



REPORT ON THE REVIEW OF
THE OPERATION OF THE
2003 GUIDELINES
FOR THE CLASSIFICATION OF
FILMS AND COMPUTER GAMES

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Executive Summary

Review process

A review of the first twelve months' operation of the *Guidelines for the Classification of Films and Computer Games 2003* (the 2003 Guidelines) was promised by the former Attorney General, the Hon Daryl Williams AM QC MP, to ensure that the decisions made under the 2003 Guidelines align with those made under the Guidelines for the Classification of Films and Videotapes – Amendment No. 3, 2000, and Guidelines for the Classification of Computer Games – Amendment No. 1, 1999 (the previous guidelines). The review of the 2003 Guidelines has been conducted and is the subject of this report.

The principal object of the review is to assess whether the combining and recasting of the previous guidelines into the 2003 Guidelines has had the effect of changing the level of content that falls into the various classification categories for film and games.

The Review methodology included:

- Analysis of the quantitative indicators of change in classification decisions
- Community consultation, including analysis of submissions to the Review and follow-up interviews with some submitters
- Analysis of complaints received by the Office of Film and Literature Classification (OFLC) and ministerial correspondence
- Interviews with the primary users of the 2003 Guidelines: members of the Classification Board (the Board) and the Classification Review Board (the Review Board), and computer games authorised assessors, on their interpretation of the guidelines
- Content analysis of more than 1,200 Classification Board and Review Board decisions for public exhibition films, computer games and selected categories of sale/hire film
- Interviews with industry representatives for industry's perception of any changes in classification standards
- Analysis of media reports
- Interviews with film and computer game reviewers
- Consideration of the Explanatory Statement (ES) for the 2003 Guidelines and of legal advice from the Australian Government Solicitor about the ES.

Summary of concerns of submissions

Substantial efforts were made to inform the public about the Review and encourage submissions. The review was advertised in major national, state and territory newspapers and on the OFLC website. The date for lodgement of submissions to the Review was extended by 3 weeks to facilitate further submissions.

The OFLC received 180 submissions to the Review. Most interest in the Review was shown by community and religious organisations. Some of the organisations encouraged individual members and associates to lodge a submission.

The majority of submissions expressed concerns that the change in guidelines had not maintained standards in classification decisions. A few submissions expressed support for the 2003 Guidelines and the belief that no change in standards had occurred.

Concerns about the perceived changes in the R18+ classification dominated the submissions. The R18+ classified film, *Irreversible*, was referred to in more than half the submissions as the sole example of a perceived change in standards. More permissible levels of sexual activity and sexual violence were perceived to have resulted from the change in guidelines.

The G classification for films was the next highest area of concern among submitters. Concerns about the possible increase in nudity and drug use in G classified material had originally prompted the calls for this Review. These concerns were again raised in submissions, however no evidence of an increase in nudity and drug use in G material was found.

Some submissions also raised concerns about perceived higher levels of language, sexual references, violence and stronger thematic material in the G classification.

A few submissions raised issues with other film classifications. Perceived changes in the level of violent content in the PG and M categories and sexual references in PG films, were seen by some to have occurred under the 2003 Guidelines.

The Australian Family Association was concerned about the potential for a blurring of the boundaries between R18+ and X18+ categories, for sale/hire films mainly concerned with sex.

Very little attention was directed towards computer games decisions in the public submissions to this review, with almost all commentary pertaining to film decisions. Nevertheless, computer games decisions were analysed. There were no notable differences between these entertainment media in respect of the Review's terms of reference. However it could be argued that there is significantly less community concern about the impact of changes to computer games classification guidelines than the guidelines for films.

Key Findings

- There is no evidence of a shift in standards for any film classification categories, including G and R18+
- The 2003 Guidelines have not affected classification decisions for computer games
- There is no discernable shift in the nature of permissible material within particular classification categories
- There is no significant change in the profile of classification decisions since the introduction of the 2003 Guidelines
- Decisions made in the first year of operation of the 2003 Guidelines aligned with decisions made under the previous guidelines
- There is no evidence of an increase in nudity and drug use in G material; no films classified G in the first year of operation of the 2003 Guidelines contained drug use or nudity
- There is no indication that violent content has shifted between classification categories since the introduction of the 2003 Guidelines
- The decisions made in respect of the nine public exhibition films classified R18+ under the 2003 Guidelines aligned with the 17 R18+ decisions made in the previous year
- There is no evidence to suggest the R18+ decision of the film *Irreversible* was a result of the change in guidelines
- The increase in R18+ films containing actual sex in the year since the introduction of the 2003 Guidelines appears to be related to a change in product in the market rather than a change in classification standards
- There is no evidence to suggest a blurring of the R18+ sale/hire ‘mainly concerned with sex’ genre with the X18+ category
- There is no heightened level of dissatisfaction in the wider community with classification decisions made under the 2003 Guidelines
- The 2003 Guidelines are functioning well in providing suitable guidance for Board members in making classification decisions
- Overall the submissions suggest there is a lack of understanding of how the 2003 Guidelines are intended for use, and in particular, how the ‘impact test’ is employed by classifiers

- The misunderstanding of the guidelines and the lack of due regard by submitters for the principles of the National Classification Code (the Code) and section 11 of the *Classification (Publications, Films and Computer Games) Act 1995* (the Act) has resulted in an unwarranted lack of confidence in the classification system by some submitters.

Findings

Veracity of the argument that the 2003 Guidelines have affected classification decisions

Many submitters' arguments about the impact of the change in guidelines suggest a lack of understanding of how the 2003 Guidelines are intended for use. Confusion about how the 'impact test' is employed by classifiers was a key misunderstanding. This resulted in a misinterpretation, by some submitters, of the guidelines' likely effect on the type of content permissible in the various classification categories.

Submitters' misunderstanding of the guidelines and lack of due regard for the principles of the Code and section 11 of the Act have resulted in an unwarranted lack of confidence in the classification system among some sectors of the community.

This dissatisfaction with the classification system was indicated by some submitters who expressed concerns about the classification given to some films. Submitters hypothesised that the 2003 Guidelines were the reason for these decisions. The fact that many of the films cited were classified under the previous guidelines indicates their hypothesis was false.

Level of community dissatisfaction with classification decisions

Complaints data shows no heightened level of dissatisfaction in the wider community with the classification decisions made under the 2003 Guidelines. There is no suggestion in either the complaints profile or volume that the 2003 Guidelines have resulted in the permissible material systematically shifting to lower or higher classification categories.

A few controversial films attracted the bulk of complaints. These titles also dominated the discussion in submissions and were cited as the key evidence that a change in standards had occurred.

There was no evidence in the complaints data that there was any shift in standards for any classification, including the G or R18+ film categories. In the last financial year:

- Only one G classified film received more than 10 complaints.
- Only one R18+ film received more than 10 complaints.
- No complaints about drug use or nudity in G classified films were received.

The low public concern about computer games classification was reflected in the small number of complaints received about the classification of a few specific games.

Consistency in the pattern of classification decisions

No significant change in the profile of classification decisions since the introduction of the 2003 Guidelines was observed. The relative proportion of classification decisions within each classification category for all public exhibition films and computer games was the same for the two years compared; the one before and the one after the change in guidelines.

Stability measures using an external benchmark to account for possible changes in product in the market showed no change in the pattern of classification decisions in Australia.

The rate of instances when members of the Board arrived at different decisions for a product (split decisions) showed no change following the adoption of the 2003 Guidelines. This result suggests the 2003 Guidelines are functioning well in providing suitable guidance for Board members in classification decisions.

Board members felt classification decisions made in the first year of operation of the 2003 guidelines were consistent with decisions made using the previous guidelines.

Board members were emphatic that the changes in the guidelines had not impacted on drug use or nudity elements in G classified material.

Both the Board and Review Board members interviewed felt the application of the 'general rule' for sexual activity in R18+ classified material had not changed with the 2003 Guidelines. They felt the decisions made in the operational review period for films containing actual sex would also have been made using the previous guidelines. No change in standard for the R18+ classification was perceived by the members of the Boards interviewed.

Analysis of classification decisions

A comparative analysis was done on 1,269 Board reports for public exhibition films, computer games and R18+ sale/hire films 'mainly concerned with sex'. This analysis showed decisions made in the first year of operation of the 2003 Guidelines aligned with decisions made under the previous guidelines.

G Classified public exhibition films

As mentioned above, issues pertaining to the G classification was a trigger for this review. The analysis of Board reports showed that:

- No G classified films in the first year of operation of the 2003 Guidelines contained drug use or nudity

- Thematic material in G classified films in the first year of operation of the 2003 guidelines was similar in strength to thematic material in G classified films classified under previous guidelines
- No link could be established between the Board's treatment of double entendres and the change in guidelines. The Board's opinion was consistent with the approach to G classified films under the previous guidelines
- The few instances raised by some of the submitters of verbal sexual references in G classified films were of a nature that could be accommodated in the G classification because of the discreet and careful treatment of the references
- There is no indication that violent content has shifted between classification categories. Violence in G, PG and M classified films showed no greater impact than violent content classified in those categories under the previous guidelines.

R18+ classified public exhibition films

The analysis of Board reports showed that:

- The decisions made in respect of the nine public exhibition films classified R18+ under the 2003 Guidelines aligned with the 17 R18+ decisions made in the previous year
- There is no evidence to suggest the R18+ decision in relation to *Irreversible* was the result of the change in guidelines
- The increase in R18+ films containing actual sex in the year since the introduction of the 2003 Guidelines appears to be related to a change in product in the market rather than a change in classification standards. Similar content was found in films classified under the previous guidelines
- The classification of the films containing depictions of sexual violence under the 2003 Guidelines has been consistent with the treatment of similar content under the previous guidelines.

R18+ sale/hire films with 'mainly concerned with sex' consumer advice

There was a decrease in the proportion of R18+ sale/hire films with the consumer advice 'mainly concerned with sex' since the introduction of the 2003 Guidelines. In the year prior the introduction of the 2003 guidelines 46.4% (of 180), of all R18+ sale/hire films were classified R18+ because they contained simulated sexual activity compared with 31.33% (of 163) in the first year of operation of the 2003 Guidelines.

Further investigation of the nature of sexual content in product with the label 'mainly concerned with sex' in Board reports found none that mentioned 'actual' or 'explicit' sexual activity.

There is therefore, no evidence to suggest any blurring of the R18+ sale/hire ‘mainly concerned with sex’ genre with the X18+ category.

Computer games

The sample of computer games decision reports showed that:

- The nature of the content in various classification categories for computer games was similar for the two comparative years
- No discernable shift in the nature of permissible material was detected
- The 2003 Guidelines have not affected the classification decisions for computer games.

Industry satisfaction with the 2003 Guidelines

Industry representatives from film distribution and exhibition, home entertainment and computer games sectors endorsed the 2003 Guidelines.

Industry representatives have not observed a change in classification standards for public exhibition films, sale/hire films or computer games.

Explanatory Statement for the 2003 Guidelines and relevant legal advice

The Review took into consideration the Explanatory Statement (ES) for the 2003 Guidelines and legal advice from the Australian Government Solicitor (AGS). The AGS advised that the ES could be considered to resolve any ambiguity or obscurity in the 2003 Guidelines. The ES, issued with authority of the Attorney-General and tabled in Commonwealth Parliament with the 2003 Guidelines, confirmed that there was no change in the classification standards from the previous guidelines.

Conclusion

There is no evidence of a change in permissible content in the various classification categories for public exhibition films and computer games in the 2 year period before and after the commencement of the 2003 Guidelines. R18+ sale/hire films, videotapes and DVDs assigned the consumer advice, ‘mainly concerned with sex’ were also examined in response to concerns raised by one submitter. No shift in content between this category and X18+ was detected.

No changes to the 2003 Guidelines are required as no change in standards has been observed.

Recommendations

1. No changes to the 2003 Guidelines are required as no change in standards has been observed.
2. A mechanism to improve the public's understanding of the 2003 Guidelines is recommended to ensure all sectors of the community have confidence in the classification system.

1 Introduction

1.1 National Classification Scheme

The national classification scheme is established through:

- The Commonwealth *Classification (Publications, Films and Computer Games) Act 1995* (the Act)
- Complementary enforcement legislation in States and Territories and
- A co-operative agreement between Commonwealth, State and Territory governments.

Under the scheme, the Commonwealth makes classification decisions, that the States and Territories enforce. The Act provides for a National Classification Code (the Code). Section 9 of the Act provides that publications, films and computer games are to be classified in accordance with the Code and the classification guidelines. Section 12 of the Act allows guidelines to be made to assist the Board to apply the criteria in the Code. The Act also requires the matters in section 11 to be taken into account when making classification decisions. By agreement, Commonwealth, State and Territory Ministers can vary the Code and guidelines.

The Classification Board makes decisions and the Classification Review Board, on application, reviews those decisions. In the case of computer games with milder content, the Board's classification decisions may be informed by assessments from authorised assessors trained by the OFLC.

Administrative support is provided to both boards by the Office of Film and Literature Classification.

1.2 Classification Guidelines

The classification guidelines are a tool used for the classification of films and computer games. They provide an explanation of the different classification categories, as well as the scope and limits of material suitable for each category.

