



**Australian Government**  
**Attorney-General's Department**

**Civil Law Division**

**COST RECOVERY IMPACT STATEMENT**  
**Classification Fees**

September 2011 – June 2013

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## 1. OVERVIEW

### 1.1 Purpose

The Attorney General's Department (the Department) has completed its periodic review of classification fees (the fee review) as recommended by the Australian Government Cost Recovery Guidelines. The fee review was conducted in-house under the auspices of the Classification Fee Review Steering Committee.

The purpose of this Cost Recovery Impact Statement (CRIS) is to transparently demonstrate compliance with the Australian Government Cost Recovery Guidelines and to outline changes to the fees for classification of Publications, Films and Computer Games as prescribed in the *Classification (Publications, Films and Computer Games) Regulations 2005* (the Classification Regulations) based on the outcome of the fee review. It does not cover fees for the provision of classification training.

### 1.2 Background

The National Classification Scheme (the NCS) is a co-operative scheme between the Commonwealth and the States and Territories created by the Intergovernmental Agreement on Censorship 1995 (the IGA) and the *Classification (Publications, Films and Computer Games) Act 1995* (the Classification Act).

The *Classification Act* establishes the Classification Board (the Board) and Classification Review Board (the Review Board) as independent statutory authorities. Under the Classification Act the Board makes classification decisions (including consumer advice) upon receipt of a valid application for classification accompanied by the prescribed fee. The Review Board can on application review original classification decisions in certain circumstances and provide a fresh classification decision including new consumer advice.

With limited exceptions every film, computer game and certain publications (also known as 'submittable publications') must be classified before they can be legally made available to the Australian public by means of sale, exhibition and commercial distribution.

Part 2 of the Classification Act provides for a range of classifications for each of the three media formats. Material must be classified in accordance with the National Classification Code and Classification Guidelines.

The legislative framework includes complementary state and territory legislation (state and territory enforcement legislation). The IGA provides that Australian Government, State and Territory Censorship Ministers must consider and approve certain changes to the NCS, including amendments to the National Classification Code and classification guidelines.

State and territory enforcement legislation, among other things:

- prohibits the sale, distribution and advertising of unclassified material; and
- restricts the sale, distribution and advertising of classified material in various ways.

To comply with state and territory laws, producers of classifiable products are expected to submit products for classification. Retailers and other distributors of classified products must enforce relevant point-of-sale age restrictions and adhere to advertising and display requirements; and individuals must ensure that certain restricted material is not accessible to minors. Enforcement of these classification laws is the responsibility of states and territories.

In addition to commercial material, the Boards also classify material submitted from the State and Territory law enforcement authorities for the purpose of prosecutions, the Australian Customs and Border Protection Service (the Customs) and the Australian Communications and Media Authority (ACMA). The costs of these services are budget funded and are not cost recovered from the industry.

The Customs identifies and confiscates ‘objectionable material’ at the border. The definitions of ‘objectionable material’ in the *Customs (Prohibited Imports) Regulations 1956* and *Customs (Prohibited Exports) Regulations 1958* substantially mirror the definition of RC material in the National Classification Code. These regulations are intended to prevent the import and export of material that would be classified RC.

Under the *Broadcasting Services Act 1992*, the ACMA investigates complaints about online content that the complainant believes to be ‘prohibited content’ or ‘potential prohibited content’ with reference to the National Classification Code. The ACMA may seek to have such material classified by the Classification Board. Where prohibited material is hosted in Australia a range of regulatory powers can be exercised by the ACMA to have the material removed or restricted. Where material is hosted overseas the ACMA may seek the co-operation of the internet service provider to voluntarily block the material.

The Commonwealth does not pay fees payable under the Classification Act unless specified under law. State and territory law enforcement agencies operate under a quota arrangement that allows for free classification. Reduced fees are payable if the quota is exceeded in a financial year. Inter/intra government charging is not a cost recovery arrangement for the purposes of the Australian Government Cost Recovery Policy. Therefore, classification services to the government agencies (Commonwealth and State and Territory) are not covered in any further detail in this CRIS.

The Department provides administrative and secretariat services to the Boards and supports the Censorship Ministers in their administration of the NCS. Prior to 1 July 2007, these functions were performed by the Office of Film and Literature Classification (OFLC). The costs of the Boards classifying material, including secretariat support provided by the Department, are largely recovered through classification fees charged to industry, with the exception of the classification services to the government agencies as outlined above.

Where a policy rationale exists, some activities are partly or fully government (budget) funded - for example, a substantial proportion of the cost of reviews. The processing of film festival exemptions is budget funded, facilitating the screening of hundreds of unclassified festival films annually. A wide range of other material is also exempt entirely from classification.

In addition, the NCS also recognises that there are applicants for whom it is difficult to comply with classification requirements due to classification costs. The Classification Act provides for full or partial fee waivers for eligible applicants under specific circumstances - for example, where it is in the public interest to do so for public health or educational reasons.

The current fee structure was introduced in December 2005 to reflect the cost of providing classification services. Since 2005, significant improvements to the NCS have included the introduction of more authorised assessor schemes with lower fees such as the Additional Content Assessor (ACA) scheme and the Authorised Television Series Assessor (ATSA) scheme.

These schemes build on the success of the Computer Games Authorised Assessor scheme which allows authorised industry-based assessors to submit reports on computer games that are likely to be classified as G, PG or M and make classification and consumer advice recommendations to the Board when submitting an application for classification.

The ACA scheme allows for a trained authorised industry assessor to submit an application for classification of a previously classified feature film with additional unclassified content and make a recommendation on the classification and consumer advice to the Board. Products likely to be classified X18+ or refused classification are excluded from the ACA scheme. The ATSA scheme allows an authorised assessor to make an application to the Board which recommends a classification and consumer advice for films that comprise one or more episodes of a television series where at least one episode included in the product has been broadcast in Australia. Broadcast means broadcast in Australia on a national broadcasting service, a commercial broadcasting service, a subscription broadcasting service or a community broadcasting service. Only products likely to be classified R 18+ or lower can be submitted under the ATSA scheme.

The final classification decision rests with the Board in all the authorised assessor schemes with the exception of the Authorised Advertising Assessor (AAA) Scheme introduced in July 2009.

Under the AAA scheme authorised advertising assessors have been able to self-assess the likely classification of an unclassified film or computer game so that distributors can advertise these products before they are classified by the Board.

Authorised Assessors under these schemes must complete training approved by the Director of the Board and be authorised by the Director to provide assessments. While each scheme varies in its detail, they all have eligibility criteria, application conditions, sanctions and other safeguards to maintain the integrity of classification decisions and deal with misconduct by assessors. Details of these schemes are available on the Classification website.

### 1.3 Australian Government Cost Recovery Policy

In December 2002 the Australian Government adopted a formal cost recovery policy to improve the consistency, transparency and accountability of its cost recovery arrangements and promote the efficient allocation of resources. The underlying principle of the policy is that entities should set charges to recover all the costs of products or services where it is efficient and effective to do so, where the beneficiaries are a narrow and identifiable group and where charging is consistent with Australian Government policy objectives. Cost recovery policy is administered by the Department of Finance and Deregulation and outlined in the *Australian Government Cost Recovery Guidelines* (Cost Recovery Guidelines).

