consultation

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

26 February 2010

Submission to the Attorney-General's Department

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1. Introduction

1.1 We thank the Attorney-General's Department for the opportunity to respond to *An R 18+ Classification for Computer Games - Public Consultation*.

1.2 Our submission briefly addresses:

- the definition of "computer game" to which the classification scheme applies;
- the desirability for international parity in the classification of computer games;
- the foreseeable economic benefits of introducing an R18+ classification;
- how a new R18+ classification will supplement technical controls already in existence; and
- the difficulties that parents are thought to face in enforcing age restrictions.

2. Computer Game Definition

2.1 The definition of "computer game" in section 5A of the *Classification (Publications, Films and Computer Games) Act 1995* (Cth) (**Act**) has two components.

2.2 The first is a technical definition that defines a computer game as a computer program that allows for the playing of an interactive game ("computer program" is defined in the *Copyright Act 1968* (Cth) as a set of instructions that can be used in a computer to bring about a certain result).

2.3 The second part is the definition of "interactive game". An "interactive game" is defined as:

> *...a game in which the way the game proceeds and the result achieved at various stages of the game is determined in response to the decisions, input and direct involvement of the player.*

2.4 The definition is, therefore, broad. Popular titles on the Xbox360, Nintendo and PS3 game consoles satisfy this definition. Internet-based Flash games and games played on mobile devices could also fall within the definition. The definition could also capture content that is considered to be "associated data", such as map packs and other downloadable content associated with particular games.

2.5 We are aware that some computer game industry stakeholders interpret the definition in such a way that games made available on the Internet in electronic form and which are not also accessible on tangible media are not covered by the definition and are therefore not subject to the classification scheme. The result is that the "online only" content for some game consoles is rated merely as a matter of courtesy. It is our understanding that this interpretation, particularly in relation to content which is free and/or associated with games offered on tangible media, arises from the complexity of state enforcement legislation governing the sale of tangible products and a current lack of clarity around the jurisdiction of the Office of Film and Literature Classification (**OLFC**) and the Australian Communications and Media Authority (**ACMA**). This submission considers the classification of games made accessible in a variety of media, without being restrained by differences of opinion about the applicability of the definition to Internet-based games.

3. International Parity

Q: Comparable classification systems internationally have an adult rating for computer games – international parity is desirable

A: STRONGLY AGREE

3.1 Australia is the only Western society that does not have an R18+ category for computer games. Countries such as the USA, Canada, the United Kingdom, the EU and New Zealand have all adopted classification schemes that utilise an 18+ or 17+ rating for computer games which are determined to be only suitable for adults.

3.2 The absence of an R18+ rating means that the OFLC regularly classifies adult designated games as MA15+. To illustrate this inconsistency, a number of games classified as MA15+ in Australia can be contrasted with their 17+ or 18+ classifications by the international community. Such titles include: *Alien v Predator* (Sony, 2009), *Call of Duty: Modern Warfare: Reflex Edition* (Action Blizzard, 2009), *Dante's Inferno* (Electronic Arts, 2009), *Grand Theft Auto: Episodes from Liberty City* (Rockstar, 2009) and *Left 4 Dead 2* (Electronic Arts, 2009). Further detail of the comparisons is contained in the **Annexure** to this submission. By international standards, the practice of classifying 17+ or 18+ games as MA15+ is evidence that Australia's current classification scheme is inadequate.

3.3 Alien vs Predator (SEGA, 2009)

(a) This game is set on a futuristic alien planet, in which players adopt the role of a human marine, an Alien, or a Predator. The personas utilise extreme violence to complete their respective objectives of seeking out missing humans (the marines), propagating their species (the aliens) or guarding their territory (the predators).

(b) In Australia, Alien vs Predator (2009) (**AvP**) was initially refused classified (**RC**) by the Classification Board on 3 December 2009, owing to the extremely violent content of the game.[1] The Board stated:

> *The game contains first-person perspective, close-up depictions of human characters being subjected to various types of violence, including explicit decapitation and dismemberment as well as locational damage such as stabbing through the chest, throat, mouth or eyes. Characters can be stabbed with a Predator's wrist blade or an Alien's tail in depictions reminiscent of impalement.*
>
> *The Predator collects "trophies" by explicitly ripping off human heads - the spinal columns can be seen dangling from severed necks. Heads can be completely twisted around in order to break a character's neck. Eyes can be stabbed through or gouged out, leaving empty, bloodied eye sockets. It is noted that a player is able to combine manoeuvres together in quick succession, which further increases impact; for example, a Predator can stab a character through both eyes with its wrist*

[1] See decision at: <http://www.r18games.com.au/wp-content/uploads/2009/12/AVP_Decision_Report.pdf>

blades and then rip off their head, with spinal column still attached. Extensive post-mortem damage, including decapitation and dismemberment, is also possible.