From time to time, the classification guidelines are reviewed by Censorship Ministers to ensure that they continue to reflect current community standards. In 2003, the separate Guidelines for the Classification of Films and Videotapes – Amendment No. 3, 2000, and Guidelines for the Classification of Computer Games – Amendment No. 1, 1999 (the previous guidelines, at Attachment B) were reviewed. The review process included extensive community input and wide public consultation. The last revision occurred in 2003 when separate guidelines for both films and computer games were combined into the *Guidelines for the Classification of Films and Computer Games* (the 2003 Guidelines, at Attachment A).

The 2003 Guidelines represented a major redrafting of the guidelines, but were not intended to represent a change in classification standards.

On 24 March 2003, the 2003 Guidelines were tabled in the Commonwealth Parliament, along with an Explanatory Statement (ES) issued with the authority of the Attorney-General. The ES is at Attachment F. See Chapter 11 for more information about the ES.

On 30 March 2003, the 2003 Guidelines commenced operation.

1.2.1 Review of the operation of film and computer games guidelines

A review of the first twelve months operation of the 2003 Guidelines was promised by the former Attorney General, the Hon Daryl Williams AM QC MP, to ensure that the decisions made under the 2003 Guidelines align with those made under the previous guidelines. A review of the 2003 Guidelines is the subject of this report.

The review process commenced in March 2004 when the Operational Review Steering Committee was formed to oversee the process. The committee was comprised of staff from the OFLC and the Attorney-General's Department and was chaired by the OFLC Senior Executive, Strategy and Communication, OFLC. No members of the Classification Board or Classification Review Board were on this committee.

The members of the committee were:

- Patricia Flanagan, OFLC (Chair)
- Paul McCarthy, OFLC (Acting Chair)
- Kathryn Reidy, OFLC
- Sadie Donaldson, OFLC
- Fiona Jolly, AGD

Secretariat assistance from:

- Caitlin Parmeter, OFLC.

The review methodology included opportunity for, and analysis of, public submissions as well as a desktop review of classification decisions, complaints data, media reports and environmental factors which could affect classification decisions for the twelve months immediately preceding and following the introduction of the 2003 Guidelines.

On 1 May 2004, advertisements were prominently placed in nine major national, state and territory newspapers, calling for public submissions to the review. The newspapers were:

- The Weekend Australian
- The Courier Mail
- The Sydney Morning Herald
- The Melbourne Age
- The Mercury
- Northern Territory News
- The Canberra Times
- The Advertiser
- The West Australian.



Australian Government

Office of Film and Literature Classification

CALL FOR PUBLIC SUBMISSIONS

A REVIEW OF THE FIRST YEAR'S OPERATION OF THE GUIDELINES FOR
THE CLASSIFICATION OF FILMS AND COMPUTER GAMES

The Office of Film and Literature Classification (OFLC) is reviewing the initial twelve months of operation of the *Guidelines for the Classification of Films and Computer Games*, which came into effect on 30 March 2003.

Information about making a submission to the review can be obtained from the OFLC website – www.oflc.gov.au or by contacting the OFLC – (02) 9289 7100 or oflcswitch@oflc.gov.au. Submissions must be in writing and will be accepted in electronic form or in hard copy.

Unless marked confidential, submissions will be made public and may be placed on the OFLC's website. Submissions are also subject to the *Freedom of Information Act 1982*.

SUBMISSIONS MUST BE RECEIVED BY 31 MAY 2004

A notice inviting public submissions was also placed on the splash page of the OFLC website. The closing date was initially 31 May 2004, but was then extended by 21 days to 21 June 2004. The OFLC received 180 written submissions to the review.

1.2.2 Role of independent consultant

Through a select tender process, the steering committee engaged an independent consultant, Kate Aisbett of *Entertainment Insights*, by contract dated 10 August 2004. The role of the consultant was to assist the steering committee by:

- Analysing submissions
- Reviewing submissions
- Analysing Board and Review Board decisions made in the 12 months preceding, and 12 months following, the commencement of the 2003 Guidelines, and
- Providing this report of the operation of the 2003 Guidelines.

1.3 Background to the operational review

1.3.1 Changes to the guidelines effected by the 2003 revisions

Combined guidelines

The major change in the revised guidelines adopted in 2003 was the combining of the previously separate guidelines for films and computer games. Although the same guidelines are now used for both films and computer games, there is no R18+ or X18+ category for computer games, and the G (8+) category for computer games roughly parallels the PG classification for films.

Censorship Ministers' decision to combine the guidelines was in response to issues arising from the convergence of media in digital audio-visual products. The aim of the revision was to make the guidelines more workable and transparent. No change in the standards for the classification of films or computer games was intended and the National Classification Code was not changed.

Structural changes

The 2003 Guidelines include a key structural change – they clearly state and explain the principles that are used in applying the guidelines. These principles are:

- the importance of **context**
- assessment of **content's impact**
- the **six classifiable elements**.

The importance of context

Context is crucial in determining whether a classifiable element is justified by the story-line or themes. In particular, the way in which important social issues are dealt with may require a mature or adult perspective. This means that material that falls into a particular classification category in one context, may fall outside it in another.

Key factors for assessing impact

The 2003 Guidelines provide details on the key factors classifiers consider when assessing impact.

The explicit inclusion of what has colloquially become known as the ‘impact test’ in the 2003 Guidelines was intended to more clearly capture this longstanding concept used in classification. The words used to describe the concept in the previous guidelines (at Attachment B) are recast in what is intended to be a more accessible and explicit form.

For instance, the previous guidelines stated:

In considering each element, the Board makes classification decisions based on the impact of the individual elements and their cumulative effect. The content and treatment of elements contribute to their impact. The Board takes into account factors such as tone, duration, frequency and the amount of visual or verbal detail. The relationship of the classifiable elements to the narrative also contributes to the impact of the film and therefore its classification.

The 2003 Guidelines recast this text, on pages 4 and 5, to provide greater clarity about the role of impact in the classification process.

Assessing the impact of material requires considering not only the treatment of individual classification elements but also their cumulative effect. It also requires considering the purpose and tone of a sequence.

The previous guidelines described the concept of ‘impact’ in terms of the strength of classifiable elements, but the explicit usage in those guidelines was intermittent. The 2003 Guidelines have made the role of impact more explicit by establishing the classification hierarchy in terms of impact and by listing the key factors of impact. However, the previous guidelines always used the concept when defining ‘the gradation of content’ (ie the degrees of intensity of impact from mild to high), by specifying certain factors that contribute to the impact of the depiction of the content. They noted the level of detail, frequency or treatment appropriate for classifiable elements for a given classification category.

The intensity of experience for the viewer or user is acknowledged as a fundamental basis of the classification hierarchy. The intensity is judged according to the factors described on pages 4 and 5 of the 2003 Guidelines in relation to impact and context. The gradation comes from considering all the factors in turn in relation to the classifiable elements.

Impact and computer games

Page 4 of the 2003 Guidelines contains the list of factors which must be considered when assessing impact. It is important to note that ‘encourages interactivity’ is one element that may result in higher impact. This suggests the need for a continuation of

stricter application of the guidelines to interactive products such as computer games, which maintains the previous standards in this regard.

Classifiable elements

The classifiable elements are sex, violence, themes, drug use, language and nudity.

The 2003 Guidelines explicitly state and clarify that when making a classification decision, all classifiable elements are always considered.

The listing of all classifiable elements under each classification category was a departure from previous conventions in the drafting of guidelines. In the past, classifiable elements considered to be less likely to appear at G were incorporated in the following sentence in the previous guidelines:

... whether or not the film is intended for children, the treatment of themes and other classifiable elements will be careful and discreet. (Emphasis added.)

The explicit listing of all the classifiable elements, including nudity and drug use, at G in the 2003 Guidelines created a concern for some members of the community that a perceived prohibition on these elements in G classified material under the previous guidelines was now lifted. In fact, all elements have always been permissible in G provided they are very mildly treated.

1.4 Call for the operational review

The significant changes in format and presentation of the 2003 Guidelines raised concern among some members of the Australian community. The level of public concern, expressed in letters to the OFLC and the Australian Attorney-General, prompted the then Australian Attorney General, the Hon Daryl Williams AM QC MP, to direct the OFLC to conduct a review of the operation of the first twelve months of the 2003 Guidelines.

1.5 Object of the operational review

The principal object of this review is to assess whether the combining and recasting of the previous guidelines into the 2003 Guidelines has had the effect of changing the level of content that falls into the various classification categories for film and games.

1.6 Terms of reference for this report

The role of the consultant was to assist the Operational Review Steering Committee by providing a report on the operation of the 2003 Guidelines in the first twelve months of their operation. The report was required to include:

- A **comparative analysis** of classification decisions made under the 2003 Guidelines and those made under the previous guidelines in the preceding twelve month period (30 March 2002 – 29 March 2003)
- An **examination of classification decisions** on public exhibition films and computer games across all classification categories except, RC and X18+¹
- Identification of any **changes in categorisation of material** as a result of the adoption of the 2003 Guidelines
- A set of **recommendations for revision** of the 2003 Guidelines should unforeseen changes in the classifications categories' boundaries be detected.

The terms of reference initially excluded an examination of sale/hire films on the grounds that public exhibition film applications usually precede or are made concurrently with sale/hire applications; public exhibition films are usually the focus of public attention; and the higher volume of sale/hire decisions. However, during the course of this review and as a result of the issue being raised by a submitter, the consultant was requested to consider certain sale/hire decisions in the genre of films classified R18+ that are mainly concerned with sex and are not publicly exhibited.

This report will inform the OFLC's report to the Australian Attorney-General on the first year's operation of the 2003 Guidelines.

1.7 How the classification system works

The terms of reference of this review should be considered having regard to the place the guidelines play in the national classification scheme.

¹ Material that is refused classification (RC) was outside the scope of the review. Most product in the RC category relates to police applications from State and Territory enforcement agencies, and includes matters such as child pornography. There is little commercially available product in the RC category and it was therefore not necessary to examine these decisions.

Films classified X18+ were also outside the scope of the review. The X18+ classification is a special category which contains only sexually explicit material and only applies to sale/hire films. There were no changes to the X18+ category with the introduction of the 2003 Guidelines and it was therefore not necessary to examine these decisions.

1.7.1 Legislative framework

The legislative base for classification decisions is the Commonwealth *Classification (Publications, Films and Computer Games) Act 1995* (the Act), which establishes the Board and Review Board. The Act provides for the appointment of members to ensure that membership of the boards is broadly representative of the Australian community.

When making classification decisions, the Board applies the criteria set out in the National Classification Code (the Code), the relevant guidelines and section 11 of the Act.

The Code names the broad classification categories and describes material that is permissible at each classification or is to be classified RC (Refused Classification).

The Code articulates the broad principles that underpin classification decisions. These are:

- adults should be able to read, hear and see what they want;
- minors should be protected from material likely to harm or disturb them;
- everyone should be protected from exposure to unsolicited material that they find offensive; and
- the need to take account of community concerns about:
 - i) depictions that condone or incite violence, particularly sexual violence, and
 - ii) the portrayal of persons in a demeaning manner.

The guidelines are intended to assist the Board in applying the criteria in the code. The guidelines describe in more detail the nature and scope of the material suitable for each category.

Section 11 of the Act sets out the matters which are to be taken into account when making classification decisions:

- the standards of morality, decency and propriety generally accepted by reasonable adults;
- the literary, artistic or educational merit (if any) of the publication, film or computer game;
- the general character of the publication, film or computer game, including whether it is of medical, legal or scientific character; and
- the person or class of persons to or amongst whom it is published or is intended or likely to be published.

1.7.2 How the Board and Review Board make decisions

Within this statutory framework, Board and Review Board members make decisions in accordance with contemporary community standards. The guidelines are one of the tools Board and Review Board members use, along with the Act and the Code.

The role of personal opinion

The Board and Review Board members bring to a classification decision their own experiences and sense of community standards that inform their application of the classification tools. The process, by its very nature, is subjective. However, Board and Review Board members, as statutory appointees, endeavour to make decisions which are as objective as possible, on behalf of the community and not as personal opinions. In other words, the boards apply what they consider to be the standards of reasonable adults in the community, rather than the personal standards of members.

Computer games authorised assessors

Section 17(3) of the Act provides that the Director of the Board may authorise a person to make recommendations on the classification of a computer game. These 'authorised assessors' have been trained by the OFLC, which provides an ongoing program of training for assessors. When the Board accepts a recommended classification from an 'authorised assessor', the assessor's report forms the basis of the decision report for the computer game. 'Authorised assessors' can submit a written recommendation if the game is likely to be classified G, G(8+) or M. 'Authorised assessors' cannot make a recommendation for a game that is likely to receive an MA15+ classification.

When making recommendations about games, 'authorised assessors' use the same criteria as the Board, that is, section 11 of the Act, the Code and the classification guidelines.

2 Framework for evaluating the effect of the changes to the guidelines

2.1 Comparative framework

The primary purpose of this consultancy was to assess the impact of the changes in the 2003 Guidelines on the content that falls into the various classification categories. In other words, the consultancy assessed the ‘effect’, if any, of the changes in the 2003 Guidelines on the classification process.