The policy applies to all *Financial Management and Accountability Act 1997* (FMA Act) agencies and to relevant *Commonwealth Authorities and Companies Act 1997* (CAC Act) bodies that have been notified. In line with the policy, individual portfolio ministers are ultimately responsible for ensuring entities' implementation and compliance with the Cost Recovery Guidelines.

## 2. POLICY REVIEW – ANALYSIS OF ACTIVITIES

### 2.1 Description of Activity

The Department supports the Board and the Review Board in undertaking the following groups of activities subject to cost recovery:

- Classification of Publications;
- Classification of Films – Public Exhibition;
- Classification of Films – Other;
- Classification under the Additional Content Assessor Scheme;
- Classification under the Authorised Television Series Assessor Scheme;
- Certificate of Approval for Advertisements;
- Classification of Computer Games;
- Cancellations of Applications;
- Reviews of a Classification;
- Section 87 (Evidentiary) Certificates;
- Copy of Certificate;
- Title Changes for Films, Publications and Computer Games; and
- Priority Processing.

In addition, the Department provides the following services for Government, community and industry that are budget funded:

- Policy development and Ministerial support;
- Classification Liaison Service;
- Classification of publications, films and computer games for enforcement purposes;
- Exemptions for unclassified films for Film Festivals;
- Classification services for which payment of all or part of the fees is waived such as public interest cases; and
- Permission to import/export.

#### **Classification of Publications**

Cost of Activity:

\$0.142 million per annum

Revenue for Activity:

\$0.142 million per annum

Charge: Fee

#### *Description of Activity*

This activity involves the processing of an application for classification of a publication. The activity includes processing an application to ensure that it is a valid application, receipting and accounting for fees paid, receiving the publication and viewing the publication. Application data is registered in the Classification Branch COBRA workflow management system.

The cost of classification of publications is directly linked to the number of pages of the publication as this affects the viewing time for the Classification Board. The number of Board members classifying the publication will depend on whether the material is contentious. The fee structure reflects a break up of publications into groups based on the number of pages of the publication. The actual viewing time for each fee is based on the median number of pages in that range. For example the fee for Publications 0-76 pages is based on a historical median length of 44 pages. This data is obtained from the COBRA system.

A report is written and then ratified in accordance with the Classification Board procedures. A certificate is produced and supplied to the applicant via mail, email, fax or downloaded from the Classification Branch COBRA workflow and records management system. Arrangements are then made for the applicant to have the publication returned or destroyed.

Serial declarations involve the processing of an application for a publication to be given a serial classification under Section 13(3) of the Act. The Board may declare that a classification granted for an original issue of a periodical may apply for all future issues, a specified number of future issues or all future issues within a specified timeframe. The serial classification fee includes the cost of an audit to ensure that the applicant has met the conditions of the serial declaration.

The classification information is published on the National Classification Database.

The procedures for these activities are determined by the Director of the Classification Board in accordance with Part 6 of the Act.

#### *Authority to Charge*

Applicants are required to gain a classification certificate under section 9 of the Act. The Act provides authority for charging fees for classification of publications at subparagraph 13(1)(d)(i) and for serial declarations at sub-paragraph 13(3).

#### **Classification of Films – Public Exhibition**

Cost of Activity:

\$0.816 million per annum

Revenue for Activity:

\$0.816 million per annum

Charge: Fee

Description of Activity:

This activity involves the processing of an application for classification of a film for public exhibition.

The activity includes processing an application to ensure that it is a valid application, receipting and accounting for fees paid, receiving the media and registering the application data on the Classification Branch COBRA workflow management system. The material is projected and viewed by the Classification Board in a theatre.

The cost of classification of a public exhibition film is directly linked to the viewing time of the film by the Classification Board. The fee structure reflects a break up of films into five “time slices” based on the viewing time of the film. The actual viewing time for each fee is based on the historical median running time in minutes in that time slice. For example the fee for Public Exhibition 0-60 minutes is based on a median of 32 minutes. This data is obtained from the COBRA system.

The number of Board members classifying the film will depend on whether the material is contentious. There is a minimum panel of three Classification Board members for public exhibition films. After classification a report is written and then ratified in accordance with the Classification Board Procedures. A classification certificate is produced and supplied to the applicant via mail, email, fax or downloaded from the relevant computer system. Arrangements are then made for the applicant to have the media returned. The procedures for this activity are determined by the Director of the Board in accordance with Part 6 of the Classification Act.

The classification information is published on the National Classification Database.

Authority to Charge:

The Classification Act provides authority for charging fees for classification of films at section 14(1)(d)(i).

**Classification of Films Other**

Cost of Activity:

\$4.384 million per annum

Revenue for Activity:

\$4.384 million per annum

Charge: Fee

Description of Activity:

This activity involves the processing of an application for classification of a film for purposes other than public exhibition, for example, a DVD for sale or hire.

The activity includes processing an application to ensure that it is a valid application, receipting and accounting for fees paid, receiving the media and registering the application data on the Classification Branch COBRA workflow management system.

The media is viewed on audiovisual equipment by the Classification Board. The cost of this service depends on the length of viewing time required by the Board. Films have been grouped into twenty two product types depending on the length of viewing. The actual viewing time for each fee is based on the historical median running time in minutes in that time slice. For example the fee for Film Other 0-60 minutes is based on a median of 41 minutes. This data is obtained from the COBRA system.

A report is written and then ratified in accordance with the Classification Board Procedures. A classification certificate is produced and supplied to the applicant via mail, email, fax or downloaded from the relevant computer system. Arrangements are then made for the applicant to have the media returned or destroyed at their request. The procedures for this activity are determined by the Director of the Board in accordance with Part 6 of the Classification Act.

The classification information is published on the National Classification Database.

Authority to Charge:

The Classification Act provides authority for charging fees for classification of films at section 14(1)(d)(i).

**Classification of Computer Games**

Cost of Activity:  
\$0.658 million per annum

Revenue for Activity:  
\$0.658 million per annum

Charge: Fee

Description of Activity:

The activity includes processing an application to ensure that it is a valid application, receipting and accounting for fees paid, receiving the media and registering the application data on the Classification Branch COBRA workflow management system. The Classification Board views the computer game on either audiovisual equipment or a computer.

Unlike other media to be classified, computer games do not have a set running time. Access to the contents or scenes from a computer game depends on the skill of the player. The cost of classification of computer games is directly linked to the level of information provided by the applicant to the Classification Board and the fees have been structured to reflect this.

Computer Game Level 2 applications have a lower fee than Computer Games Level 1 because they must be accompanied by a separate recording of any part of the computer game that is likely to contain contentious material and also a recording of the game that displays typical game play.

Applications can also be submitted by an authorised assessor with a recommendation to the Classification Board for a classification and consumer advice if the applicant is of the opinion that the game would be classified as G, PG or M.

