



## SBS Submission

Senate Legal & Constitutional Affairs References Committee

### Inquiry into the Australian film and literature classification scheme

#### Introduction

SBS welcomes this opportunity to provide information to the Committee on the Australian film and literature classification scheme. This submission will address the term of reference of particular relevance to SBS, item (l) – the interaction between the National Classification Scheme and the role of the Australian Communications and Media Authority (ACMA) in supervising broadcast standards for television.

SBS is an independent national broadcasting service governed by the *Special Broadcasting Service Act 1991* (SBS Act). SBS's principal function is to provide multilingual and multicultural radio and television services that inform, educate and entertain all Australians, and, in doing so, reflect and promote Australia's multicultural society. SBS broadcasts to a national television and radio audience and delivers content online on its website [www.sbs.com.au](http://www.sbs.com.au).

#### SBS's programming standards

Broadcasting services provided by SBS are classified as national broadcasting services under the *Broadcasting Services Act 1992* (BSA). As such, SBS is not subject to the same programming standards as the licensed broadcasters under the BSA, including the requirement under section 123(3A) to apply the film classification system provided for by the *Classification (Publications, Films and Computer Games) Act 1995* (Classification Act).

SBS's programming standards are set out in the SBS Codes of Practice. Section 10(1)(j) of the SBS Act requires SBS to develop codes of practice relating to programming matters, and to notify those codes to the ACMA.



*Six Billion Stories and counting...*

## **SBS and the Australian Communications and Media Authority (ACMA)**

The ACMA's role in supervising broadcast standards for SBS's broadcasting services is set out in sections 150–153 of the BSA. Under these provisions, if a person has made a complaint to SBS on the ground that SBS acted contrary to its Codes of Practice and either the complainant has not received a response within 60 days or the complainant considers SBS's response to be inadequate, they may complain to the ACMA about the matter.

The ACMA is required to investigate the complaint and, if satisfied that the complaint was justified and that it should take action to encourage SBS to comply with the relevant Code of Practice, it may recommend that SBS do so, as well as specify other action that it considers SBS should take, such as broadcasting or otherwise publishing an apology. If the ACMA has made such a recommendation, and SBS has does not respond within 30 days, the ACMA may give the Minister a written report on the matter, which the Minister must cause to be laid before each House of Parliament.

## **The interaction between the National Classification Scheme and the role of the ACMA in supervising broadcast standards for television**

The SBS Act and the BSA provide for SBS to have ultimate authority over its programming. This is of course subject to safeguards and principles set out in the SBS Act, which are recognised in the SBS Codes of Practice.

SBS's television classification code is set out in Code 4 (see Attachment). SBS's system of television program classification is *based on* the 'Guidelines for the Classification of Films and Computer Games 2005' (the Guidelines) made under the Classification Act. In addition, SBS pays special attention to levels of violence, sex and nudity, and use of language, and the Code sets out SBS's approach to classifying these elements.

While the National Classification Scheme is relevant to the ACMA's role in supervising broadcast standards for SBS, the Scheme is only one of a range of factors that should be taken into account in any review of an SBS classification decision.

Under the National Classification Scheme, the Classification Board is responsible for classifying films, but not television programs or films for broadcast on television. The decisions of the Classification Board do however have the capacity to influence television standards when they relate to a film or DVD of a program which is also broadcast on television. While the Board's decisions are relevant to any review of a television program's classification, there are other equally important factors, including the different circumstances and context of the television broadcast (such as time zones) and the relevant broadcaster's codes of practice.



The overarching principle for SBS is that the SBS Act provides for SBS to make independent decisions about its programming and therefore any review of those decisions should not be required to rely on the decision-making process of an external body which not only has a different remit to SBS, but also different processes and accountabilities which affect the applicability of their decisions to SBS content, as set out next.

While SBS will take into account the Classification Board's decisions where relevant, they are sometimes not as comprehensive as the detailed approach which SBS applies to its classification process, which limits their application for SBS.

The Classification Board classifies many television series and one-off programs for DVD release. Their classification for a series will be whatever the highest classification level is across the series, even though within the series the classification level may be different for each episode. When SBS classifies a series for broadcast, each episode is classified separately, and where necessary SBS will edit the program to meet the relevant classification requirements. Further, in most cases, the Classification Board only provides details of its reasons for some of the episodes in a series, not all. This limits their usefulness and relevance.