Depictions of violence such as the above are accompanied by copious amounts of blood and gore, including ample wound detail and visible skeleton.

(c) Commenting on the ban, AvP's developer Rebellion CEO Jason Kingley agreed that AvP was not suitable for minors, stating[2]:

> *Rebellion is disappointed that its upcoming title Aliens vs. Predator has been banned in Australia. However, as we understand the law in that country the authorities had no choice as we agree strongly that our game is not suitable for game players who are not adults.*
>
> *The content of AvP is based on some of the most innovative and iconic horror movies, and as such we wanted to create a title that was true to the source material. It is for adults, and it is bloody and frightening, that was our intent.*
>
> *We will not be releasing a sanitized or cut down version for territories where adults are not considered by their governments to be able to make their own entertainment choices.*

(d) However, following an appeal by SEGA Australia, on 18 December 2009 the Classification Review Board reclassified the original and uncensored AvP game as MA15+ "strong science fiction violence".

(e) This classification is strongly at odds with adult classification that the game has received world wide. According to SEGA's website and the relevant classification bodies, AvP is sold with higher classifications overseas.

(f) In the USA, the Entertainment Software Ratings Board (**ESRB**) classified AvP as Mature 17+, noting the "Strong Language, Blood and Gore, Suggestive Themes, Intense Violence"[3]. The ESRB concurred with the OFLC's initial assessment and pointed to the game's violent content:

> *As a marine, players use machine guns, sniper rifles, pistols, flamethrowers, and explosives to shoot and kill hostile enemies; the combat is frenetic and the blood splatter is fantastical—green or acidic acid emitting from the creatures. The Alien and Predator attacks represent the most intense aspects of violence: wrist-blades are used to pierce through eyes, rip off heads; an Alien's inner mouth can smash through human skulls; a baby alien will burst out of the chest of a human host's body; heads and human spines are torn out (shown close-up) then gently caressed—red blood dripping from the spinal column.*

(g) The game was likewise classified as 18+ by both the UK's British Board of Film Classification (**BBFC**) and the EU's Pan European Game Information (**PEGI**). Similarly in NZ, The Office of Film and Literature

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[2] See <http://www.r18games.com.au/2009/12/avp-board-report-publishers-to-appea/>
[3] See <http://www.esrb.org/ratings/synopsis.jsp?Certificate=28407>

Classification (**NZOFLC**) classified AvP as "18" with the descriptor "Violence and offensive language"[4].

3.4 Call of Duty: Modern Warfare 2 Reflex Edition (Action Blizzard, 2009)

(a) In this game, players control an elite forces commando, whose mission is to hunt down terrorists across battlefields in the Middle East and Russia. Players use machine guns, sniper rifles, grenades and missiles to kill enemy soldiers and attempt to disable the launch of nuclear warheads aimed at the United States. The graphics and "modern warfare" game tasks evoke a strong sense of realism.

(b) In Australia, Call of Duty: Modern Warfare 2 was classified as "MA15+ Strong violence"[5]. However, the game has received 17+ and 18+ classifications throughout the international community.

(c) In the USA, the ESRB gave a classification of Mature 17+ noting the presence of "Blood, Drug Reference, Intense Violence, Language".[6] The ESRB commented that the violence was extremely realistic and in some instances involved civilian causalities, stating:

> *Realistic gunfire, explosions, and cries of pain are heard during the frequent and fast-paced combat. Soldiers emit large puffs of blood when they are shot and killed; there is blood pooling around corpses in some levels. In one sequence, players' successful sniping attack results in an enemy's arm becoming dismembered. One of the more dramatic sequences involves a depiction of a prisoner of war who is tied to chair, then shot in the head by a teammate.*

(d) Similarly, the UK and NZ gave a classification of "18", with the descriptor "Violence and content that may disturb"[7].