A report is written and then ratified in accordance with the Classification Board Procedures. A classification certificate is produced and supplied to the applicant via mail, email, fax or downloaded from the relevant computer system. Arrangements are then made for the applicant to have the media returned or destroyed at their request.

The classification information is published on the National Classification Database.

The procedures for this activity are determined by the Director of the Board in accordance with Part 6 of the Classification Act.

Authority to Charge:

The Classification Act provides authority for charging fees for classification of computer games at section 17(1)(d).

**Classification under the Additional Content Assessor (ACA) Scheme**

Cost of Activity:

\$0.116 million per annum

Revenue for Activity:

\$0.116 million per annum

Charge: Fee

Description of Activity:

The ACA Scheme came into operation on 16 September 2007 to provide a new approach to the classification of DVDs and other storage devices containing already classified feature films and additional content such as ‘making of’ documentaries, out-takes and commentaries/interviews with the director or actors.

Under the Scheme, appropriately trained and authorised industry Additional Content Assessors make an assessment of additional material in the application. The ACAs report to the Board on any classifiable elements in the additional content that are at the same level or higher as the classified film. The ACA’s report recommends a classification and consumer advice for the additional content. The higher of the two classifications becomes the final classification for the feature and additional material combined. The Board is still responsible for classifying the material but its decision may be informed by the ACA’s report and recommendation. Applicants have the choice of using the “film other” classification process or the ACA Scheme.

The activity includes processing an ACA application to ensure that it is a valid application, receipting and accounting for fees paid, receiving the media and registering the application data on the Classification Branch COBRA workflow management system. The process model includes a component for when additional information is sought from the applicant to clarify the basis of their recommendation, a further component to cover the situation where the submitted material needs to be viewed in full by the Board, and an audit activity that is conducted on a proportion of all applications lodged under the ACA Scheme.

Classification applications that are accompanied by an ACA’s report attract a lower, flat fee which applies regardless of the length of the film. The lower fee reflects savings in the Board’s time and resources in relation to the viewing of additional content.

A report is written and then ratified in accordance with the Classification Board Procedures. A classification certificate is produced and supplied to the applicant via mail, email, fax or downloaded from the relevant computer system. Arrangements are then made for the applicant to have the media returned or destroyed at their request.

The classification information is published on the National Classification Database.

The procedures for this activity are determined by the Director of the Board in accordance with Part 6 of the Classification Act.

Authority to Charge:

The Classification Act provides authority for charging fees for classification of films at section 14(1)(d)(i).

**Classification under the Authorised Television Series Assessor (ATSA) Scheme**

Cost of Activity:

\$0.164 million per annum

Revenue for Activity:

\$0.164 million per annum

Charge: Fee

Description of Activity:

The ATSA Scheme came into operation on 1 January 2009 to provide a lower cost alternative for industry for the classification of television series released on DVD or other media.

Under the Scheme, a trained assessor who has been authorised by the Director of the Board can recommend a classification and consumer advice to the Board for a film that consists of one or more episodes of a television series. Only films comprised of one or more episodes of a television series and any series related material, where at least one episode has been broadcast in Australia, may be submitted under this Scheme. The Board is still responsible for determining the classification. However, its decision may be informed by the ATSA's report and recommendation.

It is not compulsory to participate in the ATSA Scheme. Applicants have the choice of using existing processes for film classification or the lower cost ATSA Scheme.

The activity includes processing an ATSA application to ensure that it is a valid application, receipting and accounting for fees paid, receiving the media and registering the application data on the Classification Branch COBRA workflow management system. The process model includes a component for when additional information is sought from the applicant to clarify the basis of their recommendation, a further component to cover the situation where the submitted material needs to be viewed in full by the Board, and an audit activity that is conducted on a proportion of all applications lodged under the ATSA Scheme.

Classification applications that are accompanied by an ATSA's report attract a lower, flat fee which applies regardless of the outcome, length of the film or number of episodes. The lower fee reflects savings in the Board's time and resources in relation to the viewing of television series.

A report is written and then ratified in accordance with the Classification Board Procedures. A classification certificate is produced and supplied to the applicant via mail, email, fax or downloaded from the relevant computer system. Arrangements are then made for the applicant to have the media returned or destroyed at their request.

The classification information is published on the National Classification Database.

The procedures for this activity are determined by the Director of the Board in accordance with Part 6 of the Classification Act.

Authority to Charge:

The Classification Act provides authority for charging fees for classification of films at section 14(1)(d)(i).

**Certificate of Approval for Advertisements**

Cost of Activity:  
\$0.015 million per annum

Revenue for Activity:  
\$0.015 million per annum

Charge: Fee

Description of Activity:

The activity includes processing an application to ensure that it is a valid application, receipting and accounting for fees paid, receiving the media and registering the application data on the Classification Branch COBRA workflow management system. The material is projected and viewed in a theatre or with audiovisual equipment or a computer. A report is written in accordance with the Classification Board Procedures. A certificate of approval or notice of refusal to approve an advertisement is then produced and supplied to the applicant via mail, email, fax or downloaded from the relevant computer system. Arrangements are then made for the applicant to have the media returned. The procedures for this activity are determined by the Director of the Board in accordance with Part 6 of the Classification Act.

The classification information is published on the National Classification Database.

To provide a lower cost alternative for industry and to improve the efficiency of assessing the likely classification of a film or computer game for advertising purposes, the Authorised Advertising Assessor (AAA) Scheme was introduced on 1 July 2009.

Under the Scheme, a trained assessor who has been authorised by the Director of the Board can make assessments of the likely classification of unclassified films (up to R 18+) or computer games (up to MA 15+) for advertising purposes such as posters, trailers and internet advertising.

It is not compulsory to participate in the AAA Scheme. Applicants have the choice of using existing processes for certificate of approval for advertisements or the AAA Scheme.

Authority to Charge:

The Classification Act provides authority for charging fees for approval of general advertisements at section 29(2)(d).

**Cancellations of Applications**

Cost of Activity:

Nil

Revenue for Activity:

Nil

Charge: Fee

Description of Activity:

When an application for classification has been submitted to the Department, the applicant may ask to cancel the application. The fee for cancellation is dependent upon the stage of the process at which the application is cancelled or the amount of work already undertaken by the Department.

The two identifiable points for determining the level of activity already undertaken in respect of an application are:

- Stage 1, while the classification application is being processed within the Department and prior to the application being sent to the Board (generally up to 5 days after application lodgment for non priority processing applications); and
- Stage 2, prior to a decision (and more than 5 days after application lodgment for non priority processing applications).

The purpose of charging for cancellation of applications is to deter frivolous applications and to limit the number of applications cancelled after work has already commenced. The fees recover costs in the classification process incurred up until cancellation.

Similar fees exist for cancellation of priority processing applications and applications for review of a classification and represent the maximum amount of the original classification fee paid that may not be refunded on cancellation. No cancellations of applications are expected during the period of this CRIS.

Authority to Charge:

The Classification Regulations 15, 16 and 17 provide authority for partial refund of fee for application for classification, partial refund of fee for application for review, and fee for withdrawal of application for classification for which priority processing fee has been paid, respectively.