There were two aspects of this evaluation question, the first of which was:

Has the level of content that falls into the various classification categories for film or computer games changed since the introduction of the 2003 Guidelines?

The second aspect was:

If there are indicators of a change in the level of content in different classification categories, were the 2003 Guidelines responsible and if so how?

The answers to these questions lay in a comparative framework – primarily, the comparison of classification decisions for public exhibition films and computer games in the first year of operation of the 2003 Guidelines (30 March 2003 – 29 March 2004), compared with classification decisions for public exhibition films and computer games made under the previous guidelines in the year before the adoption of the 2003 Guidelines (30 March 2002 – 29 March 2003).²

This did not provide the ideal comparative group. Ideally, to claim any shift is attributable to the changes in the guidelines, the comparative years would need to be the same in all aspects, except insofar as the guidelines used for classification. It was not legally possible to have the same group of films and computer games classified under the 2003 Guidelines and also classified using the previous guidelines during the same period. Despite this, a methodology could still be devised to investigate the issue in an objective and systematic manner.

² Sale/hire films classified R18+ with consumer advice ‘mainly concerned with sex’ were also examined.

2.2 Other potential sources of variation within the comparative group

2.2.1 Product in the market

The year to year variation in product in the market is a major factor to consider when attempting to identify some form of systematic change related to the content in the various classification categories. The product on the market in one year may contain incidence of a certain type of content that is not in product produced in previous or subsequent years. Therefore, some types of content may not be available for comparison in both years. For instance, very mild depictions of nudity in a public exhibition film are so rare that they might only occur in one of the comparison years. Consequently, comparison of changes in classification decision making from year to year can lead to some ambiguity in interpretation.

The review therefore, has built in additional measures to detect movement in classification decisions to accommodate for variation in product from year to year. This was done by comparing Australian classification decisions with classification decisions for the same product in different countries. The degree of comparability between practice in Australia and other countries can then provide a measure of possible change in classification, assuming the system was stable in the comparable country.

2.2.2 Changes in the composition of the Classification Board

Four new Board members were appointed during the first year of operation of the 2003 Guidelines. New Board members are taken through an extensive training program in the process for making classification decisions. This potential source of variation needs to be acknowledged, however the new composition of the Board was not expected to have any influence on the outcomes of the Review, given the training provided.

2.3 Methodology

The task of identifying shifts of content between classification categories in public exhibition films and computer games³ required the meta analysis of evidence from a range of sources, including:

- quantitative indicators of change in classification decisions

³ Sale/hire films classified R18+ with the consumer advice 'mainly concerned with sex' were also examined.

- community consultation, including analysis of submissions to the Review, follow-up interviews with major submitters and analysis of complaints received by the OFLC
- interviews with Board and Review Board members, and computer games authorised assessors, on their application of the guidelines
- content analysis of Board and Review Board decisions;
- viewing and analysis of titles raising greatest concern;
- industry's perception of changes in classification through interviews with industry representatives from film distribution and exhibition, home entertainment and computer games sectors and
- analysis of media reports and environmental factors
- interviews with film and computer game reviewers
- consideration of the Explanatory Statement (ES) for the 2003 Guidelines and of legal advice from the Australian Government Solicitor about this ES.

2.3.1 Development of quantitative indicators of change

No one quantitative measure alone can provide a definitive answer to the effects of the 2003 Guidelines on content allowed into the various classification categories. However a meta analysis of the various measures can provide some supportive evidence of change, or lack of change, in addition to the qualitative analysis used.

Has the proportion of classifications changed more than expected?

If the 2003 Guidelines were resulting in a systematic change in classification decisions, then some indicator of this change would be expected to be exhibited in the distribution of decisions across classification categories for each type of product. A numerical analysis of changes in the relative proportion of decisions in the various classification categories was undertaken (see section 3.1).

The analysis considered whether the proportion of G, PG/G(8+), M, MA15+ and R18+ classifications had changed since the introduction of the 2003 Guidelines. This was tested using a statistical test for difference in proportions⁴.

The comparative analysis was undertaken for public exhibition films and computer games.

⁴ Hayes, W.L. (1973) *Statistics for the Social Sciences*, Holt, Rinehart and Winston pg 370-371.

Has the content in various classifications changed?

Consumer advice given to public exhibition films and computer games for classifications PG/G8+ and higher was used to compare the profile of product in each classification category in terms of the classifiable elements. G classified material does not generally carry consumer advice so it was not possible to use this analysis for G classified films and computer games. Comparative tables were derived from an examination of differences in the content profiles of each classification category under both sets of guidelines (see section 3.2). For example, assuming similarity between the two years in the nature of product presenting for classification, a higher proportion of product containing medium level violence in the M category could indicate a wider range of medium level violence content was now permissible in the M category.

Simulated sex films classified R18+

In response to concerns about a potential change in sexual content in R18+ simulated sex films, an analysis of consumer advice for this product range in the two comparative years was also undertaken. The analysis tested whether there had been an increase in the volume of sale/hire film with high level sexual content.

Has classification decision-making been consistent under the two sets of guidelines?

Consistency in classification decision-making under the previous and 2003 Guidelines was also assessed by comparing Australian classification decisions with classification decisions made about the same product in another country. The measure gauged the degree of similarity between Australia and the other country in the two comparative years. A change in the level of comparability between Australia's decision and that of the other country provided an indication of consistency of standards under the two sets of guidelines with comparable product.

2.3.2 Analysis of submissions

The submissions to the Review were examined by the consultant for relevant information on permissible content movement perceived to be related to the 2003 Guidelines. The submissions were used to identify the particular content perceived to have shifted classification categories as a result of changes in the guidelines. The particular titles and classification categories that demonstrated a perceived change in permissible content were noted for further analysis.

This analysis included interviewing Board members about these products, viewing the products and examining Board reports by the consultant.

2.3.3 Follow up interviews with key submitter groups

Follow-up interviews were undertaken with some key submitter groups, including the Australian Family Association, the Festival of Light and Young Media Australia.

These interviews aimed to encourage further dialogue with the consultant and provide an opportunity for further comment on the points raised in submissions.

2.3.4 Interviews with industry representatives

The Review received very little input from industry representatives through the public submission process. To ensure all key stakeholders were consulted, key industry representative bodies that did not provide a submission to the Review were contacted to discuss their views on classification decisions made since the introduction of the 2003 Guidelines.

2.3.5 Environmental context

The environmental context in which classification guidelines changes have taken place was considered in the interpretation of the results from the analysis of classification decisions. Other information on environmental factors and industry trends since the introduction of the 2003 Guidelines was researched through the examination of media articles and interviews with product reviewers.

2.3.6 Complaints analysis

Complaints received by the OFLC and the Attorney-General concerning the 2003 Guidelines were reviewed and key concerns identified for further analysis. Also, the OFLC's analysis of general complaints for 2002-2003 and 2003-2004 was used to identify titles that had been classified in the Review time frame and had received more than 3 complaints each. This process was used to estimate whether the complaints pattern change in permissible content within the various classification categories.

The OFLC assists with some correspondence (known as 'ministerials') addressed to the Australian Attorney-General relating to certain matters about the national classification scheme. For the purposes of this review, complaints from the community to the Attorney-General about Board and Review Board classification decisions were included.

The nature of the matters which were the subject of ministerials are reported in the OFLC's Annual Reports. These reports on ministerials were considered as part of the review. As the content of the ministerials was generally similar to that of correspondence addressed to the OFLC, individual letters were generally not perused.

2.3.7 Interviews with key users of the guidelines

An understanding of how the 2003 Guidelines are used and interpreted when making classification assessments was crucial to assessing the potential impact of the 2003 Guidelines on classification decisions.

Board and Review Board members and authorised computer games assessors were interviewed by the consultant about the role of the guidelines in classification decision making. Their feedback provided a basis for the reading of Board reports.

Board members with experience using previous and 2003 Guidelines were asked whether they perceived any changes in the permissible material in various categories resulting from changes in guidelines and if so, how the guidelines could be remedied to address the shift. Interviewees were asked to identify other potential areas where a change in permissible content may be occurring.

These interviews informed the reading of Board and Review Board reports.

The responses of Board and Review Board members and authorised assessors to the concerns raised in submissions and complaints were sought in interviews to clarify how the guidelines inform Board and Review Board members' decision-making and reasons.

2.3.8 Analysis of Classification Board and Classification Review Board decision reports

A total 909 Board reports for public exhibition films for the identified period were read and analysed in terms of the permissible content allowed in the various classification categories. Particular note was taken of borderline or split decisions in both years to identify the role of the guidelines in justifying the decisions. Split decisions occurred when individual Board members determined a different classification for the same product. Split decisions in both years (48 in 2002-2003 and 40 in 2003-2004) underwent detailed examination to identify material in the different classification categories that may have caused the difference in individual Board member's classification decisions. Content analysis of the reasons given for the decisions under the 2003 Guidelines were compared with the reasons given for decisions under the previous guidelines. The aim of this process was to identify changes in the wording of the reasons for decisions given in Board reports that related to the changes in the guidelines. The words in the guidelines used in arguing the different decision reasons were examined to assess elements of the guidelines that could lead to ambiguity in interpretation and a split decision.

A similar analysis was undertaken with a sample of 202 computer games classification reports.

The 139 Board reports for sale/hire R18+ films with consumer advice label 'mainly concerned with sex' were examined for references to 'actual sex'.

All 19 Review Board decisions for the identified period were similarly analysed.

2.3.9 Viewing of films and computer games identified by submitters

Where possible, films and computer games identified by submitters as demonstrating a shift in permissible content were viewed to ensure the consultant had a good understanding of the issues raised.

3 Quantitative indicators of change in the classification process

Some broad based quantitative measures of change were derived for analysis. If the 2003 Guidelines were having a systematic effect on the classification process then the pattern of decision making would reflect the shift.

3.1 Profile of Classification Board decisions

As outlined in the previous chapter, section 2.3.1, changes in the relative proportion of the various classification categories might be expected if a shift in permissible content was occurring between categories. Product mix in the market also would account for any such movement so detection of change in the relative proportions is not sufficient proof in itself of some systematic change in the classification system. Any change observed however could identify areas where closer examination is warranted.

3.1.1 Public exhibition films

The profile of public exhibition film classifications in the year prior to the change in the guidelines and the first year of operation of the 2003 Guidelines is presented in Table 1. Table 1 shows very little change in the makeup of classification decisions in the identified period. A small year to year variation was expected in the product presented for classification. The data below suggested that the two comparative years were well matched in terms of the mix of product the Board had classified. A statistical test of difference in proportions was not significant for any classification category⁵. There was no change that suggested a significant shift in the nature of decision-making or the range of product coming into the market.

Table 1: Profile of Classification Board decisions for public exhibition

	Previous Guidelines	2003 Guidelines
	29-03-2002-30-03-2003	30-03-2003-29-3-2004
	N=464	N=447
G	9.3%	11.0%
PG	20.0%	20.1%
M15+	44.0%	45.6%
MA15+	23.1%	21.3%
R18+	3.7%	2.0%

⁵ A z test statistic for the difference in proportions with the size of the test set to .05

3.1.2 Computer games

The profile of computer games classified in the two comparative years is presented in Table 2. A similar method⁶ was used to test for any meaningful change in the relative proportion of various computer games classifications. The analysis showed no significant change in the classification decisions for computer games before and after the change in guidelines.

Table 2: Profile of computer games classification

	Previous Guidelines	2003 Guidelines
	29-03-2002-30-03-2003	30-03-2003-29-3-2004
	N=666	N=629
G	40.7%	43.4%
G8+	30.30%	27.50%
M15+	17.60%	20.50%
MA15+	11.40%	8.60%

3.2 Comparison of the level of classifiable elements indicated by consumer advice in each classification category

3.2.1 Public exhibition films

Table 3 compares the proportion of films in each classification category that contained consumer advice for particular classifiable elements. The table excludes G classified public exhibition films as these films are rarely given consumer advice as all classifiable elements are very mild. R18+ public exhibition classified films were excluded because the number of R18+ classified films in the two year period was small (17 in 2002-2003 and 10 in 2003-2004), rendering comparison of the proportions irrelevant.

Consumer advice is used as an indicator of change in the relative dominance of a certain type of content (or classifiable elements) in films with that classification.

Statistical tests were conducted on the difference in proportions between the comparative years to ascertain when the difference in the proportions demonstrated a significant change between the two years. Table 3 shows the results of the analysis. Highlighted cells in the table indicate an increase in the proportion of PG classified films with the consumer advice label for nudity. The proportion of M classified films with consumer advice medium level violence has decreased since the introduction of the 2003 Guidelines and the proportion of M films with consumer advice on low level coarse language has increased. No significant change for MA15+ films' consumer advice was observed.

