



MC12/

9 March 2012

Ms Julie Dennett  
Committee Secretary  
Senate Standing Committee on Legal and Constitutional Affairs  
Parliament House  
Canberra ACT 2600

Dear Ms Dennett

**Inquiry into the Classification (Publications, Films and Computer Games) Amendment (R 18+ Computer Games) Bill 2012**

We refer to your email dated 2 March 2012 inviting the Attorney-General's Department to submit to the inquiry of the Senate Standing Committee on Legal and Constitutional Affairs (the Committee) into the Classification (Publications, Films and Computer Games) Amendment (R 18+ Computer Games) Bill 2012 (the Bill).

We understand that the reasons for referral of the Bill to the Committee, or the principal issues for consideration are:

- (a) the extent of material currently Refused Classification that would be permissible under the new regime; and
- (b) the likely guidelines for R 18+ and MA15+.

The National Classification Scheme is a cooperative legislative scheme between the Commonwealth, States and Territories, governed by the intergovernmental agreement for censorship in Australia. The Commonwealth provides secretariat support to the independent Classification Board, which makes classification decisions under the *Classification (Films, Publications and Computer Games) Act 1995* (Cth) (the Act), the National Classification Code (the Code) and the classification guidelines. States and Territories are responsible for regulating access to classified material, and enforcement.

The Act

1. sets out the types of classification categories for publication, films and computer games (s 7);
2. provides that publications, films and computer games are to be classified in accordance with the National Classification Code and the classification guidelines (s 9); and,
3. provides that any amendments to the National Classification Code and the classification guidelines must be unanimously agreed to by all Censorship Ministers (ss 6 and 12 respectively).

Censorship Ministers made a decision in principle to introduce an R 18+ category for computer games at the July 2011 meeting of the Standing Committee of Attorneys-General (SCAG). NSW abstained from this decision. However, it was announced on 10 August 2011 that the NSW Cabinet had given its in-principle support to the introduction of an R 18+ category for computer games.

On 10 January 2012, the Commonwealth circulated an Exposure Draft of the Bill to the States and Territories. All jurisdictions agreed to the Bill requesting only an amendment to the commencement date to allow time for each State and Territory to amend its classification enforcement legislation to recognise and regulate R 18 + computer games.

The Bill introduces an R 18+ category for computer games but, in accordance with the Act, it does not detail the criteria for classifying a computer game R 18+. These criteria are to be contained in classification Guidelines, which are to be determined by Censorship Ministers.

At the July 2011 meeting of SCAG, Ministers agreed to take a set of proposed Guidelines for the Classification of Computer Games, as amended at that meeting, to their respective Cabinets. Draft guidelines were publicly released on 4 November 2011. A final set of Guidelines still needs to be agreed to by all jurisdictions. The Guidelines do not need to be finalised until the R 18+ category commences. The commencement date that is currently proposed in the Bill is 1 January 2013. As mentioned above this commencement date was chosen after representations from a number of jurisdictions.

With regard to the extent of material currently Refused Classification, Ministers stated at the December 2010 SCAG meeting that they do not support the dilution of the Refused Classification category. The Code describes computer games that are to be Refused Classification in Item 4.1(a) – (d) (**Attachment A**). It is not proposed to amend Items 4.1(a)–4.1(c) of the Code. Item 4.1(a) prohibits computer games that offend against generally accepted community standards. Item 4.1(b) prohibits computer games that depict child abuse. Item 4.1(c) prohibits computer games that promote, incite or instruct in matters of crime or violence. It is proposed that the only change to the Code Refused Classification category is the deletion of Item 4.1(d) — Computer games that are unsuitable for a minor to see or play. Item 4.1(d) will instead appear in the Code in the description for computer games that are to be classified R 18+. This will signal that R 18+ computer games are not suitable for minors.

Yours sincerely

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## National Classification Code

1. Classification decisions are to give effect, as far as possible, to the following principles:
  - (a) adults should be able to read, hear and see what they want;
  - (b) minors should be protected from material likely to harm or disturb them;
  - (c) everyone should be protected from exposure to unsolicited material that they find offensive;
  - (d) 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.

## Computer Games

4. Computer games are to be classified in accordance with the following table:

Item	Description of computer game	Classification
1	<p>Computer games that:</p> <p>(a) depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified; or</p> <p>(b) describe or depict in a way that is likely to cause offence to a reasonable adult, a person who is, or appears to be, a child under 18 (whether the person is engaged in sexual activity or not); or</p> <p>(c) promote, incite or instruct in matters of crime or violence; or</p> <p>(d) are unsuitable for a minor to see or play</p>	RC
2	Computer games (except RC computer games) that depict, express or otherwise deal with sex, violence or coarse language in such a manner as to be unsuitable for viewing or playing by persons under 15	MA 15+
3	Computer games (except RC and MA 15+ computer games) that cannot be recommended for viewing or playing by persons who are under 15	M
4	Computer games (except RC, MA 15+ and M computer games) that cannot be recommended for viewing or playing by persons who are under 15 without the guidance of their parents or guardians	PG
5	All other computer games	G