3.5 Dante's Inferno (Electronic Arts, 2009)

(a) In this action-adventure game, players control Dante, a veteran soldier of the Crusades. Dante must journey through the nine Circles of Hell, battling death, demons and mythical creatures.

(b) In Australia, Dante's Inferno was classified as "MA15+ Strong violence and nudity"[8]. In contrast, the game received 17+ and 18+ adult classifications worldwide.

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[4] See <http://www.censorship.govt.nz/DDA/Pages/Screens/DDA/PublicationDecisionInformationPage.aspx>
[5] AUS OFLC file number T09/4930, classification number 236964, see record at <http://www.oflc.gov.au/www/cob/find.nsf/d853f429dd038ae1ca25759b0003557c/85f3d47823a230e5ca25767100792841!OpenDocument>
[6] See ESRB website at <http://www.esrb.org/ratings/synopsis.jsp?Certificate=27850>
[7] In the UK, the game is sold by Amazon with an "18" BBFC rating: <www.amazon.co.uk/Call-Duty-Modern-Warfare-Xbox/dp/B0021AETNQ/ref=pd_sim_vg_h__2>; For NZ, see OFLC publication 0901343.000, available at: <http://www.censorship.govt.nz/DDA/Pages/Screens/DDA/PublicationDecisionInformationPage.aspx>
[8] AUS OFLC file number T09/5932, classification number 238076, available at: <http://www.oflc.gov.au/www/cob/find.nsf/d853f429dd038ae1ca25759b0003557c/d7f041fd316a7910ca25767b0057edb1!OpenDocument>

(c) In the USA, the ESRB classified the game as Mature 17+, together with the warnings Blood and Gore, Intense Violence, Nudity, Sexual Content.[9] Commenting on the game's intense violence and sexual content, the ESRB stated:

> *The most intense depictions of violence occur during cutscenes—the tapestry-style animations and the CGI-enhanced cinematics: Templar soldiers cut townspeople in half; a man is decapitated and his head hurtles toward the screen; a man gets stabbed through the eye with his own crucifix; and a soldier impales a woman through the chest by throwing a sword at the fleeing victim—Intense Violence at M.*
>
> *…*
>
> *The game also contains some sexual content and depictions of nudity. During one sequence, a distraught demon-like creature seizes Dante's right hand and slowly guides it across her bare chest; during another, "shade minions" in high heels moan lustfully—in the Lust level—as tentacles protrude from their stomachs, their lower regions.*

(d) Similarly, the BBFC classified the game as 18+ "Contains strong bloody violence and sexualised nudity"[10] in the UK. The PEGI also classified the game with an 18+ restriction[11] in the EU, whilst NZOFLC gave a slighter lower classification of 16+.[12]

3.6 Grand Theft Auto: Episodes from Liberty City (Rockstar, 2009)

(a) Grand Theft Auto, Episodes from Liberty City contains two games, "The Ballad of Gay Tony" and "The Lost and the Damned". In both games, players control underworld figures embroiled in gang violence, and engage in a variety of criminal and sexual acts, including simulated intercourse with prostitutes and hard core drug use.

(b) Despite the overly adult themes, the games were classified in Australia as MA15+[13]. This inadequate classification allows underage players to role play in "real life" situations that are ordinarily either restricted to over those over 18 years old, or criminalised.

(c) In the USA, the ESRB classified the games as "Mature 17+", noting the presence of "Blood and Gore, Intense Violence, Nudity, Strong Language, Strong Sexual Content, Use of Drugs and Alcohol"[14]. The ESRB rationalised the classification as follows:

> *...players can encounter strip clubs with lap dancers wearing "pasties"; sex shops that contain phallic toys ... Players are able to pick up prostitutes for certain "services" (e.g., masturbation, fellatio, intercourse):*

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[9] See <http://www.esrb.org/ratings/synopsis.jsp?Certificate=28375>

[10] See <http://www.bbfc.co.uk/website/Classified.nsf/0/9C649EB67E66AA608025769500506307?OpenDocument>

[11] See <http://www.pegi.info/en/index/global_id/505/?searchString=dante&agecategories=&genre=&organisations=&platforms=&countries=&submit=Search>