⁶ A z test statistic for the difference in proportions with the size of the test set to .05

Table 3: Proportion of public exhibition films with particular consumer advice

Consumer Advice	PG		M15+		MA15+	
	Previous N=93	2003 N=90	Previous N=204	2003 N=204	Previous N=107	2003 N=95
Low Level Violence	16%	18%	20%	22%	0%	0%
Medium Level Violence	15%	9%	39%	26%	47%	51%
High Level Violence	0%	0%	0%	0%	15%	15%
Low Level Sex Scene(s)	0%	0%	7%	4%	1%	0%
Medium Level Sex Scene(s)	0%	0%	2%	4%	8%	8%
High Level Sex Scene(s)	0%	0%	0%	0%	1%	2%
Low Level Coarse Language	49%	49%	30%	40%	0%	0%
Medium Level Coarse Language	9%	4%	17%	13%	17%	20%
High Level Coarse Language	0%	0%	0%	0%	2%	0%
Adult /Mature Theme(s)	33%	38%	33%	26%	36%	25%
Horror/Supernatural Theme(s)	3%	0%	1%	4%	4%	4%
Drug References/Drug Use	1%	1%	4%	7%	12%	8%
Frightening Fantasy Scenes	1%	0%	0%	0%	0%	0%
Sexual References	24%	17%	14%	13%	7%	8%
Nudity	2%	10%	0%	1%	0%	1%
Some scenes may frighten young children	0%	1%	0%	0%	0%	0%

It is important to note that the change in content within PG and M classified films in the two comparative years was not necessarily indicative of a change in permissible content within the classifications categories. While the analysis did provide an indication of change, this change could be attributed to a change in the market of films submitted for classification. The analysis does not allow us to distinguish between these two possible interpretations. Further examination of the Board reports provided a clearer indication of the possible cause of the shift. For instance, the findings reported in section 7.3.3 indicated no change in the level of nudity permissible in PG films.

3.2.2 Computer games

The analysis of consumer advice for the comparative two year period provided an indication of the stability of the content in terms of classifiable elements. The difference in proportions of computer games receiving particular consumer advice was compared using statistical tests as before. Consumer advice for rare types of content were not included in the analysis.

The results in Table 4 showed an increase in the proportion of G(8+) games receiving the consumer advice ‘medium level animated violence’, an increase in MA15+ computer games receiving the consumer advice ‘medium level animated violence’, and a decrease in MA15+ games receiving horror or supernatural consumer advice.

Table 4: Proportion of computer games in each classification with particular consumer advice

Consumer Advice	G(8+)		M15+		MA15+	
	Previous N=203	2003 N=173	Previous N=117	2003 N=129	Previous N=76	2003 N=54
Low Level Animated Violence	68%	66%	24%	17%	0%	0%
Medium Level Animated Violence	12%	21%	67%	75%	74%	87%
High Level Animated Violence	0%	0%	0%	0%	20%	13%
Low Level Coarse Language	2%	2%	3%	0%	0%	0%
Medium Level Coarse Language	0%	1%	0%	1%	9%	4%
High Level Coarse Language	0%	0%	0%	0%	3%	2%
Adult Theme(s)	6%	10%	10%	7%	1%	2%
Horror/Supernatural Theme(s)	4%	2%	2%	1%	8%	0%
Gambling References	3%	2%	0%	0%	0%	0%
Drug References/Drug Use	0%	1%	0%	1%	1%	0%
Sexual References	0%	0%	4%	5%	3%	6%
Mature Theme(s)	0%	1%	0%	0%	0%	0%
Nudity	0%	0%	0%	1%	0%	0%

As for the public exhibition films, a change in the relative proportion of certain types of content in a particular classification does not indicate that the changes to the guidelines were causal. A change in the product presented for classification in the second year could have caused the observed change in some types of content.

The results in Tables 3 and 4 did provide an indication of the areas where a change in permissible content might have occurred. These areas were targeted in later analysis of the Board reports discussed in Chapter 7.

3.2.3 R18+ sale/hire films with sexual activity consumer advice

During the course of the Review, the Australian Family Association (AFA) raised concerns about the potential presence of actual sex in sale/hire R18+ films arguing such films should be classified X18+. The R18+ classification ranges from simulated sex films (which are generally assigned the consumer advice ‘mainly concerned with sex’) to dramatic films which may include depictions of simulated sexual activity pertaining to the narrative (those films may have consumer advice such as ‘high level sex scene’). The R18+ classification also includes a very small number of sex education and dramatic films depicting actual sex.

To address this issue, an analysis was undertaken of sale/hire films with consumer advice related to sexual activity classified in the two comparative years before and after the introduction of the 2003 Guidelines. The number of sale/hire films with different types of sexual activity between the years was statistically tested to detect any significant change. The categories where there is a significant change in the relative proportion are highlighted in Table 5. The results indicate:

- a decrease in proportion of sale/hire films with the consumer advice related to any type of sexual content.
- no change in the proportion of sale/hire films with consumer advice indicating high level sexual activity

- no change in the proportion of sale/hire films with consumer advice indicating medium level sexual activity
- a decrease in the proportion of sale/hire films with the consumer advice ‘mainly concerned with sex’
- a decrease in proportion of sale/hire films with the consumer advice ‘sex education’ .

As noted in sections 3.2.1 and 3.2.2, these results suggested a change had occurred but did not provide an explanation of the cause of the change.

Investigation of the nature of the sex content in films with the consumer advice ‘mainly concerned with sex’ was undertaken by inspecting Board reports for these products. The review found none of the reports mentioned 'actual' or 'explicit' sexual activity. The Board reports were limited to references regarding 'realistically simulated' and 'obscured' sexual activity.

No evidence of a change in the level of R18+ sale/hire films containing elements of actual sex was found.

Table 5: Number and proportion of R18+ sale/hire film with sexual activity consumer advice

Consumer Advice	Number of Sale/Hire Products		% Sale/Hire Product	
	Previous	2003	Previous	2003
High Level Sex Scenes	25	30	14%	18%
Mainly Concerned with Sex	86	53	48%	33%
Medium Level Sex Scenes	19	22	11%	13%
Sex Education	7	0	4%	0%
Total with Sex consumer advice	137	105	76%	64%
Total R18+Sale/Hire	180	163	100%	100%

3.3 Stability of decisions against an external benchmark

Isolating change related to the guidelines from change in the nature of the product available on the market was challenging due to other factors acting on classification patterns over time. To avoid the difference in product from year to year effect in a quantitative indicator, Australian classification decisions were compared with the classification decisions made in other countries for the same products. The level of match in the year prior to the change in guidelines could then be compared with the level of match in the first year of operation of the 2003 Guidelines. The key measure used was the shift in compatibility between the Australian classification and that of the other country. The absolute level of compatibility between Australia and the other country was not material to the inquiry as community standards and classification processes may differ between countries. If the comparable country has remained

stable in its classification process, then any significant shift in compatibility could be viewed as an indicator of the level of uniformity in the application of community standards in the Australian classification process.

For public exhibition films, the British Board of Film Classification decisions on films classified in the identified period were used as a benchmark. It is acknowledged that the British classification system is not directly comparable for a range of reasons yet was an appropriate benchmark for estimating change. For the purpose of this analysis, arguments about the differences in systems were irrelevant, as the shift between the two comparable years was the subject of analysis. Only classification categories with a roughly equivalent category in the benchmark classification system were used.

The measurement used in analysis identified the proportion of G rated films that received a roughly equivalent Universal rating in the UK for both years before and after the change in the guidelines. Similarly, the proportion of MA15+ classified films that received a 15 rating in the UK was calculated for both years. A statistical test⁷ was then conducted on the proportions to assess whether there was any significant movement in the level of compatibility with the stable country.

No significant change⁸ was found for G or MA15+ classified films, revealing stability in classifications before and after the change in the Australian guidelines against an external benchmark.

The same process was undertaken for MA15+ classified computer games for the two year comparative period. MA15+ was the only category with a similar age restriction in the benchmark ratings system. The Pan European Game Information (PEGI) rating system was used as a benchmark for assessing conformity. Again, direct comparisons were not the aim of the process but rather, the detection of movement in the measure. Statistics were tested for a difference in the international compatibility between the two comparative years.

No significant change in the compatibility measure was found for MA15+ classified computer games. This result suggested there was no change in the pattern of classification decisions for computer games at this high end of the rating scale.

3.4 Level of split decisions

As described in section 2.3.8, individual differences in the assessment of community standards on classifiable elements could be analysed as a potential indicator of change in the Board's decision-making. Classifications for public exhibition product are undertaken by a panel of Board members. Each Board member brings their own community experience and personal background to the decision-making process, using the classification tools of the Act, the Code and the guidelines.

⁷ A z test statistic for the difference in proportions with the size of the test set to .05

⁸ A z test statistic for the difference in proportions with the size of the test set to .05

The number of split decisions in the comparative two year period provided a comparable indicator of change in the level of individual differences in decision making. There was a strong perception in many submissions to the Review that subjectivity in classification decisions had increased as a result of changes to the guidelines. A quantitative indicator was derived by calculating the proportion of split decisions before and after the changes to the 2003 Guidelines.

Table 6: Level of Split Decisions

	Total
Previous Guidelines	10%
2003 Guidelines	9%

A statistical test⁹ of the difference in proportions indicated there is no overall difference in split decisions before and after the introduction of the 2003 Guidelines.

The nature of split decisions is discussed in the later section that analyses Board reports in Chapter 7.

Summation

There was no significant change in the breakdown of classification decisions in the first year of operation of the 2003 Guidelines when compared with the preceding 12 months.

Some change in the relative proportion of some classifiable elements in the various classification categories for public exhibition films and computer games was indicated by an analysis of consumer advice allocated to a product.

This change in the relative proportion of classifiable elements in product could not be attributed to a change in guidelines as change in product in the market provided an alternative explanation.

Stability measures using an external benchmark to account for possible changes in product in the market showed no change in the pattern of classification decisions in Australia.

⁹ *ibid*

4 Complaints received by the OFLC

4.1 Complaints regarding the 2003 Guidelines

The OFLC had received 132 complaints regarding the 2003 Guidelines at the time of their release in March 2003.

The main concern raised in the complaints was the inclusion of drug use and nudity in the listing of classifiable elements in the G classification. Nearly all complaints were precipitated by an email from a few community organisations that suggested the 2003 Guidelines would allow nudity and drug use in G classified product where it had previously been prohibited. Complaints were strongest in their condemnation of these particular changes.

A handful of complaints referred to the removal of the statement 'Parents should feel confident that children can watch material in this classification without supervision' in submissions. The removal of the statement and the listing of drug use and nudity as separate classifiable elements under the G category description were perceived as an indicator of stronger material with nudity and drug use being permissible in G rated material.

Other complaints included issues such as a possible increase in the frequency of violence in G classified films and the lack of an R category for computer games.

This Review aimed to address the concerns within the scope of the review so that the community can be reassured that the standards applied to classifiable elements in G classified material are maintained.

An analysis of the Board reports (Chapter 7) carefully examined the concerns expressed in the complaints received.

4.2 Complaints addressed to the OFLC

In the financial year 2003-2004, the OFLC received 139 complaints about commercial public exhibition films. This is a slight drop from the previous year's total of 149 complaints and down substantially on the 278 received in 2001-2002¹⁰.

Of the 139 complaints regarding public exhibition films in 2003-2004, 33 complaints made reference to the film *Irreversible*. Four of these complaints took issue with the request for the review of the decision by the Australian Family Association (AFA), but most complained about the R18+ decision.

Thirteen complaints were received about the M classification for the film *Harry Potter and the Prisoner of Azkaban* being too high. A further seven complaints were

¹⁰ Of the 278 complaints related to public exhibition films in 2001-02, 148 were related to *Baise-Moi*. The complaints expressed both criticism of the Board's R decision and complaints about the subsequent RC decision by the Review Board.

received about the Review Board decision to reclassify the film PG as this was perceived to be too low.

Other films that received more than two complaints are indicated in the Table 7 below.

Table 7: Films that received more than two complaints addressed to the OFLC (2002-2003 and 2003-2004)

Complaints 2002-2003

Title	Number of Complaints	Reason for Complaint
Scooby Doo (G)	66	Disturbing depictions of ghosts and monsters. Consumer Advice: 'Some scenes may scare very young children'
Ken Park (RC)	22	Refusal to screen as part of Sydney Film Festival
8 Mile (M)	14	Coarse language and sexual references
Lilo & Stitch (G)	6	Level of violence
Unfaithful (MA15+)	4	Sex scenes

Complaints 2003-2004

Title	Number of Complaints	Reason for Complaint
Irreversible (R18+)	33	Should have been refused classification
Cat In the Hat (G)	19	Coarse language and sexual references
Harry Potter and the Prisoner of Azkaban (PG)	13 (CB)	M classification too high
	7 (CRB)	PG classification too low
The Passion of Christ (MA15+)	12	Graphic depictions of violence
Love Actually (M)	11	Simulated sex scene
Lost in Translation (PG)	4	Nudity
Finding Nemo (G)	3	Violence
Kill Bill Vol 1 (R18+)	3	Classification too high

Few films attracted a level of complaint that suggested strong public concern. *The Cat In the Hat*, *The Passion of Christ* and *Love Actually* are the only films other than *Irreversible* that received more than 10 complaints in the first 12 months of the 2003 Guidelines.