## **Reviews of a Classification**

Cost of Activity:

\$0.280 million per annum

Revenue for Activity:

\$0.100 million per annum

Charge: Fee

Description of Activity:

The Review Board is an independent statutory body that consists of part-time members. Section 74(2) of the Classification Act requires that members of the Review Board are representative of the Australian community and as such members may reside in various States and Territories. Review Board Members meet in response to a valid application for a review of a classification made by the Classification Board.

The application may be made by the original applicant for classification of the material when they disagree with the original decision. This may be for commercial reasons, for instance when an R classification restricts the audience that may view a film. The Commonwealth Attorney-General, on his own behalf or at the request of a State or Territory Minister responsible for censorship, or a 'person aggrieved' by the decision, may also apply for a review.

This activity involves the processing of an application for a review of a classification, organising an appropriate time, travel and accommodation for interstate Review Board Members, receiving and viewing the media. After viewing the material the Review Board makes a new or "de novo" classification of the material, including the consumer advice. The decision may be to re-affirm the original classification or to vary the classification and or the consumer advice.

A report is written and then ratified in accordance with the Classification Review Board Procedures. A classification certificate is produced and supplied to the applicant via mail, email, fax or downloaded from the relevant computer system. Arrangements are then made for the applicant to have the media returned. The procedures for this activity are determined by the Convenor of the Review Board in accordance with Part 7 of the Classification Act.

The classification information is published on the National Classification Database.

Costs of the reviews of a classification are partially recovered from industry and partially budget funded reflecting Government policy on providing access to justice. This continues the policy implemented when the cost recovery was introduced for classification services in 2005, and the intent of the Act that the review process should be accessible to more than the original applicant.

The fee for a review of a classification has been established at \$10,000 compared to the full cost of \$28,000. The fee has been set at a level that deters potentially vexatious or speculative applications that may compromise the review process or cause delays that may delay the public release of the material and cause financial hardship to the original applicant. The fee also recognises the increased commercial

benefit to distributors that may succeed in obtaining a more favourable classification on review.

Authority to Charge:

Section 43(1)(d) of the Classification Act provides the authority to charge fees for review of a classification decision except for an application made by the Minister.

**Section 87 (Evidentiary) Certificates**

Cost of Activity:  
\$0.00 million per annum

Revenue for Activity:  
\$0.00 million per annum

Charge: Fee

Description of Activity:

A person may apply to the Department for a certificate regarding action taken, or not taken, under section 87 of the Classification Act. Section 87 (Evidentiary) Certificates are used almost exclusively by Commonwealth, State and Territory law enforcement agencies. The cost of these applications is budget funded.

There are three types of Section 87 evidentiary certificates that can be requested as follows:

- A certificate verifying the classification and title of a publication, film or computer game that has been previously classified that is based on a title cross-check with the records of the previous classification;
- A certificate describing the publication, film or computer game in relation to which action has been taken under a provision of the Classification Act (which generally draws on the report written by the Board when the action was taken); or
- A certificate verifying the classification, title and version of a publication, film or computer game that has been previously classified, based on a title cross-check with records of the previous classification and confirmatory viewing of the publication, film or computer game by a Board Member.

The activity includes processing an application for a Section 87 certificate to ensure that it is a valid application, receipting and accounting for fees paid, receiving the media and registering the application data on the Classification Branch COBRA workflow management system, and receiving and viewing the media on audiovisual equipment should the Classification Board require a confirmatory viewing. An evidentiary certificate is produced and supplied to the applicant via mail, email, fax or downloaded from the relevant computer system. Arrangements are then made for the applicant to have the media returned if required. The procedures for this activity are determined by the Director of the Board in accordance with Part 6 of the Classification Act.

Authority to Charge:

Section 87(2) of the Classification Act provides the authority to charge fees for applications for evidentiary certificates. This provision does not apply to an applicant that is the Commonwealth, or a Commonwealth authority or agency.

**Copy of Certificate**

Cost of Activity:  
less than \$1,000 per annum

Revenue for Activity:  
less than \$1,000 per annum

Charge: Fee

Description of Activity:

This activity involves the processing of an application for a copy of a classification certificate. Copies of certificates are often requested due to loss or misplacement of the original certificate. A certificate is supplied to the applicant via mail, email, fax or downloaded from the relevant computer systems. The procedures for this activity are determined by the Director of the Board in accordance with Part 6 of the Classification Act.

Authority to Charge:

Section 28A(2)(c)(i) of the Classification Act provides the authority to charge fees for applications for classification certificates.

**Title Changes for Films, Publications and Computer Games**

Cost of Activity:  
\$0.006 million per annum

Revenue for Activity:  
\$0.006 million per annum

Charge: Fee

Description of Activity:

This activity involves the processing of an application for a certificate for a title change of a previously classified film, computer game or publication. This is an administrative process that involves checking the resubmitted product against the departmental records to ascertain that it is the identical product. The process involves receiving and registration of the application on the COBRA workflow management system. A report is written and then ratified in accordance with the Classification Board procedures. A certificate is produced and supplied to the applicant via mail, email, fax or downloaded from the relevant computer system. Arrangements are then made for the applicant to have the media returned. The procedures for this activity are determined by the Director of the Board in accordance with Part 6 of the Classification Act.

Authority to Charge:

The authority to charge fees for title changes for films, publications and computer games are at Sections 14(1)(d)(i), 13(1)(d)(i) and 17(1)(d), respectively of the Classification Act.

## **Priority Processing**

Cost of Activity:  
\$1.237 million per annum

Revenue for Activity:  
\$1.237 million per annum

Charge: Fee

### Description of Activity:

This is an incremental product that builds on the Department's core classification functions for time sensitive clients who require a faster turnaround time than the 20 business day statutory timeframe set out in Section 87A in the Classification Act.

This service is provided at the request of industry to help combat piracy and facilitate simultaneous worldwide marketing and product releases. The increasing demand for priority processing indicates the high level of support from industry for an expedited classification service. Industry continues to require the fast-track service at higher fee, despite an alternative option of receiving classification a maximum of 20 working days after the receipt of a valid application for the standard fee. Industry supports the differential time frames and charges for fast track and standard applications.

The provision of the faster classification service costs more than the standard delivery time due to additional scheduling and management requirements as well as the need for more sophisticated computer systems to track, monitor and resource for this faster service. The costs of additional resources and technology required for priority processing are reflected by the higher charge imposed.

### Authority to Charge:

Regulation 9(1) and (1A) provides authority to charge a priority processing fee for classification applications for films (other than a public exhibition film) and computer games.

## **2.2 Stakeholders**

The key stakeholders that use classification services are:

- films, computer games and publications industry applicants for classification;
- government bodies (eg ACMA) and law enforcement applicants for classification; and
- community-based organisations and interest groups that apply for reviews of classification decisions

The regulatory activity of classifying films, publications and computer games and related services occurs before industry releases its products on the market. The

display of classification information (i.e. determined markings) is a requirement of classification and facilitates the enforcement of classification laws under the NCS.

