

**Submission by the  
Australian Visual Software Distributors Association**

**to the Minister for Home Affairs**

**Hon Brendan O'Connor MP**

**Proposing  
A Home Entertainment Classification  
Code of Practice**

***SAME CONTENT, SAME RATING, SINGLE SYSTEM, DIFFERENT PLATFORM***



**6 November, 2009**

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## ABOUT AVSDA

The Australian Visual Software Distributors Association (AVSDA) was formed in 1983 to represent the interests of owners of copyright in, and distributors of, videos in Australia. The video sector now includes DVDs and other digital distribution platforms. In 2008, AVSDA members moved over 95.4 million titles worth over \$1.4 billion in sales.

The Association speaks and acts on behalf of its members on issues that affect the industry as a whole such as classification, film piracy, technology challenges such as convergence, copyright and enforcement.

AVSDA lobbies government stakeholders, responds to government enquiries by submissions, seeks amendments to legislation, and when appropriate works with other copyright industries to affect change. AVSDA also commissions industry research from time to time to gauge Australian consumer attitudes to our industry - an industry which is currently going through a period of constant change led by changes in technology.

AVSDA currently has 14 members who range from all the major international film distribution companies through to wholly-owned Australian companies and include:

- Anchor Bay Home Entertainment
- Disney Studios Home Entertainment
- FremantleMedia Enterprises
- Hopscotch Entertainment
- Madman Entertainment
- Paramount Home Entertainment
- Roadshow Entertainment
- Sony Pictures Home Entertainment
- Time-Life Australia
- Twentieth Century Fox Home Entertainment
- Universal Pictures Video
- Warner Brothers Entertainment

AVSDA liaises closely with the Attorney-General's Classification Operations and Policy Branches to ensure a smooth working relationship between it and our members and to help resolve any issues that arise. AVSDA has successfully argued the case for change around the self-assessment of additional materials on DVDs and for TV series and removing the restrictions on advertising for our industry.

AVSDA is also proud to support the Starlight Children's Foundation and the October Video Month. AVSDA is a founding member of the Intellectual Property Awareness Foundation.



## INTRODUCTION

### The National Classifications Scheme:

AVSDA fully supports the spirit and intent of the National Classifications Scheme which commenced on 1 January 1996 (the Scheme); namely to provide information and guidance to the public, parents and children about the suitability of content such as film and TV shows.

Interestingly, I note the official information detailing the Scheme on the website of the Attorney-General's Department includes the Scheme's Overview and role of the Commonwealth, States and Territories but has no information on the objectives or purpose of the Scheme's existence (such as providing timely and accurate information to all Australians, especially to guide access and suitability of content to children). There appears to be lacking a 'guiding principle' to the Scheme, rather the official website details a legal and administrative framework only. If such principles do exist, they are not easily accessible through the [official website](#). Guiding principles for the Scheme may go some way to guiding necessary reforms based on technological development and the digitisation of content as put forward in this submission.

As an industry we fully comply with the Scheme and the Classifications Act and we recognise it is in our interests to ensure our content is well understood and age appropriate; in fact the major distribution companies, their brands and reputations are worth more than any one title or rating. All AVSDA members, for example Disney, are deeply concerned about protecting its reputation and brand at all cost; this concern then matches the intent of the Scheme.

However, AVSDA also sees limitations in the Scheme and the way it is governed through legislation such as the Classifications, Broadcasting and Telecommunications Acts which regulate different platforms but the same content. As Amanda Davies, previous Assistant Secretary of the Classifications Branch in the Commonwealth Attorney-General's Department described it best: *"the Classifications Act is an analogue piece of legislation in a digital world"*.

### Recent changes to the Classifications Act:

Over the past five years AVSDA has promoted changes to the Classifications Act to reflect the changes in technology such as the DVD now being the main way people watch home entertainment films and many TV shows (the Act pre-dates the DVD format let alone the internet). Despite OFLC opposition at that time, it is pleasing that successive Governments have supported industry arguments for sensible change.

The recent incremental updates AVSDA has promoted to the *Classifications (Publications, Films and Computer Games) Act 1995* over the past two years include:

- Additional content other than the main feature to be self-assessed;
- Adoption of the TV series self assessment scheme (where the show has been previously broadcast on Australian TV); and
- Allowing the advertising of unclassified films on DVD.