This small collection of films ranges across all classification categories and covers different classifiable elements. Interestingly none of the complaints about particular titles were related to the concerns raised in the complaints received about the 2003 guidelines. This suggests some titles were perceived as being inappropriately classified rather than indicative of a symptomatic shift in content between classification categories.

The pattern of complaints in the previous year in relation to films classified under the previous guidelines showed a similar pattern. For example, in 2002-2003 the OFLC received 66 complaints about the G classification for the film *Scooby Doo*, and 14 complaints concerning the level of coarse language and sexual references in the M classified film *8 Mile*. Both films were classified under the previous guidelines.

It is important to note that none of the films that received complaints in either year referred to drugs or nudity at G.

4.3 Ministerial Correspondence

The last two financial years' ministerial correspondence, processed by the OFLC, was reviewed to identify particular content areas for which members of the community had raised concerns with the Attorney-General (the Minister with censorship responsibilities).

4.3.1 Ministerial Correspondence 1 July 2002-30 June 2003

The OFLC received 931 items of ministerial correspondence in the 2002-2003 financial year.

Main issues raised in the correspondence were:

- Introduction of the 2003 Guidelines and perceived changes to the G classification (479 items);
- The decision to refuse classification for the film *Ken Park* (264 items);
- A possible R18+ classification for computer games (76 items); and
- The Board's R18+ classification of the film *Baise-Moi* and the subsequent request from the Attorney-General for a review of this decision by the Review Board, resulting in a refused classification decision (22 items).

4.3.2 Ministerial Correspondence 1 July 2003-30 June 2004

The OFLC processed 250 items of ministerial correspondence, including letters, emails and facsimiles referred to the Attorney-General in the financial year 2003-2004. This was about 70% less ministerial correspondence than the previous year.

Main issues raised in the correspondence were:

- the Board R18+ classification of the film *Irreversible* (82 items);
- the theatre production *Les Fura dels Baux XXX* and the lack of a classification system for theatre (30 items);
- the decision to refuse classification for the film *Ken Park* (28 items);
- the classification standards in the 2003 Guidelines (21 items).

4.3.3 Analysis

Ministerial correspondence revealed concerns about the change in guidelines focused on the impact on G category. However the films on the R/RC classification border generated the most controversy. Both *Irreversible* (see sections 5.8 and 7.6) and the theatre production *Les Fura dels Baux XXX* (see section 7.6.4) are discussed in later sections of this Review. The film *Ken Park* was not discussed as films and computer games classified RC were outside the scope of this Review.

Summation

Complaints to the OFLC and the Attorney-General about the 2003 Guidelines largely referred to concerns about perceptions of the change in permissible content for G classified films. In particular, concerns were expressed about possible higher levels of drug use and nudity and a higher frequency of violence.

There is no suggestion in either the complaints profile or volume that the 2003 Guidelines have resulted in the permissible material systematically shifting classification categories.

None of the complaints received about the classification of particular films related to drug use or nudity in G classified films.

The complaint information shows no heightened level of dissatisfaction in the community with classification decisions made under the 2003 Guidelines.

Indeed, the substantial decline in Ministerial correspondence and the decline in complaints might indicate the concerns expressed in 2002-2003 did not materialise in 2003-2004.

5 Submissions

This chapter summarises and analyses the submissions to the review.

5.1 *Submissions to the review*

There were 180 submissions received by the OFLC (a list of submitters is at Attachment C). The largest number of submissions was received from community and religious organisations that encouraged individuals to lodge a submission. Two submissions received were petitions; one letter contained 26 signatures and the other, 20 signatures.

Only one submission was received from an industry organisation (the Interactive Entertainment Association of Australia).

There were no submissions from Government agencies or departments, yet one Member of Federal Parliament did provide a submission.

Some submissions regarding computer games were received but the issues raised in these submissions were outside the scope of the Review.

5.2 *Coverage of the submissions*

The arguments presented in the vast majority of submissions were very similar, and the examples cited to support these arguments were few and varied little between submissions. Around a third of the submissions did not specifically address the object of the Review but registered concern that standards were slipping, without providing evidence to support this concern.

The Australian Family Association and the Festival of Light used Classification Board reports for all G and R18+ rated public exhibition films classified in the first year of the 2003 Guidelines as their main source to support their arguments. The reports were provided by the OFLC in response to requests for access to the material.

The breadth of material that addressed the objects of the Review was very limited in the submissions received. The key arguments and evidence presented by the vast majority of submissions did not vary from the content of submissions made by a small number of community and religious organisations.

The arguments largely centred on the perceived change in permissible content in R18+ classified films. More than half the submissions (58%) cited the R18+ rated film, *Irreversible*, as the sole proof for a shift in the standards under the 2003 Guidelines. The vast majority of these submissions appeared to have been precipitated by the description of *Irreversible* circulated by email through organisational networks as part of a campaign against the guideline changes. The views expressed and issues raised in the email campaign (see section 5.8) were adopted by most submitters, who

did not refer to viewing the film and generally used phrases like ‘I have been told’. The volume responding to the campaign can be viewed as a significant level of interest in the maintenance of standards.

Changes in permissible content in G classified films was the second most commonly cited area of concern (see section 5.4). A few submitters argued for a change in content in PG (see section 5.5) and M classified films (see section 5.6).

Many of the submitters expressing concerns about a decline in standards resulting from the changes to the guidelines perceived the 2003 Guidelines to be more subjective and more ambiguous in meaning. They cited the 2003 Guidelines’ greater emphasis on impact and context, and the streamlining of the descriptions under the classifiable elements for each category, in support of their views.

A few submitters felt that standards were too strict and out of step with the broader community’s views. These submitters raised concerns that conservatism is reflected in the 2003 Guidelines and argued that decisions are the result of political rather than community pressure.

The only industry submission was from the Interactive Entertainment Association of Australia (IEAA). It endorsed the adoption of the 2003 Guidelines. The IEAA believed there have been no change in standards for the classification of computer games since the introduction of the 2003 guidelines. Aside from a few individual submissions from computer games players advocating the introduction of an R18+ category for computer games (a topic outside the scope of this Review), no submission provided evidence of a change in permissible content in computer games.

5.3 Summary of submissions

The arguments presented by the vast majority of submissions were very similar and the film examples cited to support the arguments were fairly uniform. Around a third of the submissions did not specifically address the object of the Review. They did not comment on content areas shifting between categories to support their claims of a shift in community standards. These submissions generally registered concern that standards were slipping without providing any evidence. There was a distinct lack of independence in the views expressed by many submitters although the size of response in support of the key submitters’ arguments was noted.

Differences between the 2003 Guidelines and the previous guidelines have often been magnified by a misinterpretation of the previous guidelines, in conjunction with a lack of understanding of how the 2003 Guidelines are intended to be read. One of the key misunderstandings is how the impact test in the 2003 Guidelines works in the classification process (see section 1.3.1). Submitters have incorrectly viewed the impact test as a subjective personal view of the material. The key attributes of the impact test as defined on page 5 of the 2003 Guidelines (detail, brevity, realism etc.) have not been recognised in the submitters reading of the sentences used to describe the level of each classifiable element in a category.

A number of submitters expressed concerns about the classification given to some films and then hypothesised that the 2003 Guidelines were the reason for these decisions. The fact that many of the cited films were classified under the previous guidelines indicates their hypothesis was false.

Concerns about the changing standards in the R18+ classification dominated the submissions. The R18+ classified film, *Irreversible*, was referred to in more than half the submissions as the sole example of a change in standards. According to submissions, more permissible levels of sexual activity and sexual violence were perceived to have resulted from the change in guidelines. This assertion was based on a film that some in the community believe should have been refused classification. In most submissions that used the film as evidence, it was clear that the submitter had not seen the film and that their concern was based on third party information about the film.

Every year there are some in the community that disagree with particular classification decisions made by the Board. The submitters' dissatisfaction with some classification decisions focused on changes to the wording in the guidelines as the reason for the perceived change in standards. The fact that similar content has been classified at the same level under previous guidelines was not considered by the submitters that sought to express their dissatisfaction with the 2003 Guidelines. The tone and argument of most submissions suggests a bias against the 2003 Guidelines.

The concerns about the change in permissible content that prompted this Review were largely focused on the effect of the 2003 Guidelines had on content such as drug use and nudity in the G classification. Some submissions reiterated these concerns but could not support their argument with evidence.

The G classification for films was the next highest area of concern after R18+. Concerns about the possible increase in nudity, drug use, sexual references, violence and stronger thematic material in the G classification were raised. As stated previously there was no evidence provided of a change in standards for drug use and nudity in G. Most examples cited related to other classifiable elements that submitters felt were inappropriately classified G.

Only brief references to computer games were made in the submissions. The Interactive Entertainment Association of Australia was the only industry group to provide a submission to the Review. The IEAA submission endorsed the 2003 Guidelines. The guidelines were seen by the IEAA as clearer and simpler to understand and interpret. The IEAA opinion was that there had been no change in the standards for classification of computer games under the 2003 Guidelines.

Other submissions related to computer games requested the introduction of an R18+ classification for games, a matter which is outside the scope of this Review.

A few submitters expressed concerns that the Review would result in increased restrictions.

5.4 Content in the G classification

A few detailed submissions drew on their own analysis of Board reports for the G classification to support their case that there had been changes to permissible content in G as a result of the 2003 Guidelines. The films cited as evidence were:

- *The Cat in the Hat*
- *Love's Brother*
- *Finding Nemo*
- *Prisoner of Paradise*
- *Ned*.

These films were said in submissions to indicate a change in permissible content in the classifiable elements:

- Coarse Language
- Sexual references
- Adult themes
- Violence.

5.4.1 Explicit listing of drug use and nudity as classifiable elements at G

Mirroring issues in correspondence (see section 4.1), concerns were raised in submissions that the explicit listing of the classifiable elements of drug use and nudity in the G category represented a lifting of a perceived prohibition on these elements at the G level. The Australian Family Association (AFA) and others argued that the previous guidelines suggested that no level of these elements was previously permissible in G classified material.

The suggestion was made that the explicit listing of drug use, even if it was 'implied only very discreetly' as allowed in the 2003 Guidelines, represents a change in permissible content for the G category. Similarly, concern was expressed that the explicit listing of nudity in the G classification, which has no qualification other than 'nudity should be justified by context', is a slippery rule that provides little guidance or assurance for parents.

Despite these concerns, no evidence of drug use or nudity at G was found in the first year of operation of the 2003 Guidelines (see section 7.2.1).

The OFLC argue that 'drug use and nudity are two of the six classifiable elements which the Board *must* consider in classifying a film, the others being themes,

violence, sex and language. Although the previous guidelines only explicitly referred to three of the six elements on the page explaining the G category, drug use and nudity were implicitly referred to in the sentence ‘the treatment of ... other classifiable elements will be careful and discreet’. As a question of construction of the previous guidelines, the Board had to have reference to all these elements in classifying a film or computer game in the G category’. In other words, there were no changes in respect of classifiable elements permitted at G as a result of the 2003 Guidelines.

A search of the Boards’ decision database has revealed examples of very mild reference to drug use and very mild nudity in material classified G under previous sets of guidelines(see sections 7.2.1 and 7.2.2).

5.4.2 Removal of assurance to parents

Again, reiterating concerns previously raised in correspondence, Review submitters raised concerns about the removal of the assurance that:

Parents should feel confident that children can watch material in this classification without supervision. Material classified G will not be harmful or disturbing to children.¹¹

The OFLC explain that this text was omitted because of concerns that it might be regarded as providing advice to parents that they could leave their children ‘without supervision’ in circumstances where it would not necessarily be appropriate to leave children unsupervised, for example, in a cinema or while playing computer games with electronic equipment. It was not felt appropriate to include a phrase which could be construed in this manner in a Government document.

It was felt that the sentence was effectively suggesting to parents that they could let their children watch any G program irrespective of their age, developmental stage or sensitivities. The same G film might not affect one child but may upset another, in respect to a child’s stage of development and particular sensitivities.

However the removal of this parental assurance in conjunction with the explicit listing of nudity and drug use under the G category was read by some submitters as an indicator that stronger material could be allowed in G classified product. Despite these concerns, no evidence of stronger material at G was found.

¹¹ OFLC, Guidelines for the Classification of Films and Videotapes (Amendment No 3), September 2000.

5.4.3 Coarse language and sexual references

The decision to classify *The Cat in the Hat* G was strongly criticised by Media Standards Australia. In their submission, they reported parents being shocked and upset by the double entendre ‘dirty hoe’ which they stated was ‘gangsta rap’ for ‘dirty whore’. It was argued that a verbal reference to a whore would not have been permitted under the previous guidelines, from which they quoted:

... sexual activity should only be suggested in very discreet visual or verbal references.

Other community organisations argued that the wording for language under the G category in the 2003 Guidelines allowed this particular phrase to be permitted at G. They claimed the change from ‘not be gratuitous’ in the previous guidelines to ‘justified by context’ in the 2003 Guidelines had resulted in the ‘dirty hoe’ reference being permissible.

Another submission argued that this film’s G classification indicated that the 2003 Guidelines allowed for a greater tolerance of gratuitous coarse language and derogatory adult references in children’s movies. The submission claimed that parents have an expectation that the G rating was a trustworthy indicator of child friendly viewing, not just at the bottom end of the impact test.