### 2.3 Conclusion

As a general rule, classification services provide applicants with an exclusive commercial benefit. This is the right to sell, hire, exhibit, advertise and demonstrate films, computer games and submittable publications throughout Australia subject to each jurisdiction's respective classification enforcement laws. Classification under the NCS removes the need to seek a classification in each state or territory and the associated costs.

It is consistent with the Government Cost Recovery Policy to recover costs of undertaking pre-market regulatory activities, such as classification services, that confer an exclusive right or privilege to the applicant.

It is appropriate for the applicant to pay for the cost of classification services because the applicant is the user of these classification services. It is considered efficient and cost effective to charge a fee for service as the applicant can be identified via their application.

In conclusion, the fee structure and fees outlined in this CRIS are consistent with the cost recovery principles that have underpinned the provision of classification services since 2005.

## 3. DESIGN AND IMPLEMENTATION

### 3.1 Basis of Charging

The Department's preferred basis for charging for classification services is a fee to the individual applicant. This approach ensures a direct link between the costs of providing the specific service and the amount of the charge to the user of the service as well as encourages transparency and efficiency in service delivery.

### 3.2 Legal Requirements for the Imposition of Charges

In accordance with the Government decision, the then Office of Film and Literature Classification (OFLC) introduced a new fee structure for classification applications on a full cost recovery basis from 1 December 2005, consistent with the Cost Recovery Guidelines.

Fees for the services provided under the NCS are prescribed by the Classification Act and are set out in detail in the Classification Regulations. These have been amended to reflect the changes to the fees with a commencement date of 1 September 2011.

The revenue from fees in the Classification Regulations is regarded as income administered on behalf of government and is returned to the public account. The Department is then funded by appropriation for all classification activities. The amount of the appropriation for cost recovery activities is linked to the quantum of revenue from classification fees. The appropriation also contains necessary funding for activities that are not cost recovered such as public good activities and support of the NCS.

### 3.3 Costs to be included in Cost Recovery Charges

The original activity based costing model was developed by the OFLC prior to the introduction of cost recovery fees for applications for classification in late 2005.

The model has been updated after the integration of the OFLC into the Department to incorporate the Department's cost structures. The model has also been updated following the recent fee review completed by the Department.

Under the activity based costing model, the classification process for each type of application is broken down into its individual process components and direct labour costs are calculated for each component.

The first stage or "opening" an application contains a number of generic steps. This includes checking the validity of the application, whether it has been previously classified, receiving payment, registration of the application details on COBRA, preparation of the file and the viewing media for the Board and associated secure tracking of the media. Where details are missing or inconsistent in the application form, this is followed up directly with the applicant. In some instances, material submitted may be faulty or require viewing software not currently available to the Board. These issues are considered part of the "opening" process and may require

additional technical assessment of the media. In some instances, the application may be “stalled” while these issues are resolved.

In the next stage, the application is referred to the Board for scheduling and a panel is established to classify the material. The panel may consist of one Board member or more depending the item to be classified and whether it is contentious or not. Public Exhibition films have a standard panel of three Classification Board members. In some instances, a trained staff assessor may view the material. Following the viewing of the material, the panel will write a Classification Decision Report outlining the reason for the classification consistent with the Classification Code and guidelines. Where the material has been viewed by a staff assessor, a recommendation on the classification is made to the Board. The report is then used as the basis for the classification certificate.

The final stage relates to the “closing of the application” and covers the provision of a certificate to the applicant, updating the COBRA workflow management system, returning or destroying the application media and any filing. The classification decision is posted to the National Classification Database.

The process models for applications under the industry-based assessor schemes have the same “opening” and “closing” components. However the viewing component has been reduced to reflect only a proportion of the material being viewed in part or full and only where the Classification Board member disagrees with or reject the recommended classification. The process model includes components for seeking further information or clarification of the authorised assessor’s report or issuing a disagreement notice.

An example of the calculation of a fee for the classification of a Film Other 61-120 minutes is included in the table below.

Table 1: Example of a fee calculation

Fee Calculation Film Other 61-120 minutes	Involvement	(FY2011-13)		
		Hours	Hourly Rate	Cost
<b>Stage 1 - Applications Opening</b>				
Applications Manager	100%	0.10	\$100	\$10
Applications Staff	100%	1.00	\$51	\$51
<b>Sub Total</b>				<b>\$61</b>
<b>Stage 2 – Board Views Material</b>				
Classifier	73%	1.68	\$81	\$99
Staff Assessor	27%	1.68	\$61	\$28
<b>Sub Total</b>				<b>\$127</b>
<b>Stage 3 - Board Report Writing</b>				
Senior Classifier	100%	0.27	\$103	\$27
Classifier	100%	0.62	\$81	\$50
Staff Assessor	100%	0.18	\$61	\$11
<b>Sub Total</b>				<b>\$89</b>
<b>Stage 4 - Applications Closing</b>				
Receipting	100%	0.08	\$90	\$8
Applications Staff	100%	0.35	\$51	\$18
<b>Sub Total</b>				<b>\$25</b>
<b>Total Direct Labour</b>				<b>\$302</b>
<b>Overheads (141% of Total Direct Labour)</b>				<b>\$428</b>
<b>Total Cost</b>				<b>\$730</b>

**Cost base** – All costs were calculated based on the mean average of the estimated costs for the period of this CRIS.

**Use of Efficient Costs** - To ensure that pricing was based on efficient costs, the fee model used estimates of the reasonable time required for each activity. This information was then cross-referenced with historical and projected demand data.

During the costing process, the Department also confirmed that the assets used for the various activities were reasonable relative to the service delivery requirements.

**Direct cost calculation** – Board Member and employee costs are the major direct cost component in the calculation of classification fees.

The Board consists of the Director, Deputy Director, Senior Classifiers and other members including temporary Board members. Regulation 17A of the Classification Regulations specifies the maximum number of Board members as thirty.

The Review Board is a part-time Board and convenes to deal with applications for review. With the exception of the Convenor, members of the Review Board are paid a daily sitting rate set by the Remuneration Tribunal when considering an application for a review.

The Classification Branch of the Department is co-located with the Boards in Sydney. The Branch undertakes a range of budget funded activities. The number of Branch staff undertaking cost recovery related activity is 28 full time equivalent staff.

Direct labour costs have been separately identified for each level of staff or Board member involved in the process. The hourly labour costs include salary and related costs such as workers compensation, annual/long service leave provisions, allowances, and superannuation. Salary costs are indexed for pay increases expected to apply during the period of validity of this CRIS.

Direct non-labour costs, such as the cost and depreciation of projection equipment, are also attributed to the specific fee type as appropriate (eg. the fee for a public exhibition film contains a cost component for projection equipment).

**Allocation of overheads** – Overheads include indirect costs such as IT expenses, property expenses, operating lease/license costs, asset depreciation/amortisation and maintenance costs, support staff salaries and on-costs and other general expenses that are not attributable to a particular activity.

Allocation involves the amount of direct labour applied in the classification process and the forecast demand for each product type. The fee model has been adjusted to allocate overheads in accordance with the amount of direct labour involved in each product time slice (ie. the running time or length of the material) to ensure a more equitable distribution of overheads necessitated by an increase in very long-running applications.