While these incremental changes are welcomed, however, technology and business models are moving so quickly that a new way of adhering to the National Classifications Scheme for the same content across different platforms is needed; moving away from the 35 millimetre theatrical print and printed press days to create a seamless digital system for a digital age. The current system was simply not designed for the modern reality of a film being released simultaneously at the theatre, on subscription or free TV, on DVD, over the internet and on mobile devices.

Confusion over scope of the Classifications Act:

This confusion manifests itself when trying to understand the legal scope of the Classifications Act and whether it covers content on the internet. AVSDA has been advised by the Attorney-General's Department (Dr Susan Cochrane, 2<sup>nd</sup> November 2009) that the Act "does not exclude" classifying content on the internet but can only consider such content if a valid application is received. This matches evidence given to a Senate Estimates Committee hearing by Classifications Board Director Mr Donald McDonald on 19 October, 2009.

The Act itself predates the internet and it is unclear whether the Classifications Act in fact covers content on the internet despite careful wording used around the Act "does not exclude" the Board from classifying content; this confusion is also due to the fact that the Broadcasting and Telecommunications Acts cover internet and other digital content classification so which Act applies?

AVSDA has previously been advised by the Classifications Board, its former Director and the former OFLC that it does not have a mandate to classify and assess content made available via the internet. In this matter, the only thing that is clear is that there are many confused people both in industry and government proving that the system needs urgent reform.

Minister Conroy's response to the problem of classification policy, convergent platforms and content was encouraging when he said in a letter to AVSDA: *"The Government recognises that there are certain challenges that exist with the current approach. In recognition of this the Department is in close liaison with the Attorney-General's Department which has responsibility for the National Classification Scheme to discuss and monitor these issues."*

This submission proposing a new classifications model and the creation of a Home Entertainment Code of Practice for the Classification of Content has been expressly asked for by you in your capacity as the Minister for Home Affairs and we welcome this opportunity to do so and to work with you and the Government in developing a new modern and responsive system which supports the intent of the Scheme.

The AVSDA Board and I look forward to working with you as Minister for Home Affairs, your Ministerial colleagues, especially the Minister for Broadband, Communications and the Digital Economy, Senator Conroy and relevant government officials in working through AVSDA's proposed solution to what the Rudd Government has confirmed is a

relevant issue and concern which is going to receive more interest following pending government reviews into the NBN and media convergence.

Kind regards

A handwritten signature in blue ink, reading "Simon Bush", is displayed on a light gray grid background.

**SIMON BUSH**  
Chief Executive Officer  
AVSDA

## CURRENT SYSTEM AND ITS LIMITATIONS

The basis for the need to review and update the way the National Classifications Scheme is governed is that the cumbersome legislation which underpins the Scheme is not serving the government, the community or industry.

An example of the current fragmented system is as follows:

- A free-to-air TV network broadcasts a TV show episode (self-regulatory regime under the Broadcasting Act governed by ACMA);
- The same TV show is available to be downloaded and watched from the TV network's website directly following the broadcast (self-regulatory regime under the Broadcasting Act governed by ACMA);
- The same TV show is available to be viewed via a mobile phone or other mobile device (self-regulatory regime under the Telecommunications Act governed by ACMA); and
- The TV show is made available on DVD format (governed by the Classifications Act and administered and approved by Classifications Operations Branch).

A similar scenario applies for films whereby different pieces of legislation and classifications systems apply whether it is available for viewing on TV, the internet, the cinema or on DVD. This year has seen the example (first of many) of a major film (The Curious Case of Benjamin Button) being released day and date on subscription TV, for download via the internet and for purchase for sale or hire on DVD. For each platform a different scheme applies for the same content!