[12] See publication 0901817.000, available at <http://www.censorship.govt.nz/DDA/Pages/Screens/DDA/PublicationDecisionInformationPage.aspx>

[13] See OFLC file number T09/5128, classification number 237176, available at: <http://www.oflc.gov.au/www/cob/find.nsf/3ee9cf339ddee09eca2575ca000be1e3/1a6c89eef0e3272eca25767100791545!OpenDocument>

[14] See ESRB website at: <www.esrb.org/ratings/synopsis.jsp?Certificate=28077>

The most pertinent instances of sexual content occur in the episode The Ballad of Gay Tony. *While there is no nudity.. the sexual acts are strongly implied: the central character grinds against a woman's posterior (four-to-five seconds) while the two are fully clothed; a female character performs fellatio on the central character as he sits on a chair—the camera fixes on the woman's bobbing head from behind.*

*Alcohol and drug use are also depicted in the game. In a "Champagne drink-off" mini-game, players compete with another character to see who can drink a full bottle of champagne faster; when players visit a bar, they can take shots of liquor until they are drunk—if the central character drinks the champagne too fast or drinks too many shots, he will vomit and pass out. Although the protagonist is never depicted using drugs, a few ancillary characters sometimes can be seen smoking marijuana or snorting cocaine. Strong profanity (e.g., "f**k," "sh*t," and "c*nt") and racial epithets (e.g., "n**ger," "sp*c," and "sl*pes") can be heard during gameplay and particularly during cutscenes.*

(d) Similarly, in the EU[15], New Zealand[16] and the UK, the game was restricted to adults, and the BBFO noted that the game "contains very strong language, strong sex and violence and hard drug use"[17].

3.7 Left 4 Dead 2 (Electronic Arts , 2009)

(a) Left 4 Dead 2 (**L4D2**) is a co-operative first person shooting game launched in November 2009. It is set during the aftermath of an apocalyptic pandemic, and focuses on four survivors fighting against hordes of infected individuals/zombies.

(b) Players can also run over and kill prostitutes, displaying content normalising violence against sex workers and women. The game has recently been linked to the Facebook group: "I used to kill the hookers in grand theft auto to get my money back", which has 646 members. A review of the group members' profiles pictures readily indicate that many members are underage and identify themselves as high school students.[18]

(c) In October 2009, a three member panel of the Classification Review Board unanimously determined that the original version of L4D2 would be classified RC[19]. The Review Board believed that L4D2 could not be given a MA 15+ classification as it contained a 'level of violence which is high in impact, prolonged, repeated frequently and realistic within the context of the game.'

(d) Additionally, the Review Board expressed the view that there was insufficient delineation between the depiction of zombies and human figures, as opposed to the 'clearly fictional 'infected' characters'.

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[15] See PEDI webpage at: <http://www.pegi.info/en/index/global_id/505/?searchString=Grand+Theft+Auto%3A+The+Ballad+of+Gay+Tony&agecategories=&genre=&organisations=&platforms=&countries=&submit=Search>

[16] See <http://www.censorship.govt.nz/DDA/Pages/Screens/DDA/DecisionSearchResultsPage.aspx>

[17] BBFC reference CDM244901, available at <http://www.bbfc.co.uk/website/Classified.nsf/0/B22EF3E51C7AD4278025764F005C2686?OpenDocument>

[18] See http://www.facebook.com/pages/I-USED-TO-KILL-THE-HOOKERS-IN-GRAND-THEFT-AUTO-TO-GET-MY-MONEY-BACK/255401759352

[19] See OFLC Media Release, available at <http://www.classification.gov.au/www/cob/rwpattach.nsf/VAP/%283273BD3F76A7A5DEDAE36942A54D7D90%29~Mediarelease-Left4Dead2-22October2009.pdf/$file/Mediarelease-Left4Dead2-22October2009.pdf>

(e) In the USA, the ESRB classified the game as “Mature 17+” noting the presence of “Blood and Gore, Intense Violence and Language”. The ESRB rationalised the classification as follows[20]:

> *Bladed melee weapons and direct hits from rifles, shotguns, etc., cause decapitation or dismemberment; intense depictions include: piles of the Infected in a pool of blood along the roadside; intestines spilling out of abdominal wounds; zombie gibs shooting in all directions; charred innards; and skeletal bits and unclaimed torsos. While the litany of somewhat "gruesome" depictions attests to the Mature rating, the over-the-top onslaught is, in some ways, mitigated by the exaggerated menacing evil (camp?) of the drone-like zombie horde; the genre homage (horror, zombies, . . . cricket paddle) is palpable. Consumers might also wish to know that the game includes profanity, such as "sh*t," "a*shole," and "b*tch"; however, it is the intense violence, the blood and gore that are the primary factors for the Mature rating.*

(f) A subsequent appeal by Electronic Arts (which included an edited version of the game without images of decapitation and dismemberment) was classified as MA15+ by the Classification Review Board.

3.8 The Australian classification of the above computer games, when contrasted with the broad consensus of the international community, suggests that the Australian classification scheme for computer games is highly inadequate. An R18+ classification category is strongly recommended in order to accurately inform consumers as to the games’ adult themes, consistent with international standards. An R18+ classification category would allow parents to monitor games content viewed by minors under their supervision and allow adults to make an informed choice about the content they consume.

3.9 Our recommendation to obtain international parity is focused on seeing the replication of the guiding principles for foreign classification schemes within the Australian scheme. Specifically, we feel that the following guiding principles should influence and guide the Australian classification scheme:

(a) *A ratings system should inform and suggest only – not prohibit.*

Similar to the guiding principle for the ESRB[21], we believe that it is the role of a classification system to provide a scheme that seeks to inform the community of content and suggest applicable classification guidelines. A classification scheme should not be used to prohibit gaming content that is acceptable within regulatory limits. We believe that a rating scheme should not focus solely on objectionable incidents within a game – but more the overall content and provide such information impartially and concisely. The current status quo, where a lack of R 18+ classification requires classification decisions to be at the discretion of board members, rather than guidelines, we agree results in ‘inconsistent and unpredictable rating decisions’[22] that lead to the unfair prohibition of certain games.

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[20] See ESRB rating information, available at <http://www.esrb.org/ratings/synopsis.jsp?Certificate=27786>

[21] See ESRB, available at: <http://www.esrb.org/ratings/faq.jsp#7>

[22] L Parker, ‘Gaming Classification bound in ignorance’ *National Times* 1 February 2010, available at: <http://www.theage.com.au/opinion/politics/gaming-classification-bound-in-ignorance-20100201-n8cs.html#comments>

(b) *Works should be allowed to reach the widest audience possible*.

Similar to the guiding principle for the BBFC, we believe that a classification scheme should not restrict the ability of content to be distributed to its intended audience[23].

(c) *Adults should, as far as possible, be free to choose what they see, provided that it remains within the law and is not potentially harmful.*

If content remains within the law, we believe there should not exist a power to prohibit adults from being eligible to choose what they see and interact with. There currently exists an issue with the current scheme in that the scheme provides that adults are restricted from obtaining games that would be unsuitable for teenagers over the age of 15. Such a gap presents an unacceptable position in comparison with the rest of the world.

[23] See BBFC, available at: <http://www.bbfc.co.uk/downloads/pub/Guidelines/BBFC%20Classification%20Guidelines%202009.pdf>

4. Economic benefits and reduction in piracy

4.1 The market for computer games in Australia is strong and growing. In 2007, that market was worth an estimated $1.3 billion[24]. Australia is currently home to more than 25 major games development studios, which in 2007 exported over $120 million worth of products[25].

4.2 At present, the average age of a gamer in Australia is 30 years, which has steadily increased from 28 years in 2007, and 24 years in 2005[26]. As the average age of gamers is increases, there is a corresponding increase in demand for adult content. The lack of an R18+ classification category for computer games in Australia means that this demand cannot be satisfied legally by domestic or transnational publishers. In the last few years, in nearly half the cases where a game has been refused classification, the publishers have revised their titles in order to receive an MA15+ classification which would allow them to distribute their games in Australia[27]. Some titles have been classified MA15+ on appeal, without modification.

4.3 The lack an R18+ classification category for computer games has not stopped Australian consumers from accessing and playing those games that would otherwise be classified R18+.

4.4 While the Act makes it an offence to possess RC games in certain specific circumstances[28], State classification Acts are largely silent on the issue, only prohibiting possession of RC games if there is an intention of selling or demonstrating the computer game. Western Australia is the only state where it is an offence, except in circumstances where there is an exemption, to possess RC computer games[29].