What is clear from submissions is that not all audiences found the reference to be ‘very mild’. It is worth noting that the review of the film conducted by Young Media Australia’s child psychologist, posted on the group’s web site¹², made no mention of the offending phrase and generally provided favourable comment on the film.

Two examples of sexual references in the films *Love’s Brother* and *Ned* were considered by submitters to exceed ‘very mild’ and therefore presented examples of an increase in the level of permissible content in G classified films.

Attachment D provides the OFLC’s response to complaints about the *Cat in the Hat*, *Ned* and *Love’s Brother*.

Section 7 examines the Board’s reasons for its decisions through an analysis of Board reports in the two comparative years before and after the change in guidelines.

5.4.4 Violence

Changes in permissible violence in the G classification were asserted by a small number of community and religious organisations. Some submitters noted the minority view expressed in the Board’s report on *Finding Nemo* that the film warranted a PG classification because of the cumulative impact of the instances of violence depicted in the film. These submissions argued that the removal of the

¹² www.youngmedia.org.au.

condition that violence could only ‘be very discreetly implied’ from the previous guidelines had allowed the G classification under the 2003 Guidelines.

The arguments presented in these submissions are examined in the analysis of Board reports in the two comparative years before and after the change in guidelines in section 7.2.5.

Attachment D provides the OFLC’s response to complaints about *Finding Nemo*.

Frequency of violence in G

In their submission, Young Media Australia (YMA) noted that changes to the guidelines included the removal of a reference to the frequency of violence in the G category. They also argued that the impact test allowed contextual elements to dominate over frequency of violence as a guide to classification. They referred to *Mighty Morphin’ Power Rangers*, *Gargoyles* and *Pokemon* as examples to support this concern, as these titles were claimed to have been classified PG under the previous guidelines because of the frequency of the violence, even though the impact was very mild. They claimed that, without the reference to frequency in the guidelines, these would likely be classified G. YMA argued that the 2003 Guidelines lacked consistency in the treatment of violence across the hierarchy of categories, noting that in the PG category ‘violence should be mild and infrequent’. This point was also raised in other submissions.

YMA cited the G classification for *Looney Tunes: Back In Action* to support their argument. The submission also cited the Disney film *Brother Bear* as an example of the strength and frequency of violence in G classified films with the 2003 Guidelines. Attachment D provides the OFLC’s response to complaints about these films.

Section 7.2.5 examines the argument raised by the YMA that the change in the wording related to violent content has resulted in a change in the frequency of violence allowed in G classified films. The argument is examined through an analysis of Board reports in the two comparative years before and after the change in guidelines.

5.4.5 Themes

The treatment of themes in the G category was also raised by a small number of submitters. The documentary film *Prisoner of Paradise* was provided as evidence of inappropriate themes in a G classified product. *Prisoner of Paradise* was about the German-Jewish actor/director Kurt Gerron, who was ordered by the Nazis to direct a propaganda film on the concentration camp Theresienstadt, where he was interned during World War II. The AFA argued that there was no provision for ‘adult themes’ such as racism in the previous guidelines and that the 2003 Guidelines reference to themes in the listing of all classifiable elements had allowed material with adult themes into the G classification.

Section 7.2.6 examines this argument based on an analysis of the Board report for the documentary and the comparisons of the treatment of themes in the two years before and after the change in guidelines.

Attachment D provides the OFLC's response to this film.

5.4.6 G Classified Computer Games

The focus of submissions was on films in the G category. No submissions raised concerns about the level of content in G rated computer games, although one submitter called for a separate review specifically on computer games.

Summation

Submitters raised concerns about a range of different types of content that they perceived to have shifted into the G classification for films as a result of the changes in the 2003 Guidelines. Concerns were raised about coarse language, sexual references, the level of violence and themes in the G classification.

Concerns were still expressed about the potential for increased levels of drug use and nudity in G classified material. There was no evidence of this occurring in the first year of operation of the 2003 Guidelines.

In general, submitters focused on the specific words listed in the G category for classifiable elements and ignored the integral relationship between the descriptions of each classification and the framework for classification and hierarchy presented in the front of the 2003 Guidelines on pages 4 to 6 (see Attachment A). Accordingly, the interpretation made by many submitters regarding the 2003 Guidelines of the G category was based on selective extraction of phrases while ignoring other text in both the 2003 Guidelines and the previous guidelines.

The veracity of the evidence referred to by submitters will be examined in more detail in Chapter 7.

No submissions raised specific concerns about the level of content in G rated computer games.

5.5 Content in the PG/G(8+) classifications

Very few submissions provided evidence of a change in permissible content in the PG category for film and none referred to the G(8+) computer game classification.

5.5.1 Violent content change

YMA expressed the view that the level of violent content in PG rated films had changed under the 2003 Guidelines. They used the PG classified film *Agent Cody Banks* as an example of a film that they perceived would not have received a PG

classification under the previous guidelines because of the strength of violent depictions present.

This example is useful for examining the possible effects of the 2003 changes as *Agent Cody 2: Destination London* was classified under the 2003 Guidelines and *Agent Cody Banks*, the first film in the series, was classified under the previous guidelines.

Both films were given a PG rating under the two sets of guidelines. According to the film reviews posted on the YMA website, prepared by a child psychologist:

... there is quite a lot of violence in this movie [*Agent Cody 2: Destination London*], however it is toned down from the first movie and most of the fighting scenes are quite contrived with no-one getting particularly hurt¹³.

This suggests the film *Agent Cody Banks 2* would have been classified PG under the previous guidelines. The violence so described is stylised and ‘toned down’ from the violence in the earlier film in the series that was classified PG under the previous guidelines.

The evidence used by the YMA submission failed to support the argument. The Board’s reasons for its decisions are discussed in section 7.3.1.

Extracts from the Board reports on these films is at Attachment D.

5.5.2 Changes in wording for themes

The changes in the wording for themes (previously referred to as ‘adult themes’) at the PG classification were also raised by YMA. They cited four films which they perceived did not meet the previous guidelines standard ‘should be discreet and mild in impact’. The submission asserted that the films’ themes might be mild in impact but the treatment was not discreet. Two of the four films, *How to Lose a Guy in 10 Days* and *Serving Sara*, were classified under the previous guidelines. *Lost in Translation* and *Welcome to Mooseport*, the other two films used in their argument, were classified under the 2003 Guidelines. The latter two films and the issue raised are examined in section 7.3.2.

Extracts from the Board reports in respect of these films are at Attachment D.

5.5.3 Level of sexual references allowed

Other submitters provided a list of films they felt were an indication of the failure of the 2003 Guidelines in the level of sexual references allowed at the PG category. The list included *What Women Want*, *Legally Blonde* and *How to Lose a Guy in 10 Days*. All of the films were classified under the previous guidelines.

¹³ www.youngmedia.com.au

While the evidence was not supportive of the submitters' arguments, the issue raised was noted and examined in the analysis of Board reports in section 7.3.2.

Attachment D contains OFLC responses to PG films mentioned in submissions.

Summation

Very few submissions specifically raised concerns about change in permissible content in PG films and none regarding G(8+) computer games. Examples cited were sometimes classified under the previous guidelines.

Areas of concern raised by submitters were more violent content in PG and treatment of themes and sexual references.

5.6 Content in the M classification

Only one submission raised issues regarding content at the M classification.

5.6.1 Changes to wording related to violence

The wording about violence in the M category in the 2003 Guidelines states 'Moderate violence is permitted, if justified by context'. YMA noted the changes to the wording related to violence in the M category, and claimed the dropping of the 'infrequent' condition in relation to violence in the M classification allowed more violence to be permitted in M classified films. The M classification of *Ned Kelly* was used to support their case. The Review Board changed the Board's classification from MA15+ to M, using the previous guidelines.

While the evidence provided did not support the argument, the issue raised was noted and will be examined in the analysis of Board reports in section 7.4.1.

Refer to Attachment D for reasons for *Ned Kelly* decision.

There were no concerns regarding M content for computer games from submitters.

Summation

Only one submission raised any issues regarding the content at the M classification.

Concerns were expressed by a submitter that content limits had changed because of the removal of the frequency specification for violence in the M classification. Frequency of any classifiable element is an aspect when applying the impact test. The removal of the frequency specification in the M category does not remove the consideration of frequency when considering the intensity of violence.

No evidence of more violent content shifting into M classified films was provided.

5.7 Content in the MA15+ classification

No submitters raised specific concerns about a shift in permissible content in the MA15+ classification for public exhibition films.

One submitter endorsed the 2003 Guidelines. The submitter cited the MA15+ classification of some horror genre films as an example of the classification system being in line with community standards. The submitter supported their claim by citing community attitudes research about horror genre films conducted in Britain. The research indicated while the violence in these films may be graphically portrayed, the horror genre context of the films reduced the impact for the audience.

Another submitter raised the problem of MA15+ as the top category for computer games. They noted that stronger game content was appearing in the MA15+ category, using *Manhunt* as an example. They felt that while the computer game appeared to fit within the parameters of the current MA15+ guidelines, there appeared to be little room for further developments in computer games, due to the absence of an R category. While noted, this issue is outside the scope of the Review.

Summation

No issues were raised regarding changes to content at the MA15+ level in the 2003 Guidelines.

5.8 Content in the R18+ classification

The bulk of the submissions focused on content permitted in the R18+ category for films. The film that received the greatest attention was the French film, *Irreversible*.

Irreversible was classified R18+ by the Board on 19 November 2003 and this classification was confirmed by the Review Board on 30 June 2004. In making its decision, the Review Board took into account submissions by the Australian Family Association.

A number of submissions also cited the French film *Anatomy of Hell* (*Anatomie d'lenfer*), however the classification of that film is outside the scope of the Review as it was classified on 7 July 2004.

5.8.1 Actual sex

A number of submitters observed that the number of R18+ classified films with actual sex appeared to have increased since the changes introduced in the 2003 Guidelines. Some submitters argued that the precedent set by the Review Board's decision to classify the film *Romance*, which contained scenes of actual sex, R18+ under the previous guidelines had informed the rewrite of the previous Guidelines.

Removal of statement prohibiting obvious genital contact

The AFA focused their argument on the removal of the statement ‘Nudity in a sexual context should not include obvious genital contact’ from the R18+ classification in the 2003 Guidelines. The submission argued that the retention of the statement would have precluded the interpretation of the general rule ‘*simulation, yes – the real thing, no*’ from allowing actual sex depictions in R18+ classified films. In the AFA’s view, the removal of the phrase about genital contact was perceived to allow a more liberal interpretation of the general rule. The general rule, the AFA asserted, suggests universality in application, not partial. The Review Board’s decision to refuse classification for *Baise-Moi*¹⁴, overturning the Classification Board’s R18+ classification, was used as support for this argument.

Other examples of films containing actual sex were cited by the AFA as further evidence of the effect of the removal of the genital contact restriction. These included the films *In the Cut*, *Sex and Lucia* and the film components of a multimedia production, *La Fura dels Baus XXX*.

These films and the particular change made to the guidelines in relation to the genital contact statement and the general rule are discussed in section 7.6.1. The Review Board and Boards’ comments on their decisions and the use of the ‘obvious genital contact’ statement are reported in section 6.5.

5.8.2 Level of sexual violence

The level of sexual violence permissible under the R18+ classification was also perceived by submitters to have changed with the introduction of the 2003 Guidelines. A number of submissions focused on the rape scene in *Irreversible*, central to the film’s narrative, as evidence of a shift in permissible sexual violence in R18+ classified films.

Concerns about the level of detail allowed

The submitters noted that the previous guidelines stated, ‘sexual violence may only be implied and should not be detailed’.

The submissions argued that the 2003 Guidelines had removed ‘should not be detailed’ from the statement and added ‘sexual violence may be implied, if justified by context’. It was argued by a number of submitters that the length of the rape scene in *Irreversible* (nine minutes) was excessive and exceeded the standards in the previous guidelines. Some submissions argued that the portrayal of the rape was explicit and not implied as required under both sets of guidelines. It was noted by some submitters that the 2003 Guidelines provide no definition of ‘implied’.

¹⁴ On 10 May 2002, the film *Baise- Moi* was refused classification for actual sex in a sexual violence context.

The AFA quoted from the Board report for *Irreversible* in describing the rape scene and claimed that the description provided in the Board report was evidence that the scene was detailed and therefore did not meet the standards in the previous guidelines.

Concerns about the adequacy of the impact test

Some submitters claimed that the sexual violence in *Irreversible* demonstrated the inadequacy of the impact test which, for R18+ classified material, should not exceed high. Some submitters asked what level would exceed high.

Violence limits exceeded?

Other submitters argued that the graphic sexualised violence in *Irreversible* was also perceived to be beyond the limits provided for by the previous guidelines for violent content. In their argument the submitters noted the removal of the statement ‘gratuitous, exploitative or offensive depictions of cruelty or real violence will not be permitted’. It was perceived by submitters that some of the stronger violent content in *Irreversible* would not have been allowed if this statement had been retained in the guidelines.

Stronger statements setting limits required?