The sub-optimal outcomes I believe of the current system include:

- Confusion by industry and the consumer over the entire classifications system and which system applies at any given time depending on how the same content is packaged;
- Lack of consistency in classifications and consumer advice (or none at all) from one channel or platform to the next – obviously this is perhaps one of the worst outcomes if consumers are left confused;
- Different classification ratings and advice can be given to the same content on different channels (ie differing from when shown on TV to the rating the Classifications Operations Branch or the Board may apply);
- Cost to industry in managing different regimes and systems for classification and potential for industry to inadvertently make a mistake due to the confusing nature or simply not comply; and
- Any attempts by policy makers to make the regime more confusing or onerous could lead to content being moved off-shore to circumvent Australian domestic laws but still make the content available to Australian consumers (principally over the internet)<sup>1</sup>. Sadly, this has already occurred.

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<sup>1</sup> Noting the policy making process of the former Howard Government regarding the regulation of content over the internet and specifically the age verification device policy which in AVSDA's view, as indicated by its submission to government at the time, led to poor policy outcomes with unintended consequences which was left to ACMA to implement (which to its credit did so sensibly and smoothly).

Historically, AVSDA members mostly have to comply with the Classifications Act and the time consuming and expensive Classifications Operations Branch (COB) processes but increasingly the Broadcasting and Telecommunications Acts and their guidelines regarding content is becoming more relevant.<sup>2</sup>

This year, Australia become one of the first markets in the world where DVD distributors are making available a second digital copy of a film when they purchase a DVD where the digital copy is accessed by a key and unlocked over the internet which enables the digital content to be moved in an electronic file format to multiple devices and stored on hard drives without breaking any copyright or intellectual property laws.

AVSDA believes that a true Australian National Classifications Scheme should be homogenous and consistent across channels making it easy to understand and comply with by both industry and Australian families and consumers. The current fragmented system does not achieve this and without reform will only get worse.

AVSDA research into the classification system confirms the different treatment across channels or platforms and a recent case study (Attachment A) demonstrates the inconsistent classification of commercial content across these different channels, as well as the different industry bodies administering consumer complaints.

Table 1 below (page 9) illustrates the different ratings which apply across different platforms and highlights some of the problems with the current system. For example, Free TV and Subscription TV for some reason are quite different in that FreeTV has its own unique ratings including those of C, P and AV 15+ which do not apply to any other media platform.

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<sup>2</sup> According the latest available annual report from the OFLC, in 2006/07 the category which covers DVD applications for assessment, Film – Other, accounted for over 4,600 applications or around 80% of the total OFLC workload. The OFLC received in this same period almost \$7 million in fees from industry to have content classified.



**Table 1: Classification Codes for the Different Media Channels**

Internet	Mobile	Free TV	Subscription TV	Film/DVD/Game
-	-	C or P <sup>3</sup>	-	-
- <sup>4</sup>	-	G <sup>5</sup>	G	G
-	-	PG	PG	PG
-	-	M	M <sup>6</sup>	M
MA15+	MA15+	MA15+	MA15+	MA15+ <sup>7</sup>
R 18+ <sup>8</sup>	R 18+	AV 15+ <sup>9</sup>	R 18+	R 18+
-	-	- <sup>10</sup>	-	X 18+ <sup>11</sup>



Regulated under the *Broadcasting Services Act*



Regulated under the *Broadcasting Services Act* and the *Telecommunications Act*



Regulated under the *Classifications Act*

Table 2 below (page 10) shows that each platform or channel has a different scheme for the awarding of classification ratings as well as handling any consumer complaints.

For example, physical DVD's, films and games require a detailed and lengthy application to the COB and its Board, accompanied by a large application fee, in order to be granted a rating within 21 days. The other media platforms use industry codes and self-assessment under the framework of the National Classifications Scheme.

<sup>3</sup> Content classified C or P on Free TV represents suitable viewing for Children or Preschool Children

<sup>4</sup> Internet and Mobile services are not required to put classifications for any content under MA15+, and any content classified X18+ or RC are prohibited on these services.

<sup>5</sup> Programs on Free TV also need to show consumer advice before the program starts, in case it may have lower graphics but still suitable for the classification. For example, a program can be classified PG but it may contain a small amount of coarse language.

<sup>6</sup> Subscription TV only needs to provide consumer advice for films and drama programs classified M and MA15+.

<sup>7</sup> Identification is needed for sale/hire of films and DVDs classified MA15+ unless the minor is accompanied by an adult/guardian, and films and DVDs classified R18+.