The process by which the Classification Board's decisions can be reviewed is also complex and expensive. SBS would be concerned if its classification decisions were (directly or indirectly) subject solely to the decisions of the Board; a process over which SBS has no influence. The present system where the ACMA makes an independent assessment of a complaint, with reference to the Classification Board's decision where appropriate is preferable

SBS also notes that the consistency of the Classification Board's decisions may be affected by the heavier workload resulting from the increased level of material being submitted to it for classification and the operation of a range of schemes whereby non-Classification Board members are able to submit classifications to the Board for consideration.

SBS's classification decisions are based on the Guidelines. However in the external review process the 'impact' test is not helpful. The basis of the assessment of impact, with its focus on a hierarchy of impact ranging from very mild (G), to mild (PG), to moderate (M) and very strong (MA15+) is very subjective.



### ***Conclusion***

SBS's classifiers are devoted to classifying television programs for broadcast on SBS. They have an explicit knowledge of SBS's television audience, and the SBS Codes of Practice, as well as the ACMA's findings on classification complaints, all of which are used to inform SBS's classification decisions. While elements of the National Classification Scheme are considered relevant in informing those decisions, any reliance on the Scheme to set standards for SBS would be contrary to the intent of the SBS Act and the BSA, which provide for SBS to have ultimate authority over its programming.

The ACMA has an important role as the external body responsible for reviewing complaints about SBS. However for the reasons stated above, SBS considers that when reviewing SBS's television classification decisions, Classification Board decisions are only one element of a range of relevant factors. SBS understands that the ACMA makes an independent assessment based on SBS's Television Classification Code, the different context of a television broadcast, and SBS's submission on the merits of the classification. For SBS, viewers and the ACMA, certainty, transparency and consistency are paramount for guidelines and processes which set community standards, and context is crucial.



## Attachment

### SBS Codes of Practice – Code 4

#### **4 TELEVISION CLASSIFICATION CODE**

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##### **4.1 INTRODUCTION**

This Code applies to all programs broadcast on SBS Television, with the exception of news and current affairs, sport programs and general information.

The SBS system of television program classification is based on the 'Guidelines for the Classification of Films and Computer Games 2005' (published at Appendix A) made under the *Classification (Publications, Films and Computer Games) Act 1995*.

SBS believes that the integrity of programs is best retained if programs are broadcast unaltered. However, SBS will schedule programs or, if necessary, modify them in accordance with the 'Guidelines for the Classification of Films and Computer Games 2005' to ensure that they are suitable for broadcast, or for broadcast at particular times. SBS's classification system gives special attention to levels of violence, sex and nudity, and use of language.

##### **4.2 VIOLENCE**

SBS acknowledges that violence is part of everyday life which must be dealt with responsibly. SBS recognises that for some people, particularly children, the portrayal of physical and psychological violence has a unique potential to distress and disturb. Accordingly, it is SBS policy not to present violence gratuitously.

In assessing program content involving violence, consideration is given to numerous factors including:

- context;
- degree of explicitness;
- propensity to alarm, distress or shock;
- significance in relation to the 'message'; and
- social importance of content.

SBS believes that violence should not be presented in such a manner as to glamorise it or make it attractive. It is important when violence is portrayed that, as a rule, its serious consequences are not glossed over.

Where violence is presented, SBS will, where appropriate, broadcast an advance warning to viewers. (Code 2.4 deals with violence in news and current affairs.)

The presentation of violence in drama requires careful consideration. SBS rejects the use of violence as an easy substitute for other dramatic values. However, violence has always been a powerful ingredient in the dramatic tradition and SBS accepts that there are occasions when authors and directors use violence to make a substantial point about society and human relationships.



#### **4.3 SEX AND NUDITY**

In assessing program content involving sex and nudity, consideration is given to factors including:

- judgement of a program's bona fides;
- the responsibility with which visuals and subject matter are treated, particularly the treatment of non-consensual sexual activities and any sexual activity involving children or minors;
- the degree of explicitness of visuals; and
- the impact which visuals have in the context of a program as a whole.

#### **4.4 VARIATIONS OF LANGUAGE AND TERMINOLOGY**

SBS programming includes variations of language and terminology used by different groups and communities. Expressions used by one group may be distasteful to another.

