



New South Wales  
Council for  
Civil Liberties

## NSW Council for Civil Liberties Inc.

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### **NSW COUNCIL FOR CIVIL LIBERTIES SUBMISSION INQUIRY INTO CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) AMENDMENT (CLASSIFICATION TOOLS AND OTHER MEASURES) BILL 2014 SENATE LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE**

The New South Wales Council for Civil Liberties (NSW CCL) welcomes the opportunity to comment on the Classification (Publications, Films, and Computer Games) Amendment (Classification Tools and Other Measures) Bill 2014. The NSW CCL recognises the urgent need for reform in this area and supports the useful amendments in this Bill. The NSW CCL shares the industry's and government's concern that current legislation is out of step with audience behaviour and technology.

1. The NSW CCL disagrees strongly with the proposed amendment to allow unclassified material to be referred to law enforcement agencies without first having the content classified. It is not in the public interest to solve this bureaucratic quandary regarding timeliness with the erosion of civil rights. The content in the Refused Classification (RC) category ranges from child pornography to the recording on film of behaviour that is legal in other contexts. An example of such behaviour is that of sexual spanking between consenting adults. The proposed amendment makes no distinction concerning RC material. There is no reasonable justification for this proposed increase in enforcement powers.
2. The NSW CCL recognises that any satisfaction Australian audiences have with classification decisions at present relies primarily on careful decisions made by individuals with reference to community standards, legislative tools, and guidelines. The

NSW CCL is concerned that the adoption of an online questionnaire tool for classification of complex content, such as feature films, is the exchange of a fine instrument for a blunt tool. Such a tool is unlikely to prompt a nuanced response to such content, and will lessen the value of such a classification decision to interested audience members. The NSW CCL resists the imposition of any drift towards more restrictive decision making as a result of a less flexible and sophisticated approach to classification. The NSW CCL supports the limited application of such a tool for the classification assessment of simple content.

3. With regards to the revocation by the Board, regulator, Minister, or public servant of any classification by any such approved tool the NSW CCL recommends that an equitable, affordable, and timely independent appeal process be set in place.
4. The NSW CCL supports the proposed amendments regarding exemptions and modified content. The NSW CCL recommends that an equitable, affordable, and timely independent appeal process be set in place with regards to the revocation by the Board, regulator, Minister, or public servant of any related exemptions or classification decisions.
5. The NSW CCL does not support the mandatory addition of viewer advice at the very mild G level. The expansion of technology offers concerned parents increasing avenues for information about content their children may experience, such as through Electronic Program Guides and online sites. It is not necessary for the classification scheme to provide such advice, and it is inappropriate when the provision of such advice weakens the effectiveness of the scheme. In Australia the addition of classification viewer advice currently highlights for audience members when content is likely to cause harm or offence. In addition such advice can indicate what elements if any in the content are likely to deliver a moderate or stronger impact to audiences. Imposing the provision of advice so broadly would lessen the usefulness of advice for viewers overall and is likely to be more restrictive. It could exaggerate for the audience member any understanding of the content, scaring off potential audience members unnecessarily.

6. The NSW CCL notes the concerns set out in the Australian Subscription Television and Radio Association's submission to this inquiry regarding the use of markings in relations to goods other than films, computer games, and publications. The NSW CCL takes this opportunity to declare support for the continued independence of public broadcasting in Australia, including in relation to the classification of content.

This submission was written by Rachel Williams Co-Convenor of the NSWCCCL Censorship Action Group.

8<sup>th</sup> August 2014

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Contact for this submission

Dr Lesley Lynch

**Secretary**

**NSW Council for Civil Liberties**

*The NSW Council for Civil Liberties (NSWCCL) is a Non-Government Organisation in Special Consultative Status with the Economic and Social Council of the United Nations, by resolution 2006/221 (21 July 2006). NSWCCL was established in 1963 and is one of Australia's leading human rights and civil liberties organisations. Our aim is to secure the equal rights of everyone in Australia and oppose any abuse or excessive power by the State against its people.*