<sup>8</sup> Internet and Mobile services are only allowed commercial content classified as R18+ subject to a restricted access system.

<sup>9</sup> Content on Free TV classified AV15+ is similar to MA15+, except there are strong violent themes, or violence is the central theme to the program. However, Subscription Television does not classify programs with strong violence as AV15+, they use MA15+.

<sup>10</sup> Free TV are unable to broadcast content classified R18+ or above.

<sup>11</sup> Films classified as X18+ are only subjected for viewing and purchasing in ACT and NT.

**Table 2: Ratings Assessment and Administering Complaints by Media Channel**

Internet	Mobile	Free TV	Subscription TV	Film/DVD/Game
ACMA; or Classification Board (if referred)	ACMA	First need to talk to the licensee; then ACMA	First need to talk to the licensee; then ACMA	Classification Board

The current system is complicated, onerous and a major cost on industry (and Government), which can be further appreciated by reading the following email communication from the Classifications Operation Branch to its customers in July this year:

*Dear Valued Clients,*

*The Classification Board made nearly 6,800 decisions in the 08/09 financial year and the Classification Operations Branch (formerly the OFLC) processed more than 6,600 applications from companies such as yours. The Board itself is a small team, with approx. 15 individuals viewing material on any given day. The Applications Section, which handles all applications in the first instance, prepares them for the Classification Board and responds to all enquiries, is a team of just ten people.*

*The processing of applications by both the Applications Section and the Classification Board is governed by strict deadlines set out in the Classification Act and Regulations, **with the turnaround of standard applications having a 20 working day limit, and a five day limit on priority-paid applications. Many applications are complex, and many run to over a 1000 minutes. All of this makes the process of classification demanding and time-critical. Despite these restrictions, the Board always does whatever is in its power to accommodate specific needs and individual circumstances [emphasis added].***

*One of the many critical issues in the process is the state of the material submitted for classification, the dvds, blu-rays, publications and games of various formats. In order to provide timely classification services to you, the Classification Board asks you to consider the following;*

- Please test your discs and ensure they work before submitting them – many applications are stalled when it is discovered that discs are faulty, and often this isn't discovered until well into the 20 day turnaround period. This can seriously disadvantage production and marketing schedules.*
- Do not provide films or TV series on an excessive number of separate discs – you should attempt to consolidate material whenever you can onto fewer discs with reasonable viewing durations (eg 100 or 200 mins). An application containing 25 separate discs of 20 minute TV episodes can cause delays in processing due to continuous loading and unloading of discs and tracking disc*

*numbers and order, particularly if discs contain extraneous material. This is particularly the case for blu-ray.*

- Try to ensure what you submit resembles the make-up of the final product intended for market – submitting a single program over several discs, sometimes containing extraneous material, is confusing and time-wasting. As far as possible, what you submit should be what will appear in Australian shops.*
- Be clear about what is to be classified – The Classification Board understands that in some circumstances you will need to submit discs that include material you do not want to include in the application. This is not an ideal situation, and the Board is not obliged to accept such material, so please make clear on your application **IN WRITING** what is to be viewed and what is to be ignored. If you need to, copy material to another disc so it's in the correct order and reflects the final product. If it's confusing and untidy to you, it will be confusing and untidy to the Classification Board.*
- If you are applying for a classification of a game, including a disc showing examples of game-play illustrating the highest classifiable elements of the game will be a great help to the Classification Board and potentially speed up the classification process.*
- Game code should be provided in a format which is ready to be played. If you are unsure what formats are acceptable, please contact our technical support team at [sydiks@classification.gov.au](mailto:sydiks@classification.gov.au) or 02 9289 7115.*
- Gameplay footage and any other documents should be provided on a separate disc. Please do not put video files on the same disc as the game code.*
- For clients submitting 35mm prints, they must arrive "head-out".*
- Leave time in the production/marketing cycle for the classification of your product – many applicants fail to leave sufficient time for the Board to classify material before it goes to market. We make every effort to complete classifications as soon as possible, but due to the large and constant stream of applications the Board must reserve the right to use all the processing days allocated to it by legislation if circumstances dictate.*

**The Classification Board and the Applications Section are keenly aware of the many issues facing distributors, producers, importers and marketers of classified material in Australia, but applicants must take responsibility for making the effort to present material in way that is easy and clear to access and interpret if we are to keep to, and improve, classification turnaround times [emphasis added].** In some circumstances, the Classification Board has the right to reject or halt an application in the scenarios described above. To help avoid this situation, please take note of the suggestions above. If you are in any doubt, please contact an Applications Officer.