Other submitters voiced concerns about the changes to the statements related to sexual violence in the R18+ category. They argued that there exists high community concern about the potential for sexual violence and abuse of women and children, and called for stricter and more objective restrictions than those offered by the impact test.

Other submitters raised similar arguments and commented that stronger statements that set limits for the R18+ classification were required. They cited the actual sex, sexualised violence and sexual violence contained in *Irreversible* as an example of material that should have been refused classification.

Attachment D provides the OFLC’s response to complaints about this film. Section 6.5 reports Board members’ views on the classification decision for *Irreversible*. Section 7.6.2 discusses the arguments raised by submitters through an examination of the Board reports for the films cited.

5.8.3 Treatment of teenage-related themes

One submitter raised concerns about the conservative treatment of teenage-related themes by the Board, which they felt was linked to the introduction of the 2003 Guidelines. The film *Thirteen*’s R18+ classification was cited as conservative in its overly strict interpretation of the film’s intended audience and themes. *Ken Park*’s refused classification was also seen as possibly linked to the 2003 Guidelines. While making these claims, little supporting evidence of a link to the 2003 Guidelines was provided in submissions.

The merits of the argument that the change in the guidelines has been responsible for the classifications of some films will be discussed in Chapter 7.

Summation

The R18+ classification category generated the most concerns.

For many submitters, the nature of the content in the film *Irreversible* was abhorrent and should be refused classification. However, the R18+ classification has been assigned by both the Board and the Review Board.

The content areas perceived to have shifted with the 2003 Guidelines include actual sex in R18+ classified films, stronger depictions of sexual violence, and stronger depictions of violence, particularly sexualised violence.

The arguments presented were based on the changes in phrases in the guidelines and gave little credence to the principles of the Code and the Act which are relevant to classification decision making.

Many of the submitters clearly wanted certainty of content at the top end of the classification hierarchy.

6 Interviews with Classification Board members, Review Board members and computer games authorised assessors

6.1 *Reasons for conducting the interviews*

Interviews were conducted with seven Classification Board members, three Classification Review Board members and three computer games authorised assessors (the list of interviewees is at Attachment E).

The interviews focused on:

- The process of making classification decisions and the role that guidelines played in the process
- The introduction of the 2003 Guidelines
- Perceptions of changes in content falling into the various classification categories as a result of the introduction of the 2003 Guidelines
- Reactions to issues raised in submissions.

The interviews served a number of roles in the review process. Firstly, they provided the consultant with a clearer insight into the classification process, from the perspective of a classifier to assist in the analysis of Board reports. Secondly, the interviews performed an important process role in identifying potential areas where a change in permissible content could be effected. Finally, the concerns of submitters were raised with classifiers to seek their response on key issues.

6.2 *Background of Board members and computer games authorised assessors interviewed*

The Board members and assessors interviewed varied in their experience in making classification decisions and their knowledge of the previous guidelines. Three of the Board members had been members of the Board since 1999 and two since 2000. They had a depth of experience in classification under the 2003 Guidelines and the previous guidelines. Two Board members were appointed in the first year of operation of the 2003 Guidelines and therefore had no experience with the previous guidelines.

All three Review Board members had experience with the previous guidelines and had participated in a number of Review Board panels since the introduction of the 2003 Guidelines.

Two of the computer games authorised assessors had experience with both the previous and the 2003 Guidelines in classifying computer games and one assessor had only used the 2003 Guidelines.

6.3 Use of the guidelines

Members explained how they used the classification tools to reflect community standards in decision making. Community standards rather than personal judgements informed their decision making process. The guidelines were identified as one of the essential tools to ensure members make decisions consistent with community standards and not personal opinion. The guidelines and the body of knowledge of what material has been classified in the past helped to ensure consistency in decisions. The members emphasised consistency and maintenance of standards are foremost in their minds.

One Board member described the guidelines as:

...an essential tool for ensuring that we are all on the same page...personal views don't come into it – you need to apply the guidelines. It is the guidelines that dictate the classification. You put your personal views aside.

A few Board members said the G/PG border and R18+/RC border decisions are subject to the greatest scrutiny because of the principles of the Code. Specifically the Code requires the protection of children from material that is potentially harmful and recognises the right for adults to read, hear and see what they want.

The Board members emphasised the importance of Board discussions of classification decisions. Borderline content generally received more discussion. As one Board member noted, a split decision normally suggests the content is borderline. This informed a need for particular analysis of split decisions in the examination of Board reports described in the following section.

One Board member felt computer games were easier to classify because of their more predictable narrative and conventions. It was easier to establish rules for the different categories of computer games, usually 'hunt and kill' scenarios.

Review Board members spoke of starting with the Act and the Code then looking to the guidelines to check for the right fit for the content. The Review Board process may also involve evidence from parties to the Review. As one Review Board member emphasised, the Review Board does not review the decision of the Board but makes a completely new decision. The decision needs to take into account community standards and balance the needs of the broader community against the needs of some sectors of the community.

Computer games authorised assessors use the guidelines in the same way as the Board to apply when considering the appropriate classification to recommend for the game. They emphasised that the guidelines were the basis of their recommendations. Two assessors said that the training authorised assessors receive from the OFLC was central to their understanding of the guidelines and what content is appropriate for

each category. As one assessor noted, the style of a game is an important over arching predictor of the amount of classifiable elements. For instance, a puzzle game is unlikely to contain any classifiable elements. One assessor felt the guidelines were most critical in making M/MA15+ decisions.

6.4 Implementation of 2003 Guidelines

For long standing Board members the change in guidelines has made little difference. They described it as a simple translation from the old to the new. Context and impact were always part of the previous guidelines so the influence of these aspects on decisions is not different.

The 2003 Guidelines were seen as simpler to use by those that have used both sets of guidelines. The listing of all classifiable elements under each category was viewed positively and a structural improvement over the previous guidelines. The preamble section of the 2003 Guidelines was viewed as providing a good basis for making classification decisions and reflected the ways classifiers consider material.

When prompted by the interviewer, some Board members offered suggestions for improvement of the 2003 Guidelines. The suggestions were on different sections of the guidelines and did not indicate any particular aspects of the guidelines were problematic. The suggested improvements reflected personal preferences rather than a systematic weakness in the guidelines.

When asked if they felt the 2003 Guidelines had resulted in a change in standards, all Board members were adamant that the guideline changes had not impacted on standards.

A range of comments were made by the Review Board members that were interviewed. These included the view that the 2003 Guidelines were less helpful in reaching a decision as they don't provide the words under the classification categories on which to peg decisions. A view was also expressed that Review Board decisions now relied more on the legislation and the Code. Another view expressed was that the 2003 Guidelines' greater emphasis on the assessment of impact was a good reflection of the role it has always played in classification decisions. The Review Board member observed it had always been in the previous guidelines but its place was now more clearly defined.

All Review Board decisions made in the first twelve months of the operation of the 2003 Guidelines are examined in section 8.1.

The two authorised assessors that had used both sets of guidelines felt the new guidelines provided greater clarity. They found the setting out of each category to be clearer and thought the impact test hierarchy provided a better framework for decisions. As one assessor described it 'it works now more like a flow chart' as the factors for the impact test (detail, frequency, etc) on each of the classifiable elements could be checked down a list.

No examples of movement of content between the categories in the first twelve months of operation of the 2003 Guidelines were perceived by assessors.

The big issue raised by assessors was the difficulty of classifying games at the strong end because of the lack of an R18+ classification. This issue is outside the scope of this Review. General comments were made by one assessor about the appropriateness of current classification categories which is also outside the scope of this Review.

6.5 Responses to concerns raised by submitters

Board members and Review Board members were clear that the explicit listing of classifiable elements in the G classification made no difference to the amount of drug use, nudity and thematic material in this category as they were always considered under the previous guidelines.

The G classification for *The Cat in the Hat* was raised with Board members involved in the decision. One Board member explained that the offensive phrase raised in submissions (see section 5.3.4) was very quick and the panel members felt it would go over the heads of the children viewing the film. The Board member explained that the film as a whole fitted into the G classification and this brief comment would not push the film into PG. In considering the previous guidelines for the G classification of films, the Board members interviewed did not perceive a different classification outcome would have resulted.

In relation to the general rule about sexual activity at R18+, Board and Review Board members were clear that the guidelines are a guide. When consideration of the guidelines and the Code suggests the film could be refused classification, then exceptions to the general rule need to be considered. Board members emphasised that these decisions are made after considerable debate. Consideration of the Code and the requirements of the Act and the level of detail and context in which the actual sex is shown are discussed. It was noted that the general rule is considered in numerous decisions and it is only the controversial films that attract attention.

In relation to the sexual violence in *Irreversible* the Board members interviewed made a number of points. Firstly, it was noted that the intercourse was implied and shot from a distance as compared with *Baise-Moi* where entry was shown. It was further explained that the length of the scene while high in impact was not gratuitous as the filmmaker's intent was for the audience to experience the real time such an act would take. When the Board members were given the previous guidelines and asked whether the wording in those guidelines would have resulted in the same outcome, the Board members stated they took the same meaning from both sets of guidelines (2003 and previous) in description of sexual violence in R18+ films.

No computer games content issues were raised by submitters, therefore no comments were sought on computer games decisions.

Summation

The guidelines are perceived as one of the essential tools to assist in making decisions that are consistent with community standards and not personal opinion.

When examining the consistency in classification decisions, the guidelines cannot be considered in isolation from the other tools and factors that inform the classification process. These are the Code and section 11 of the Act; the body of knowledge of what material has been classified in the past and the training provided to classifiers and authorised assessors.

Many Board members and authorised assessors perceived the 2003 Guidelines as an improved tool for classifiers.

No Board members or Review Board members said their decisions would be different under the 2003 Guidelines or the previous guidelines.

Board members and Review Board members were emphatic that the changes in the guidelines had not impacted on drug use or nudity elements in G classified material.

Board members that were involved in the *Cat in the Hat* decision believe it was the correct decision and do not believe any change in wording in the 2003 Guidelines impacted on that particular decision.

Board and Review Board members thought the application of the general rule for sexual activity in R18+ classified material had not changed with the 2003 Guidelines. They thought the decisions made in the operational review period for films containing actual sex would have been made with the previous guidelines. No change in standards for the R18+ classification was perceived.

Board members interviewed defended the R18+ classification for *Irreversible* and noted that while the sexual violence depicted was high in impact it did not show close-up detail of the act and the portrayal was central to the narrative. The length of the scene was not perceived as gratuitous because it served to emphasise the horrific nature of rape.

7 Examination of Board decision reports

7.1 Overview of the approach

The purpose of this part of the Review was to examine whether material of a certain type had shifted between classification categories. It involved the following steps:

- All 462 Board reports for public exhibition films for the year prior to the change in classification guidelines (30 March 2002 – 29 March 2003) were read to establish a conceptual framework for the permissible content in terms of classifiable elements that fit each classification category.
- A sample of 100 computer games reports was assessed for the same period¹⁵ (that is, 30 March 2002 – 29 March 2003).
- All 447 Board reports for public exhibition films, and a sample of 100 computer games assessments, for the first year of operation of the 2003 Guidelines (30 March 2003 – 29 March 2004) were examined to identify any movement in content between various classification categories.
- The description of the level of content for each classifiable element in the product was checked to see if it was similar to content in that classification in the previous year.
- Attention was paid to the use of the guidelines in explaining the reasoning for the decisions.
- Particular note was taken of the content areas that submitters and complainants had identified. The films raised by submitters were given extra attention and where necessary or available, copies of the product were viewed.
- An analysis of split decisions in each category in both years was undertaken as these films and games had been suggested by Board members as the decisions which tend to represent the most borderline decisions. It was felt that if any slippage of content had occurred between classification categories these decisions may contain the content most at risk of slippage between categories.

¹⁵ The public exhibition film Board reports are stored in an internal OFLC database. This makes these reports readily assessable. The authorised assessor reports for games classified G to M are filed in hard copy and access is more difficult. These reports does not contain the same information value for the Review's purposes and so a sample was felt to be adequate to ascertain if a shift in content was occurring. In selecting the sample of computer games, consumer advice was used. The selection was based on content suggested by the consumer advice to ensure a good range of classifiable elements. A range of intensity for each category was included. A random sample approach was rejected as this could by chance result in a lack of coverage of some types of content for comparison between the years.

On the whole, the public exhibition Board reports provided good detail on the scenes containing classifiable elements. The computer games assessments undertaken by authorised assessors for G, G(8+) and M classified games were a standard form with brief descriptions of the content.

7.2 G classification for public exhibition films

Submissions to the Review about G classified films raised concerns about the change in guidelines affecting a shift in permissible content related to:

- Drug Use
- Nudity
- Coarse Language
- Sexual References
- Frequency and intensity of violence
- Treatment of adult themes.

The content description related to each classifiable element in the year prior the introduction of the 2003 Guidelines provided the benchmark to compare the nature of the content related to classifiable elements in the year since the introduction of the 2003 Guidelines. However, the Board reports for products that receive a G classification are sometimes brief because often there are few classifiable elements in the product and examples of content related to some classifiable elements may not appear in G classified product in some years.

