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ABC
Australian
Broadcasting
Corporation

Senate Legal and Constitutional Committee
C/o Ms Julie Dennett
Committee Secretary
PO Box 6100
Parliament House
Canberra ACT 2600

Communications
ABC Ultimo Centre
700 Harris Street
Ultimo NSW 2007
GPO Box 9994
Sydney NSW 2001

abc.net.au

Dear Chair and Committee Members

Inquiry into the Australia Film and Literature Classification Scheme

The ABC welcomes the opportunity to comment on the Senate Legal and Constitutional Affairs Committee Inquiry into the Australia Film and literature classification scheme. The ABC notes that the Australian Law Reform Commission is concurrently conducting a review of the National Classification Scheme and that the Government is currently conducting a Convergence Review which is also likely explore issues addressed in the context of the Committee's Inquiry.

The ABC is a statutory corporation under the *Australian Broadcasting Corporation Act 1983* (the ABC Act). The ABC Act, which includes the ABC Charter, sets out the core functions and duties of the Corporation. The ABC has a responsibility to reach all Australians, ensure participation in the national debate and provide access to range of information, entertainment and other programming. In order to fulfil its Charter obligations, the ABC broadcasts its services on all major electronic media platforms.

The ABC takes seriously its classification responsibilities and strives to be sensitive to the needs of its audience, recognising that the media reflects and helps to inform community values through the use of language, images and sound (ABC Editorial Policies, section 11.1). There are a range of regulatory and co-regulatory classification arrangements that apply to ABC activities. The Corporation ensures its services operate within these arrangements and meet the community's expectations and appropriate editorial standards. The ABC believes these frameworks operate effectively and enable the Corporation to fulfil its obligations to the Australian community.

These frameworks include:

- **ABC TV:** the ABC's Code of Practice sets out the classification regime that the Corporation applies to its television programs. This regime is based on the Guidelines for the Classification of Film and Computer Games issued by the Office of Film and Literature Classification, but has important differences which reflect the ABC's independence as a public broadcaster.
- **ABC iView:** ABC television content broadcast on ABC's online catch-up service, iView, also provide viewers with classification information.
- **ABC Online:** the ABC ensures that M and MA15+ television content delivered through ABC websites carries classification information (symbol and consumer advice).
- **ABC Publishing:** The ABC utilises a self regulatory framework. Under the *Guidelines for Classification of Publications 2005*, only Category 1- restricted, Category 2- restricted and refused classification publications are required to be classified. Only

those publications likely to warrant restriction to adults must be submitted to the Classification Board. ABC Publishing does not produce such publications..

- ABC DVD: ABC DVDs are classified by the Classification Board under the *Classification (Publications, Films and Computer Games) Act 1995*.
- ABC Music: ABC Music complies with the ARIA/AMRA Labeling Code of Practice.

Classification of works of art

Given its Charter obligation to “*encourage and promote the musical, dramatic and other performing arts in Australia*”, the ABC’s has a unique role in relation to delivering art’s content. The Corporation notes that Section 11 of the *Classification (Publications, Films and Computer Games) Act 1995* sets out matters to be considered in classification. These include reference to “literary, artistic or educational merit”.

The ABC has adapted elements of the Act to create part of its Code of Practice, in which artistic merit is listed as one of the key principles to be considered when making a classification decision. These principles are embedded in the National Classification Code.

ABC Arts programming is assessed against the criteria of artistic merit taking into account the specific context of the production. As the ABC Editorial Policies state:

“Questions of taste and decency in the Australian community are complex. Individuals and groups may have different, and these may change over time. The ABC does not or publish material which is likely to offend to a substantial degree, the standards of the content’s target audience” (section 11.1.2).

At times, Arts programming that may challenge or disturb some audiences is broadcast. For example, in 2008 the ABC broadcast a documentary about the work of Bill Henson not long after some of his works had been seized by NSW Police from an exhibition in a Sydney art gallery. Despite some concern expressed about the public exhibition of Mr Henson’s work, the ABC received only 1 complaint following the ABC’s broadcast of the documentary, indicating that the ABC’s classification framework worked well to inform the audience about the material.

The television classification framework includes a system designed to ensure correct classification, scheduling of content in suitable timeslots and the protection of viewers through a clear system of consumer warnings (or advisories). This ensures that a variety of Arts programming has been broadcast on ABC Television and that viewers are provided with relevant classification information in order that they can then choose whether to watch arts programming with more mature content.

Classification of music videos

The ABC classifies music videos for broadcast as part of music programs such as *Rage*. The ABC believes that the current system provides efficient and effective classification of music clips for its broadcast services and has not seen evidence to suggest the audience would benefit for pre-broadcast classification by an external regulator.

The ABC maintains high standards in the classification of music videos and is particularly sensitive to the standards that must be maintained for music video content broadcast in G and PG time zones.

Classification by a third party would reduce the ABC’s ability to respond quickly and efficiently to question of classification as they arise. This could present difficulties in dealing with complaints about content where the ABC’s classifiers have not themselves considered the issues involved. Given the editorial responsibility borne by the ABC for the content it broadcasts and the current regulatory regime which includes a statutory authority, in-house

classification provides better assurance that the ABC will be able to respond substantively to complaints and adjust our decision-making, where warranted.

Classification and the sexualisation of children and the objectification of women

The ABC treats its responsibility to the community seriously and the classification of broadcast content and music videos is treated with due care and attention.

The ABC Editorial Policies provide that “in presenting content, the ABC has a responsibility to treat all sections of society with respect and to avoid the unnecessary use of prejudicial content” (section 11.8). The ABC’s complaints handling framework also provides a further avenue to address any concerns with the ABC’s television classifications.

In relation to content for children, the Editorial Policies “special care should be taken to ensure that content which children are likely to watch or access unsupervised should not be harmful or disturbing to children” (section 11.13.2). As the major broadcaster of children’s television in the free -to-air market, and as an award winning creator of children’s media, the ABC is particularly sensitive to ensuring all of its children’s content is in keeping with community standards and both protects and promotes the well-being of children.

The Report of the Standing Committee on Environment, Communications and the Arts Inquiry on Sexualisation of children in the contemporary media (June 2008) recommended *“that broadcasters consider establishing dedicated children’s television channels”*. The Report noted evidence that a *“government funded free-to-air 24-hour commercial-free television station ... dedicated to children’s under-16 programming ... was proposed as a creative initiative to reduce the harmful impact of premature sexualisation of children ... in the contemporary media and within the greater social context”* (p44 of the Report). The ABC notes that its digital children’s channel, launched in December 2009, is today the most watched television service in Australia among children less than 12 years of age.

Classification enforcement

The ABC has an extensive, robust and transparent complaints resolution system. The multi-layered system of complaint referral and response are independent of program production and process complaints including issues of classification. Viewers are also able to escalate complaints which are not resolved to their satisfaction to ACMA.

The self-regulatory system currently in place balances the independence of the ABC with robust investigation and response to complaints, ensuring classification decisions reflect regulatory requirements and community standards. In addition the ABC system effectively minimizes the time that complaints resolution can take which also reduces cost and increases responsiveness to viewers.

As noted above, there are currently two other on-going reviews which have classification as their main focus or a sub-focus. The ABC believes it would be prudent for the Committee to also consider submissions to these reviews and looks forward to participating in the on-going consideration of classification issues.

Yours sincerely

Michael Millett