*Lastly, the OFLC ceased to exist 3 years ago. This organisation is called the Classification Operations Branch (COB). Please ensure that material you post to us (please inform those who post on your behalf) is marked with the correct name to ensure it gets to us.*

Kind regards,

David Emery  
**Manager, Applications**  
Classification Operations Branch

This email to COB clients demonstrates the complexity of managing the Scheme as it currently stands and in some ways is bureaucracy gone mad. The time and effort of distributors dedicated to undertake training, complete detailed and lengthy applications and comply with the Scheme, as well as the \$7 million in annual fees submitted, means there has to be a better way from a pure process point of view.<sup>12</sup>

The highlighted section in the email above is another important issue for AVSDA members and it impacts on the effectiveness of the Scheme more generally. This highlighted section clearly states that the COB cannot meet demand and timing considerations of the industry for the marketing and sale of its products. This issue will also be solved by the proposed solution put forward in this submission.

Evidence provided by the Director of the Classifications Board, Mr Donald McDonald to the Senate Legal and Constitutional Affairs Legislation Committee on 19<sup>th</sup> October, 2009 gives further insight into how the current system is becoming more complicated and that the current structure is not the right mechanism to classify content:

*"In 2008-09 the Board....received applications for classifying 4,792 films, 1,095 computer games and 197 publications. Consistent with recent years, the viewing time per application has increased...Primarily this is due to the continued trend of the release of boxed sets of television and other DVD material".*

Other sectors calling for similar reforms:

AVSDA is aware that the games association and FreeTV have also made submissions or held forums on how to classify content in a digital world and the confusion surrounding the current systems in a convergent environment.

This issue is not limited to home entertainment film and TV content but also broadcasters, ISPs, portal owners, content aggregators and games distributors.

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<sup>12</sup> Noting also the difficulty the government has in the collection of fees from industry in order to classify content as AVSDA has pointed out previously in submissions to government that it has over-collected fees and is now in the difficult process of working out how the Commonwealth can reimburse applicants.

## INTERNATIONAL EXAMPLES

From some preliminary research AVSDA has undertaken into classifications systems around the world, it appears Australia stands out as having an overly complicated and directly government controlled scheme.

No other country has a classifications system which is run by the government with government bureaucrats processing applications and fees and supposedly viewing all materials as they are required to do under the Act; which is physically impossible to do with 15 COB employees and 4,792 applications of films alone over the past year (source: Mr McDonald, Senate Estimates, 19 October, 2009).

A snap shot of different international schemes is provided below.

USA: Motion Picture Association of America Ratings Board runs the industry self assessment scheme and is technically voluntary but compliance is close to 100%.

United Kingdom: [Currently due to the illegality of the Video Recordings Act the system is voluntary]. Films are classified by the British Board of Film Classification which is an industry selected and independent non-government Board whose director sets policies. There is a legal issue and review at present in the UK in that the Video Recordings Act underpinning the scheme has been found to be invalid and that: "The Government has therefore urged the industry in the interim to comply with the provisions of the VRA on a voluntary and best practice basis. The BBFC will continue to classify video works submitted by distributors on a voluntary basis for this period."

European Union: Pan European Game Information (PEGI) covers games and software and is governed by an industry code and ratings given by an independent administrator.

Canada: Operates a federated model with each province deciding ratings; however, they are currently reviewing/reforming their system into a single system.

New Zealand: The Act empowers the Labelling Body to issue labels for films, videos, DVDs and computer games it has rated or cross-rated G, PG or M from Australia or Britain. The Labelling Body must send anything that would receive a higher classification to the Classification Office for classification, after which the Classification Office will direct the Labelling Body to issue the appropriate label.