No opportunity cost of capital was applied. Depreciation was calculated based on the fair value of assets in accordance with the Australian Accounting Standards. Assets

were depreciated on a straight-line basis over the life of the assets and leasehold items were amortised over the life of the lease.

**Table 2: Total annual cost of activities subject to cost recovery – 2011-13**

<b>Cost component</b>	<b>Description</b>	<b>Rationale</b>	<b>Estimated Annual Cost</b>
Direct Cost - Labour Expenses	Salary and salary related on-costs, including workers compensation, annual & long service leave provisions, allowances, and superannuation of employees directly involved in classification activities	Direct labour costs separately identify each level of staff or Board member involved in the process for each type of application. Some costs are averaged.	\$3,250,265
Direct Cost – Equipment expenses and depreciation	Projectors & sound systems in theatres  Computer game consoles and equipment in theatre	Direct cost of equipment used in the process of classifying public exhibition film and computer games applications.	\$54,850
Overheads – Indirect Labour Expenses	Salary and salary related on-costs for employees not directly involved in classification activities	Costs incurred in supporting the processing and classification of applications. Attribution is based upon the proportion of direct labour allocated to the product.	\$1,984,392
Overheads – Other	Property expenses, assets and depreciation, and operating expenses such as travel and legal costs.	Costs incurred in supporting the processing and classification of applications. Attribution is based upon the proportion of direct labour allocated to the product.	\$2,525,253
<b>Total</b>			<b>\$7,814,760</b>

### 3.4 Demand Estimates

The method of estimating demand for classification services was based on a statistical analysis of time series data for each existing classification application type and each time slice within that application type. The source of this data was the COBRA (Classification Branch Records Administration) workflow management system. The COBRA system enables management of the classification workload.

Internet searches were conducted to gain any possible market related information on demand. The initial demand estimates were also discussed with industry groups during the consultation process to gain qualitative information and check the quality of the predictions.

### 3.5 Quality Assurance - Fee Methodology and Calculations

An independent consultant, Ascent Governance Pty Ltd, completed a quality assurance of the fee review methodology and has confirmed that cost outcomes are reasonable.

### 3.6 Outline of Charging Structure

The classification fee structure is based primarily on the type of physical media on which the content to be classified is stored. This reflects the provisions of the Classification Act. It enables the fee structure to be broken down into publications, films and computer games and for process maps to be developed for each application type.

These categories include a further differentiation based on the viewing time or “time slice” for each product. In the case of fees for publications, this is based on the number of pages. This enables a fee to be calculated which contains standard fixed cost components such as the registration of the application as well as the variable direct costs of viewing and classifying the material. The fee structure recognises that not all material to be classified runs for the maximum time covered by the relevant time slice. As such the viewing time for each time slice is based on the historical median running time. For example: Publications 0-76 pages is based on the median score of 44 pages and Film Other 0-60minutes is based on a median viewing time of 41minutes.

The process models vary significantly for authorised assessor schemes whereby industry certified assessors lodge an application along with a report recommending a classification. These fees are based on a standardised process and include estimates of viewing time for product where the Board may not agree with recommendation or may seek to view the material in part or full to check the recommendation.

The fee structure also includes a range of administrative functions required under the Classification Act which may or may not have any transactions in any one year.

The fee review conducted in 2010 resulted in changes to the fee structure and the quantum of individual fees (both increases and decreases). The changes reflect cost

movements, product and technological developments and updated demand projections.

Key changes to the fee structure can be summarised as follows:

- an expansion of the existing Film – Other fee category with 12 additional time slices to accommodate “boxed sets” or potentially large capacity storage devices; and
- a reduction in the number of the Computer Game fee categories from 6 to 4 to appropriately reflect the powers of authorised assessors as defined under the Classification Act.

All fees for the classification of publications, films and computer games are covered by this CRIS. The fees that were introduced as part of the industry assessor schemes since the 2005 fees have been reviewed and are covered by this CRIS. This CRIS does not cover fees for the provision of classification training.

**Table 3: Classification fee structure**

Activity Publications	Method of Recovery	Estimated Annual Demand	2005 Fee	2011-13 Fee	Annual Cost Recovery Revenue
Standard 0-76 pages	Fee	3	\$520	\$420	\$1,260
Standard 77-152 pages	Fee	134	\$590	\$480	\$64,320
Standard 153-252 pages	Fee	2	\$690	\$560	\$1,120
Standard 253-500 pages	Fee	1	\$890	\$790	\$790
Standard 501-800 pages	Fee	0	\$1,260	\$1,230	\$0
Standard >800 pages	Fee	0	\$1,840	\$1,860	\$0
Serial	Fee	54	\$1,130	\$1,080	\$58,320
Revised	Fee	76	\$210	\$210	\$15,960
<b>Total</b>					<b>\$141,770</b>

<b>Activity Films – Public Exhibition</b>	<b>Method of Recovery</b>	<b>Estimated Annual Demand</b>	<b>2005 Fee</b>	<b>2011-13 Fee</b>	<b>Annual Cost Recovery Revenue</b>
Film PE 0-60 mins	Fee	14	\$990	\$1,180	\$16,520
Film PE 61-120 mins	Fee	281	\$1,830	\$2,180	\$612,580
Film PE 121-180 mins	Fee	65	\$2,300	\$2,760	\$179,400
Film PE 181-240 mins	Fee	2	\$2,860	\$3,540	\$7,080
Film PE >240 mins	Fee	0	\$5,090	\$6,540	\$0
<b>Total</b>					<b>\$815,580</b>

Note: Fees for certificates that public exhibition films are exempt from classification correspond to the fees proposed above against the relevant product type.

<b>Activity Film Other</b>	<b>Method of Recovery</b>	<b>Estimated Annual Demand</b>	<b>2005 Fee</b>	<b>2011-13 Fee</b>	<b>Annual Cost Recovery Revenue</b>
0-60mins	Fee	460	\$510	\$550	\$253,000
61-120 mins	Fee	1,275	\$700	\$730	\$930,750
121-180 mins	Fee	446	\$840	\$900	\$401,400
181-240 mins	Fee	390	\$1,010	\$1,090	\$425,100
241-300 mins	Fee	193	\$1,180	\$1,290	\$248,970
301-400 mins	Fee	215	\$1,420	\$1,690	\$363,350
401-500 mins	Fee	166	\$1,660	\$2,010	\$333,660
501-600 mins	Fee	158	\$1,910	\$2,530	\$399,740
601-700 mins	Fee	115	\$2,120	\$2,830	\$325,450
701-800 mins	Fee	86	\$2,460	\$3,300	\$283,800
*801-900 mins	Fee	55	\$3,160	\$3,620	\$199,100
901-1000 mins	Fee	47	\$3,160	\$4,100	\$192,700
1001-1100 mins	Fee	6	\$3,160	\$4,420	\$26,520
1101-1200 mins	Fee	0	\$3,300	\$4,900	\$0
1201-1300 mins	Fee	0	\$3,470	\$5,220	\$0

1301-1400 mins	Fee	0	\$3,640	\$5,700	\$0
1401-1500 mins	Fee	0	\$3,880	\$6,020	\$0
1501-1600 mins	Fee	0	\$4,120	\$6,490	\$0
1601-1700 mins	Fee	0	\$4,370	\$6,970	\$0
1701-1800 mins	Fee	0	\$4,580	\$7,290	\$0
1801-1900 mins	Fee	0	\$4,920	\$7,770	\$0
1901-2000 mins	Fee	0	\$5,620	\$8,090	\$0
<b>Total</b>					<b>\$4,383,540</b>

\*Fees for time slices above 800 minutes are new fee categories. The comparative figures show the costs of classifying an application of this length under the existing 2005 fee structure when such products are handled as multiple applications.