4.5 The main methods of obtaining RC games are through online file-sharing on the Internet or through overseas retailers. The widespread availability of relatively fast broadband Internet services means that RC titles may be obtained with relative ease. This not only circumvents the classification system, but also contributes and promotes software piracy. The impact of software piracy on the Australian games development industry is conservatively put at $840 million[30].

4.6 The introduction of an R18+ classification would benefit Australian game developers, distributors and retailers. The addition of the R18+ classification category for computer games should allow Australia's games developers to access a market previously unavailable to them, resulting in greater profits and growth for the industry as a whole, greater international competitiveness, and is likely to counteract piracy by providing a legal means of purchasing adult games.

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[24] Interactive Australia 2009, National Research prepared by Professor Brand, Bond University for the Interactive Entertainment Association of Australia, p53
[25] ibid.
[26] ibid, p15
[27] Brand J, Borchard J & Holmes K, Case Study: Australia's Computer Games Audience and Restrictive Ratings System (2009) Communications & Strategies no. 73 1st Q. 2009, p70
[28] ss 101, 102 Classification (Publications, Films and Computer Games) Act 1995 (Cth)
ss 45, 48 Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 (ACT)
s 37 Classification (Publications, Films and Computer Games) Enforcement Act 1995 (NSW)
ss 70, 74 Classification of Publications, Films and Computer Games Act (NT)
s 26 Classification of Computer Games and Images Act 1995 (QLD)
s 65 Classification (Publications, Films and Computer Games) Act 1995 (SA)
ss 45, 45A Classification (Publications, Films and Computer Games) (Enforcement) Act 1995 (VIC)
[29] s 89 Classification (Publications, Films and Computer Games) Enforcement Act 1995 (WA)
[30] Interactive Australia 2009, p47

5. Enforcement of age restrictions and technological controls

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

A: AGREE

5.1 By introducing the new classification, parents will have a more informed choice and will be able to have more control over the types of computer games that are played by their children. A clear and unambiguous rating will provide parents with the necessary knowledge to make a decision about whether or not a minor should be playing a particular game.

5.2 Currently, technological controls exist to allow parents to prevent their children from accessing games containing mature content. For example, the Xbox360 allows parents to customise the level of restriction for both games and video. The 'Family Controls' feature of the console allows parents to restrict access to PG, M and MA15+ games. That feature of the console also allows parents to restrict access to PG, M, MA15+ and R18+ videos.

5.3 The introduction of an R18+ rating will enhance the utility and usability of technological controls. In order for such technological controls to be used effectively, the operating system must have sufficient data to get a true indication of the type of content within a computer game. Since the current system does not reflect the broad spectrum of computer game content, the current technological controls are not as effective as they may otherwise be. Through the introduction of an R18+ rating, parents will be able to use technological controls to prevent their children from accessing game content that is clearly only appropriate for adults.

5.4 The MA15+ rating suggests that a computer game may be played by a minor if approved by a parent. As this is discretionary, parents are unable to rely totally on technical controls to decide which games or particular content their child can and can't access. For example, a family may have a 13 year who is mature enough to play certain MA15+ games. While the parents are aware of the technical controls, as they would want to avoid having to constantly unlock the technical controls whenever the child wants to play a particular MA15+ title, it is likely parents would avoid this repetitive act and simply choose not to use the technical controls. However, with an R18+ classification, the parents would be able to rely on the non-discretionary nature of the classification and ensure that the operating system prevents access to any inappropriate content. Thus, technical controls will be used more frequently and therefore enhance the effectiveness of such controls.

5.5 It is important that consumers are educated about the existence, effectiveness and functionality of technical controls operating consistently with the classification scheme. When computers or consoles are sold, it would be ideal if retailers took the time to explain the existence, and use, of such technical controls. In addition, an information sheet on parental controls could be included within the packaging of each R18+ computer game. This will undoubtedly enhance the awareness and effectiveness of the controls and the scheme.