AVSDA understands that the NZ Government is undertaking a review of its system based as a result of representations from local films and games distributors. There is potential for a joint Australia/NZ government approach to classification reforms and unifying our systems and Codes. It should be noted that Australian based home entertainment film distributors also have New Zealand in their geography and remit which units shipped across the Tasman once manufactured in Australia.

Sweden: The Government has decided to close the board of film censors, Statens Biografbyrå, in 2011, 100 years after it was founded. From then on, any film will be able to be released in Sweden, as long as it does not break laws governing such things as child pornography. The current age-related rating system — general, 7, 11 and 15 — will be kept

though and any film that is not submitted to the new national ratings body, as yet unnamed, will automatically get a 15 rating.

Future global approach of western English speaking countries:

As content and its digital distribution becomes more global in nature (arguably it already is) arbitrary sovereign state boundaries become less relevant and by definition as do government regulations. It may be appropriate at some future stage to consider an international approach to classification of content from English speaking western countries but is outside the scope of this submission.

I would also like to point out that Australia and New Zealand has entered into a Closer Economic Relations (CER) agreement and the New Zealand system of “stickering” or labelling over Australian ratings (which they use as guide in any case) is another cost borne by industry that AVSDA will be speaking to the New Zealand Government about. Most AVSDA members also distribute DVDs into New Zealand. This is something the Australian Government may also care to raise either directly or through SCAG processes and AVSDA understands the NZ Government is considering reforms to its classifications process.

## THE GUIDING PRINCIPLE TO REFORM:

### Same content, same rating, single system, different platform

In reforming the current system AVSDA proposes that the reform agenda follow a guiding principle such as:



This guiding principle will assist in policy development and reforms to the Scheme and the way content should be classified in Australia given the digitisation of content with the proposition that the Scheme and its governance should enforce a single system whereby the same rating should apply regardless of how the film or TV show is watched.

## A NEW MODEL

AVSDA has taken the reform's guiding principle of **same content, same rating, single system, different platform** to help shape a new model for delivering on the intent of the National Classifications Scheme which we don't believe are currently being met.

An easy to understand and consistent approach to the classification of content, under an appropriate regulatory regime such as already exists with ACMA for some platforms with a complaints process to the Classifications Board would lead to:

- Greater industry compliance of the current excellent classification scheme we have in Australia;
- Greater awareness by the consumer and consistency of classifications markings and consumer advice across different channels;
- Greater adoption of ratings and consumer advice which does not apply to all platforms; and
- Making it easier for industry to understand and comply with Australian classifications rules thereby not driving content to be hosted off-shore to circumvent local laws.

### The Way Forward: A Home Entertainment Classification Code of Practice

AVSDA proposes that government adopt the model that all filmed and TV content be classified and approved by trained industry classifiers (self-assessment) fulfilling the National Classification Scheme's current principles and governed by an industry Code of Practice. This model would align and compliment other industry codes which govern free to air broadcasters (FreeTV Code) and subscription TV (ASTRA Code) and build on the self-assessment approaches already embraced under the Classifications Act and by both sides of government in recent years.

AVSDA proposes that the current policy for theatrical films does not change and that they continue to be classified by the Classifications Board and this rating will carry through or guide the same content when it is released on other platforms as is currently the case for DVD and internet. This will cover a large amount of content.

In addition, the distribution of TV series on DVD or via the internet or mobile devices will continue, as is the case under current legislation, to be guided by the broadcasters' rating.

Any modifications or changes to content that has been previously classified by the COB or changed in an impactful way (eg 2D to 3D), will be governed by a new Industry Code of Practice and be self-assessed.

Further, AVSDA proposes that the new Home Entertainment Code of Practice for the classification of content only apply to the following categories:

- Exempt (E)
- General (G)
- Parental Guidance (PG)
- Mature (M)



- Mature Accompanied (MA15+)

Content that is likely to be classified at the higher legally restricted R18+ and X18+ categories would continue to be rated by the Classifications Board as an added safety mechanism.

All distributors operating in the Australian market will be required to have Code and self assessment training which is to be run by the industry association (AVSDA). The courses and training materials will be governed and approved by ACMA (the current government COB training modules will be used as a starting point for future training needs under a Code). Importantly, a distributor does not need to be an AVSDA member to access the training courses and thus qualify under the Scheme and Code.