Note: Fees for certificates that films are exempt from classification correspond to the fees proposed above against the relevant product type.

<b>Activity Additional Content Assessor (ACA) Scheme</b>	<b>Method of Recovery</b>	<b>Estimated Annual Demand</b>	<b>2005 Fee</b>	<b>2011-13 Fee</b>	<b>Annual Cost Recovery Revenue</b>
ACA - Certified	Fee	242	\$430	\$480	\$116,160
ACA - Non-Certified	Fee	0	\$205	\$230	\$0
<b>Total</b>					<b>\$116,160</b>

<b>Activity Authorised Television Series Assessor (ATSA) Scheme</b>	<b>Method of Recovery</b>	<b>Estimated Annual Demand</b>	<b>2005 Fee</b>	<b>2011-13 Fee</b>	<b>Annual Cost Recovery Revenue</b>
ATSA	Fee	256	\$780	\$640	\$163,840

<b>Activity Advertising</b>	<b>Method of Recovery</b>	<b>Estimated Annual Demand</b>	<b>2005 Fee</b>	<b>2011-13 Fee</b>	<b>Annual Cost Recovery Revenue</b>
Assessment of likely classification of a film or game for advertising purposes	Fee	25	\$510	\$590	\$14,750
Certificates of Approval for Advertisements	Fee	0	\$450	\$470	\$0
<b>Total</b>					<b>\$14,750</b>

<b>Activity Computer Game</b>	<b>Method of Recovery</b>	<b>Estimated Annual Demand</b>	<b>2005 Fee</b>	<b>2011-13 Fee</b>	<b>Annual Cost Recovery Revenue</b>
Computer Game Level 1	Fee	38	\$2,040	\$1,210	\$45,980
Computer Game Level 2	Fee	268	\$1,150	\$890	\$238,520
Assessed Computer Game	Fee	799	\$470	\$430	\$343,570
Demonstrated Computer Game	Fee	12	\$1,070	\$2,460	\$29,520
<b>Total</b>					<b>\$657,590</b>

Note: Fees for certificates that a computer game is exempt from classification correspond to the fees proposed above against the relevant product type (note that the Assessed Computer Game category does not apply to applications for exempt certificates).

<b>Activity Section 87 Certificates</b>	<b>Method of Recovery</b>	<b>Estimated Annual Demand</b>	<b>2005 Fee</b>	<b>2011-13 Fee</b>	<b>Annual Cost Recovery Revenue</b>
Certificate of Verification	Fee	0	\$1,410	\$1,410	\$0
Statement of Content	Fee	0	\$710	\$475	\$0
Certificate of Identification	Fee	0	\$710	\$475	\$0
<b>Total</b>					<b>\$0</b>

<b>Activity Priority Processing</b>	<b>Method of Recovery</b>	<b>Estimated Annual Demand</b>	<b>2005 Fee</b>	<b>2011-13 Fee</b>	<b>Annual Cost Recovery Revenue</b>
Film - Other & Computer Games	Fee	2945	\$400	\$420	\$1,236,900
Cancellation	Fee	0	\$300	\$300	\$0
<b>Total</b>					<b>\$1,236,900</b>

Note: In relation to applications accompanied by a PPF, the fee for cancellation represents the maximum amount of the original classification fee paid that may not be refunded on cancellation.

<b>Activity Other</b>	<b>Method of Recovery</b>	<b>Estimated Annual Demand</b>	<b>2005 Fee</b>	<b>2011-13 Fee</b>	<b>Annual Cost Recovery Revenue</b>
Copy of Classification Certificate or Copy of S26 Notice of Decision	Fee	4	\$90	\$50	\$200
Cancellation Stage 1	Fee	0	\$120	\$180	\$0
Cancellation Stage 2	Fee	0	\$280	\$360	\$0
Title Change - Film - Public Exhibition	Fee	0	\$600	\$190	\$0
Title Change - Film - Other	Fee	7	\$390	\$190	\$1,330
Title Change - Publications	Fee	0	\$360	\$190	\$0
Title Change - Computer Games	Fee	24	\$460	\$190	\$4,560
<b>Total</b>					<b>\$6,090</b>

Note: The fees for cancellation represent the maximum amount of the original classification fee paid that may not be refunded on cancellation.

<b>Activity Review of a Classification</b>	<b>Method of Recovery</b>	<b>Estimated Annual Demand</b>	<b>2005 Fee</b>	<b>2011-13 Fee</b>	<b>Annual Cost Recovery Revenue</b>
Review of a Classification	Fee	10	\$8,000	\$10,000	\$100,000
Cancellation Stage 1	Fee	0	\$1,600	\$1,600	\$0
Cancellation Stage 2	Fee	0	\$4,000	\$4,000	\$0
<b>Total</b>					<b>\$100,000</b>

Note: The fees for cancellation represent the maximum amount of the original classification fee paid that may not be refunded on cancellation.

### 3.7 Summary of cost and charging arrangements

<b>Activity</b>	<b>Annual Costs \$ million</b>	<b>Annual Cost Recovery Revenue \$ million</b>
Classification of Films – Public Exhibition	\$0.816	\$0.816
Classification of Films – Other	\$4.384	\$4.384
Classification of Computer Games	\$0.658	\$0.658
Classification of Publications	\$0.142	\$0.142
Classification under the Additional Content Assessor Scheme	\$0.116	\$0.116
Classification under the Authorised Television Series Assessor Scheme	\$0.164	\$0.164
Certificate of Approval for Advertisements	\$0.015	\$0.015
Cancellations of Applications	Nil	Nil
Reviews of a Classification	\$0.280	\$0.100
Section 87 (Evidentiary) Certificates	Nil	Nil
Copy of Certificate	Less than \$1,000	Less than \$1,000
Title Changes for Films, Publications and Computer Games	\$0.006	\$0.006
Priority Processing	\$1.237	\$1.237
<b>Total</b>	<b>\$7.815</b>	<b>\$7.636</b>

## 4. ONGOING MONITORING

### 4.1 Monitoring Mechanisms

The Department will monitor the fees as part of its ongoing oversight of the NCS and as part of its financial and accountability framework. Monitoring activities will include the following:

- monthly and yearly reporting on statutory timeframes
- assessing the effectiveness of the fees in recovering the costs of the activities, and
- industry and community feedback.