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

A: DISAGREE

5.6 The MA15+ classification provides a parent with an opportunity to use their discretion to decide whether a game is appropriate for their particular child. As discussed above, such discretion reduces the significance of the MA15+ classification. The existence of an R18+ classification will provide parents with clear and unambiguous guidance about games that are clearly inappropriate for minors. Some parents are likely to ignore the MA15+ classification marking in the interests of keeping their child happy and entertained. However, those same parents would find it difficult to ignore an R18+ classification.

5.7 As discussed above, the current MA15+ classification has been used in a way which has undermined the reliability and effectiveness of the classification, resulting in games which clearly fit into the R18+ category being classified as MA15+. This ambiguous classification by the OFLC makes it difficult for parents to fully rely on classification markings on games. The introduction of an R18+ classification could address this problem by clearly identifying inappropriate games and avoiding any misrepresentations.

5.8 Retailers will need to become more responsible when serving R18+ games. If a parent is buying an R18+ classified game for their child, retailers should be encouraged to explain the content of the game and advise the parent of the prohibitive nature of the R18+ classification. This will provide the parent with more guidance about if and when their child should be allowed to play the game.

5.9 Currently, Section 30 of the *Classification (Publications, Films and Computer Games) Enforcement Act 1995* (NSW) prevents retailers from selling games that are rated MA15+ to minors without the presence of a parent or guardian. If an R18+ classification is introduced, relevant state legislation will need to be amended to ensure that retailers enforce the new classification and prevent R18+ games being sold to minors. While this may be seen as an additional burden on retailers, certain prominent retailers have recently expressed their support for the introduction of an R18+ classification for games[31].

5.10 As outlined above, parents will be able to enforce age restrictions through the use of technical controls. Such technical controls could operate more efficiently if an R18+ classification existed. The introduction of an R18+ rating could provide a further layer of protection for parents to utilise when enforcing age restrictions.

[31] Fenech, S, "*EB Games petitions for R18+ video games classification",* Daily Telegraph, 5 February 2010

6. Conclusion

6.1 A new approach to classification through the introduction of an R18+ classification could protect children from inappropriate content and provide them with access to mature content in a way that is more consistent with international standards.

6.2 A new classification could offer economic benefits to the national economy by addressing game piracy.

6.3 The enforcement of a new classification could be achieved using technical controls already available on the market.

6.4 Accordingly, we believe that an R18+ classification for computer games would benefit game developers, players (and players' guardians) and the wider community and that it should be introduced into the Australian National Classification Scheme.

Annexure – Comparison of international classifications

Game	Content	Australia	UK	USA	EU	NZ
ALIENS vs PREDATOR	Humans, Aliens and Predators seek to exterminate their counter species, using warfare weaponry and extreme blood and gore	MA 15+ RESTRICTED Strong science fiction violence	18	MATURE 17+ M Strong Language Blood and Gore Suggestive Themes Intense Violence ESRB	18 www.pegi.info	18
CALL OF DUTY MODERN WARFARE 2	Elite army commandoes hunt down terrorists in the Middle East and Russia, using weaponry and techniques of modern warfare.	MA 15+ RESTRICTED Strong violence	18	MATURE 17+ M Blood Drug Reference Intense Violence Language ESRB CONTENT RATING www.esrb.org	18 www.pegi.info	18
DANTE'S INFERNO	Crusader "Dante" violently battles through Hell - a surrealistic underworld populated by demons.	MA 15+ RESTRICTED Strong violence and nudity	18	MATURE 17+ M Blood and Gore Intense Violence Nudity Sexual Content ESRB CONTENT RATING www.esrb.org	18 www.pegi.info	16
grand theft auto THE BALLAD OF GAY TONY	Underworld figures roam "Liberty City", engaged in gang warfare, hard core drug use and sexual acts with prostitutes.	MA 15+ RESTRICTED Strong violence, sex scenes, coarse language, nudity and drug references	18	MATURE 17+ M Blood and Gore Intense Violence Partial Nudity Strong Language Strong Sexual Content Use of Drugs and Alcohol ESRB	18 www.pegi.info	18
LEFT 4 DEAD 2	Set during the aftermath of an apocalyptic pandemic, and focuses on four survivors fighting against hordes of infected individuals/zombies.	RC (original version) MA 15+ RESTRICTED Strong violence (edited version)	18	MATURE 17+ M Blood and Gore Intense Violence Language ESRB CONTENT RATING www.esrb.org	18 www.pegi.info	18