This model would be the most efficient and efficacious as it:

- Embraces and enhances recent Government reforms regarding industry self-assessment and large sections of the industry (and AVSDA members) have existing government (COB) trained or authorised self-assessors. Thus the model proposed is an extension of current practice and it becomes more efficient by removing the requirement to submit the application to a government authority for a process driven approval which is costly, complicated to administer by government and takes too long and only covers one platform;
- This model and Code is more nimble and can adapt to new technology and platforms (eg 3D films in the home, merging of games and film and links to online content);
- Saves the government (tax payer) money in administrative costs;
- Aligns with existing systems and codes and would lead to greater consistency; and
- Opens up the possibility of enhancing the Scheme by the adoption of ratings below MA15+ and of consumer advice across all channels including into the mobile and internet domains (should the government wish).

#### How would complaints be handled under this AVSDA Industry Codes of Practice model?

It is proposed that the Classifications Review Board be retained and any complaints about ratings be referred directly to the Board via ACMA (to weed out vexatious complaints) rather than adopt other industry codes where the complaint goes to the distributor in the first instance (such as in TV codes where the complainant has to first refer their complaint to the advertiser or broadcaster), then ACMA and then the Board (depending on the process and channel). It is worth noting that the numbers of referrals to the Board for the review of classified films and TV shows is close to zero (low single digits).

States and Territories would continue to have special authority to ask the Review Board to assess the rating given to content. States and Territories are also required to maintain their current enforcement roles.

## CONCLUSION

Aligning and updating the system would not be a difficult process as the systems exist at present to leverage ACMA industry codes of practice to generate a reformed and consistent National Classifications Scheme for Australia to the benefit of all and this would align to current government policy and major reforms such as the NBN.

The benefits to industry and importantly to the consumer and parents that will flow from an enhanced Scheme should make it acceptable to the most conservative of political forces and should be applauded as a positive step forward.

Technology and the digitisation of content and convergence of platforms such as games consoles connected to the internet to download content will only make the need for reform more urgent. The days of ignoring this issue are gone and AVSDA is willing to work with the Government and you as Minister for Home Affairs to develop a 21<sup>st</sup> century Scheme which continues to protect and educate Australians regardless of the way they choose to access content.

## ATTACHMENT A: CASE STUDIES

### Case Study: Underbelly Series 1 Uncut

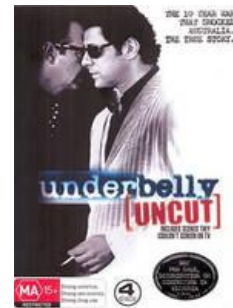
The following is a case study demonstrating inconsistency across different media platforms, and strangely even within the one platform.

The Australian produced Underbelly TV series was a huge hit on Australian television and a similarly huge hit when released on DVD becoming the biggest selling DVD of 2008.

However, research conducted by AVSDA has shown how the system is confusing and leads to outcomes which can only be concluded adversely affect the consumer through inconsistent ratings advice as well as ratings which no one understands.

The classifications ratings for Underbelly Series 1 Uncut:

1. The DVD Series 1 Uncut version goes on sale across Australia and is rated MA15+ (May 2008);



2. Channel 9 aired the Uncut version of the first series of *Underbelly*, rating the program AV15+ (19<sup>th</sup> May 2009,);
3. Channel 9's website shows classification for the Uncut series as AV (20<sup>th</sup> May 2009); and



4. The Channel 9 website currently classifies the same Uncut series as MA (2<sup>nd</sup> July 2009).



This single example demonstrates the inconsistency of classification ratings not only across different media channels but also within the one channel causing confusion for Australian consumers.

If this program was to be shown on subscription television, the classification category would be MA15+, as the code of practice for subscription television has outlined their classification symbols up to MA15 +. They do not recognise content as AV15+.

Further to the classification symbols on free-to-air television, licensees are required to provide additional consumer advice before programs commence regarding the graphics of the program. For example, Channel 9 could classify the Uncut series of *Underbelly* as MA15+ with consumer advice on extra graphics showing strong violence. Therefore, maintaining a consistent classification category for this program across different media channels.