Accordingly, SBS will take into account use of language when classifying programs and deciding the kinds of warnings provided to viewers.

SBS believes that audiences should receive programs unaltered. Therefore, strong language will only be removed from original programs if SBS believes it is inappropriate to the classification time zone.

#### **4.5 CLASSIFICATION CATEGORIES**

SBS will broadcast programs with the following classifications:

- General (G)
- Parental Guidance Recommended (PG)
- Mature Audience (M)
- Not suitable for people under 15 (MA 15+)
- Not suitable for people under 15 - strong violence (MAV 15+)

With the exception of news and current affairs, general information, and sports programs, the classification symbol of the PG, M, MA 15+ or MAV 15+ program being shown will be displayed at the start of the program.

##### **G – General (suitable for all ages)**

G programs, which include programs designed for pre-school and school-age children, are suitable for children to watch on their own. They may be shown at any time.

##### **PG – Parental Guidance (parental guidance recommended for persons under 15 years of age)**

PG programs may contain adult themes and concepts which, when viewed by those under 15 years, may require the guidance of an adult. They may be shown:

- between 8.30am and 4.00pm on weekdays; and
- before 6.00am and from 7.00pm on weekdays; and
- before 6.00am and after 10.00am on weekends; and
- on SBS's secondary multi-channels at any time.



## **M – Mature Audience**

**MA 15+ – Not suitable for people under 15**

**MAV 15+ – Not suitable for people under 15 (strong violence)**

M, MA 15+ and MAV 15+ programs are those which, because of the material they contain, or because of the way the material is treated, are recommended for viewing only by persons aged 15 years or over. While most adult themes may be dealt with, the degree of explicitness and intensity of treatment will determine what can be accommodated in the M, MA 15+ and MAV 15+ classification categories.

**M:** The less explicit or less intense material will be included in the M classification. M programs may be shown between:

- noon and 3.00pm on weekdays that are school days; and
- 8.30pm and 5.00am on any day of the week.

**MA 15+:** The more explicit and more intense material will be included in the MA 15+ classification. MA 15+ programs may be shown between:

- 9.00pm and 5.00am on any day of the week.

**MAV 15+:** Material classified MAV 15+ is unsuitable for MA 15+ classification because of the intensity and/or frequency of violence. MAV 15+ programs may be shown between:

- 9.30pm and 5.00am on any day of the week.

## **X 18+, R 18+ and RC – Refused Classification (not suitable for television)**

X 18+, R 18+ and RC (Refused Classification) programs are those programs that contain material which cannot appropriately be classified by SBS as G, PG, M, MA 15+ or MAV 15+ because the material itself, or the way it is treated, renders them unsuitable for television. X 18+, R 18+ and RC (Refused Classification) programs must not be shown at all.

## **4.6 CONSUMER ADVICE**

The reasons for a M, MA 15+ and MAV 15+ classification will be shown before the program. SBS may provide other appropriate consumer advice at the start of the program. In particular, SBS will provide appropriate consumer advice at the start of a PG classified program where SBS considers that the program contains material of a strength or intensity which SBS reasonably believes parents or guardians of young children may not expect.

## **4.7 TIME ZONES**

The time zones indicated for each classification in Code 4.5 are guides to the most likely placement of programs within that classification. The recommended placements are not hard and fast rules and there will be occasions when programs or segments of programs will appear in other time slots. For example, an arts program or a segment of an arts program classified M may appear during a weekend daytime schedule. SBS should have sound reasons for any departure from the time zone for a program classification.

Programs that deal in a responsible manner with serious moral, social or cultural issues may appear outside their normal classification period provided a clear indication of the nature and content of the program, in the form of consumer advice for example, is given at the start of the program.



Due to local scheduling arrangements, some programs will be broadcast in some locations outside their classification time zone.

Some individuals and groups choose to access programming directly from a satellite signal outside of the area for which the signal is intended. In these cases, SBS cannot guarantee that people will receive SBS programs in their local areas at the times for which the programs are classified and scheduled.

When SBS is retransmitted via subscription services or other operators, the times during which SBS programs are made available on those services may be outside the control of SBS. In these circumstances time zone restrictions in relation to different categories of program may be determined by the retransmission service in accordance with its relevant regulatory requirements.