The Department will monitor the operation of the fee regime to ensure that the fee design and costing remains appropriate. Action will be taken to adjust the fees if significant changes in costs or volumes of applications occur. Should this result in material amendments to the current fee structure, the Department will prepare a new CRIS to reflect any such amendments.

### 4.2 Stakeholder Consultation

In August 2008 the Department notified key classification stakeholders including industry clients, the Classification Board, the Classification Review Board, the Department of Broadband, Communication and the Digital Economy (DBCDE), the Australian Communications and Media Authority (ACMA), Censorship Ministers and Commonwealth, State and Territory Law Enforcement Authorities, of the fee review.

Advice regarding the fee review was posted on the Classification website for the duration of the review and members of the public were able to make submissions over the course of the review.

All key stakeholders were invited in writing to provide comments on the proposed fees during the formal consultation period conducted over four weeks in May 2010. The following sections only report on fee related issues raised during the consultation process:

#### *Classification Board & Classification Review Board*

The Director of the Classification Board was a member of the Fee Review Steering Committee. Additionally the Director and other members of the Classification Board were consulted throughout the review in relation to changes to fee categories and agreed to the process models for all fee related activities. The process models for all fees were informed by business rules established by the Director of the Classification Board, in accordance with the Director's powers under section 52 and 56 of the Classification Act.

The Convenor of the Classification Review Board was consulted as part of the review process. The members of the Review Board were consulted on the proposed fees

#### *Industry*

In addition to the formal consultation period in 2010 industry clients were encouraged to provide input to the review from its commencement. Early in the process, the Department

wrote to peak bodies seeking their views on issues that might impact classification work processes, changes to workload and demand as a result of additional types of classification services and emerging technology. It also held meetings with peak bodies to discuss the existing fee regime and canvass views on product developments. Australian Visual Software Distributors Association (AVSDA), now the Australian Home Entertainment Distributors Association, and the Interactive Games and Entertainment Association (IGEA) also made formal written submissions at this stage of the process.

In May 2010 approximately 1100 emails and 40 letters were sent to classification clients and stakeholders advising that the proposed fees were available on the Classification website and inviting them to participate in the consultation process.

In total 14 written submissions were received during the formal consultation period which commenced on 3 May and concluded on 28 May 2010. The Department also conducted six separate briefings for each industry peak body and one of the Department's major publications clients – AVSDA, IGEA, Motion Picture Distributors Association of Australia (MPDAA), Australian Independent Distributors Association (AIDA), EROS and Australian Consolidated Press (ACP).

### ***Key consultation issues***

Despite general sensitivity to increases in government charges, fee increases across most industry sectors did not raise strong objections and there was acknowledgement that increases in the highest demand fee categories were reasonable. Fee reductions were welcomed by the DVD, Computer Games and Publications industry sectors. A number of the issues raised in submissions were related to broader policy issues and as such were outside the scope of the fee review.

### **Publications**

The Publications sector welcomed the fee reductions for their products.

Concerns were raised over the length of serial classifications made by the Classification Board and the price impact of shorter declarations. Industry was advised that this was outside the scope of the fee review and that the timeframe for a serial declaration is determined on the merits of individual applications, in particular the applicant's compliance.

EROS, the peak body for the adult industry, reiterated concerns about parallel imports of publications and the disincentive to comply with the legislation that this raised.

### **Public Exhibition Films (PE Films)**

The PE film sector opposed the increased PE film fees stating that although total industry turnover had increased significantly the proposed fee increases were much higher than cost increases within their own industry. The MPDAA stated in its written submission that the general fee increases would be more acceptable if the proposed priority processing fee for PE films did not go ahead. The sector also expressed its appreciation of existing co-operative arrangements used by the Board that recognises its unique needs.

It argued that PE film applications are generally lodged well in advance but that very short lead times on the availability of prints from overseas, timing restrictions to prevent copyright infringements and simultaneous international release schedules prevented the film from being lodged earlier. Based on the feedback the Department has withdrawn the requirement for a priority processing fee for PE films.

#### Film Other

AVSDA questioned whether the fee model would continue to change as such changes led to industry concerns about the accuracy of fee calculations.

The Department advised that the introduction of much longer running applications meant that it was inequitable to retain a standard overhead component in each fee. Refining the methodology to allocate overhead costs based on the cost of direct labour for each application was seen as an improvement on the 2005 methodology.

AVSDA reiterated concerns about the administrative burden on industry assessors in completing the documentation in support of ATSA applications. This discouraged them from using the scheme and as a result they missed opportunities to reduce their classification costs. The Department has worked with ATSA to streamline the ATSA application process. This came into effect in early October 2010.

#### Computer Games

The IGEA was generally positive in regard to the proposed fees and reductions in fees for the majority of games applications.

It expressed concern over the removal of two computer games categories that will require some applicants to lodge their applications under a higher fee category. IGEA was advised that this would only affect 4% or an estimated 44 games applications annually and that the change is necessary for consistency with the provisions of the Classification Act.

The IGEA was also concerned about the increase in fees for Demonstrated Games applications and that this may discourage applicants from offering to demonstrate technically complex games to the Board. It also raised other concerns including the need for a separate lower fee for small games and less complex games for mobile devices.

The Department wrote to IGEA advising that it is open to discussing the matter of Demonstrated Games separately to the fee review process and in consultation with the Board. Additionally the Department has undertaken to consider the classification of small games during the life of the new fees and develop options in consultation with industry for managing these applications in future. The broader issue of technological change and the NCS is also covered in the terms of reference to the Australian Law Reform Commission's review outlined in the next section.

### 4.3 Periodic Review

The Department is scheduled to conduct a review of costs and charges under the existing classification fee structure before the end of 2012-13. This will consider:

- significant developments in classification policy and changes in other government policies which may impact costs or charges;

- significant industry product development or changes that necessitate new classification services or changes to classification processes;
- major technological changes which may impact on costs of service delivery, and
- significant changes in accounting standards and cost structures.

One of the above events may trigger an earlier review. If required, a new fee structure will be determined.

On 24 March 2011, Attorney-General Robert McClelland referred the NCS to the Australian Law Reform Commission (ALRC). This referral was in light of developments in technology, media convergence and the global availability of media content. Among other things, the ALRC is looking into some of the matters that may affect the classification fees. The ALRC is due to report by 30 January 2012. Should the report result in material changes to the classification fee structure prior to the next scheduled periodic review of the classification fees, the Department will prepare a new CRIS to reflect those changes.

## 5. CERTIFICATION

*I certify that this CRIS complies with the Australian Government Cost Recovery Guidelines.*

.....  
*Roger Wilkins AO*  
*Secretary*

*Date of Certification:*

## 6. COST RECOVERY LINKS

- The Australian Government Cost Recovery Guidelines and the accompanying Finance circular can be found at;

<http://www.finance.gov.au/financial-framework/financial-management-policy-guidance/cost-recovery.html>

- For proposals that involve regulation or amendment to regulation that affects business, a Regulation Impact Statement is required. Contact the Office of Best Practice Regulation for further information below

<http://www.finance.gov.au/obpr/index.html>