A number of G rated films were raised by submitters as examples of the change in standards in the G category. Board reports were examined and copies of the films were viewed where possible. The ‘contentious’ content was considered in terms of the wording in the Board reports and changes to the wording between the 2003 Guidelines and the previous guidelines.

7.2.1 Drug use in public exhibition films classified G

There were no examples of drug use in public exhibition films classified G in either the year before or since the introduction of the 2003 Guidelines.

It had been suggested in some submissions that there was a prohibition on any type of drug use in G classified films. As previously noted, drug use and nudity are two of the six classifiable elements which the Board must consider in classifying films. The 2003 Guidelines explicitly list these elements in the G category, where previously drug use and nudity had been implicitly referred to in the sentence ‘the treatment of ... other classifiable elements will be careful and discreet’. The 2003 guideline requirement for very mild and justified by context suggests the reference is careful and discreet.

While no examples of drug use or reference in G films was found since the introduction of the 2003 guidelines, a search of OFLC classification decisions in

previous years was undertaken to identify the type of drug use references that had previously been acceptable in G classified films. One example was an interview with a performer, Ryan Adams, who quoted a scene from a movie where a character had been smoking marijuana. Ryan lifted his empty hand up to his face and sucked the air.

This example was classified using the previous guidelines. For any form of drug use to be allowed in a G classified film using the 2003 guidelines it would need to satisfy the over arching impact test – the impact of the classifiable elements for material G should be ‘very mild only’. The material would also have to be justified by context. The example of drug use described above provides an example of material with a very mild impact and ‘justified by context’ which is the additional requirement of the guidelines. The 2003 guidelines do not allow for more permissible content than was permissible under the previous guidelines.

7.2.2 Nudity in public exhibition films classified G

There were no examples of nudity in public exhibition films classified G in either the year before or since the introduction of the 2003 Guidelines.

A search of the OFLC database revealed one example of nudity in G classified films in recent years. *The Human Journey – In Search of Human Origins/A Tale of Two Species/The Creative Explosion* was classified October 2002 and contains nudity in a 'tribal' setting, including long shots where male genitalia is visible in a scene that recreates the features and lifestyle of early humans.

In this case the nudity was brief and justified by context of the subject matter of the documentary. The example shows there has always been some level of nudity permissible in G classified films and the listing of the element under the G category does not represent a shift in standards.

7.2.3 Coarse language in public exhibition films classified G

Very mild coarse language can be accommodated in the G classification if it is infrequent and justified by context.

In the year since the introduction of the 2003 Guidelines, four films classified G had very mild level coarse language noted in the Board reports. The examples included the use of the language such as ‘butt’ and ‘poop’ in the film *Good Boy* and one naturalistic use of the word ‘crap’ in a musical documentary *The Blues: A Musical Journey – Feel Like Going Home*.

The film that raised the most concern for its use of coarse language was the film *The Cat in the Hat*. The OFLC received a number of complaints about the G classification of the film (section 4.2) and submissions also referred to the film as a example of slippage in coarse language allowed in G (see section 5.4.3). The Board noted a small number of very mild double-entendres in *The Cat in the Hat*. For example, when the Cat was holding a mud-covered hoe he refers to it as a ‘Dirty Hoe’. The Board felt

that these references were mitigated by the lack of detail and the fact that the references had a literal meaning; the Cat was indeed holding a dirt-covered hoe.

The OFLC response to complainants notes, ‘At one point the Cat describes his car using a number of words that start with the letters ‘S’, ‘H’, ‘I’ and ‘T’. However, the word, ‘S.H.I.T’ or ‘shit’ is not written or spoken at any point in the film, and is therefore not explicitly referred to in the Board report. The use of obscure long sentences that form acronyms was viewed as inaccessible to child audiences.’ (See Attachment D)

The Board report indicates the members of the panel felt the double-entendres were very discreet. Interviews with Board members who were on the panel for this film confirmed that they felt it was unlikely to be understood by children in the audience. While some members of the community may disagree with this judgment by Board members, it is very hard to support the view that changes in the wording of the 2003 Guidelines were related to the decision.

7.2.4 Sexual references in public exhibition films classified G

The previous guidelines stated that ‘sexual activity should only be suggested in very discreet visual or verbal references and be infrequent and not be gratuitous’. The 2003 guidelines state that ‘that sexual activity should be very mild and infrequent and be justified by context’. The wording changes to the guidelines do not suggest any change in permissible content related to sexual references in G classified films. A few examples of sexual references were found in G classified films since the introduction of the 2003 Guidelines. The Australian Family Association and the Festival of Light had access to the G classified Board reports and questioned whether the change in guidelines were allowing more sexual references in G classified films (see section 5.4.3). The previous guidelines stated that in G classified films ‘sexual activity should only be suggested in a very discreet visual or verbal references...’. The wording in the 2003 guidelines are that ‘sexual activity should be very mild and very discreetly implied and be justified by context’ The preamble in the 2003 guidelines states that ‘Impact may be lessened where references to a classifiable element is verbal rather than visual.’ The change in words do not in themselves suggest a change in standards.

The ‘dirty hoe’ phrase in *The Cat in the Hat* was viewed by some submitters as an example of a change in standards related to the wording of sexual activity in the 2003 Guidelines (see section 5.4.3). The AFA also cited *Love’s Brother* as an example of a change in standards for sexual content in the G classification. The Board report states:

Love’s Brother is a genial romance about destiny and mistaken identity. The film contains several very discreet sexual references. At 33 minutes Gino tries to counsel Angelo about the impending wedding night asking him ‘Haven’t you ever done it before at the bordello in town’.

A second incident involving Gino trying to hide men’s magazines is also noted in the Board report. In the Board’s view the sexual references in these scenes are very

discreet. This suggests the previous guidelines requirement that ‘Sexual activity should be suggested in very discreet visual or verbal references’ has been maintained.

In the judgement of the Board the scenes described were very discreet and therefore unlikely to have resulted in a different classification under the previous guidelines. This outcome fits within the G classification for both the 2003 Guidelines and the previous guidelines.

The film *Ned* was also identified by submitters as an example of higher levels of sexual references in a G rated film. The Board report states:

At 4 minutes the young man is expressing what he believes is the code of conduct necessary to maintain a good life. He explains to the old lady that one should avoid circumstances in which one becomes involved in passionate kisses and advises to stay out of the zone explaining that touching in places you know that you have to keep covered at decent beaches is wrong.

The Board concluded that:

This reference to sexual activity is very discreet, justified by context and very mild in impact.

The Board’s assessment of the scene suggests it would have received the same classification under the previous guidelines.

The absence of any examples of very mild sexual references in the previous year meant no benchmark under the previous guidelines was available for comparison. The Board report’s words however, do not support the argument of submitters that a change in permissible content related to sexual references has occurred as a result of the change in wording in the 2003 Guidelines.

7.2.5 Frequency and intensity of violence in public exhibition films classified G

Fourteen of the 90 public exhibition films classified G in the first year of the 2003 Guidelines contained a reference to violent content in the associated Board report.

A comparison of the violent content in these fourteen films with violent content in G classified films in the year prior to the change in guidelines suggested no change in the level of violence in the two comparative years.

Some submissions argued the change in wording related to violence for the G category had resulted in a change in standards for violent content (see section 5.4.4). The 2003 Guidelines noted that ‘violence should have only a low sense of threat or menace and be justified by context’. The 2003 Guidelines also state that all classifiable elements for material classified G should be ‘very mild’ only.

The impact test is comprised of ‘aspect of detail’, ‘treatment’, ‘frequency’, ‘realism’ and ‘brevity of scenes’. To pass the impact test of ‘very mild’, the violent depictions would be ‘discreetly implied and infrequent’ as was the description in the previous guidelines.

Finding Nemo was identified by submitters as an example of increased levels of violence in G classified material. The Board report for *Finding Nemo* noted five scenes where some sense of threat and menace was portrayed. These included a scene where Bruce the shark and his band of predators invite the heroes of the story, Marlin and Dory, to attend an AA (Alcoholics Anonymous) style meeting where they recite the pledge not to eat fish. The sharks do finally turn on the heroes. The majority of the Board felt the comic treatment of the incidents and the positive resolution of the ending lowered the impact of the scenes. The number of such instances was perceived by most Board members to be infrequent enough, over the length of the film, to be accommodated in G. A minority opinion, while agreeing that the five scenes noted in the report were mild and infrequent and justified by context, cited the additional scenes where Nemo and Marlin become despondent when they think they will not be reunited. The minority felt the cumulative impact of the scenes warranted a PG classification.

Parallels to the scenes described in the Board report for *Finding Nemo* were found in films such as *Jungle Book 2*, *The Wild Thornberrys Movie* and *Stuart Little 2*, which received G classifications under the previous guidelines.

The asserted link between the classification given to *Finding Nemo* and the changes in the guidelines is not well supported by the examination of the Board report.

The YMA focused their concerns about the change in guidelines on the dropping of the word ‘infrequent’ from the description of violence permissible in G material (see section 5.4.4). The film *Looney Tunes: Back in Action* is cited in some submissions as a demonstration of the impact of the change in wording in the 2003 Guidelines.

The film contains the usual slapstick violence. There are many in the community that may not be concerned about this form of violent content for themselves or their children. However other parents do feel that children may be potentially harmed by viewing this type of material.

The Board report describes the classifiable content contained in the film:

Instances of comic violence between cartoon characters and humans. As in the cartoons, every character survives unscathed, events such as car crashes, falling from great heights, being hurled about or squashed by heavy objects. However within the comic context there is a very low sense of threat or menace and the overall impact is very mild’.

The Board report makes no mention of the frequency of violence although the Looney Tunes brand usually suggests frequent slapstick violence as the basis for the humour.

There is no evidence in the complaints data that the G classification for this film has raised concerns in the community about a shift in community standards. The isolated

example is not sufficient proof that a change in permissible content has occurred with the 2003 Guidelines.

The Disney film *Brother Bear* was raised as another example of a purported increase in the violent content in G classified films under the 2003 Guidelines by the YMA. The Board report notes three occurrences of violent depictions in the film. The film contains a hunting scene which ends in the death of the brother. In the 2003 Guidelines, violence may be included within the G classification, however, it should only have a low sense of threat or menace and be justified by context. In the Board's opinion the depictions of violence within *Brother Bear* only had a low sense of threat or menace and were justified in the context of a story of adventure and self-discovery. There is no discernable evidence that the content of the film would not meet the G classification requirements under both sets of guidelines.

Submissions related to violent content in G classified films varied in the examples submitters found to support their case. As such it is difficult to detect any pattern in permissible content that might be related to the change in guidelines. The violent depictions described in Board reports since the introduction of the 2003 Guidelines show no discernable change in the standards that applied to violent content in the G classified films in the previous year.

7.2.6 Listing of 'themes' in the G classification

The previous guidelines stated that in the G category, 'the treatment of themes will be careful and discreet'. The 2003 Guidelines state that 'the treatment of themes should have a very low sense of threat or menace and be justified by context'.

'Discreet' is defined in the previous guidelines as 'with little or no detail'. The 2003 Guidelines list detail as a characteristic of impact. When you take into consideration impact (which must include detail, length, frequency and level of realism) and context, then the outcome is that the treatment of themes at G must be careful and discreet in order to satisfy the impact test of 'very mild' only. The Board would be likely to consider anything stronger than 'careful and discreet' as not 'very mild' in impact and would classify the material PG or higher. Although the words are different the outcome in terms of standards is the same.

Seven Board reports for G classified films from the first year of operation of the 2003 Guidelines made reference to the treatment of themes.

The explicit listing of the classifiable element 'themes' in the G classification was perceived by some submitters as an indication of the introduction of stronger thematic material in G classified product (see section 5.4.5). A comparison of the treatment of themes as described in the year prior to the change was compared with the description of the treatment of themes under the 2003 Guidelines. The nature of the content in the two years was similar.

The AFA, referring to their analysis of the Board reports, identified the film *Prisoner of Paradise* as an example of stronger thematic material that was now permissible in G classified films (see section 5.4.5).

The 2003 Guidelines state that ‘some G films and games contain themes that do not interest children’. The previous guidelines also acknowledged that material in the G category might not be intended for children and that ‘some G films contain themes or story-lines that are of no interest to children’. Regardless of the likely audience, the intention of the 2003 Guidelines for the G category is that the content will be very mild only, mirroring the standards of the previous guidelines that the treatment of themes will be careful and discreet.

The minority view on the Board was that *Prisoner of Paradise* would be more appropriately accommodated at the PG classification, due to references to the number of Jews killed by the Nazis at Auschwitz and a brief ankle-high image of the bare feet of a Jewish prisoner being dragged behind the jack-booted feet of a soldier.

It was not the nature of the themes that was contentious, but the treatment of the themes. The treatment of themes under the 2003 Guidelines requires the themes to have a low sense of threat or menace. Under the previous guidelines the treatment of themes should be careful and discreet. The 2003 Guidelines are written from the perspective of the viewer’s experience. The treatment of themes should be such that the viewer has a very low sense of threat or menace.

Similar examples of films clearly not intended for a children’s audience that were classified G under the previous guidelines can be identified. They include a French documentary, *Les Glaneurs et La Glaneuse*, which covered themes of poverty, homelessness, food wastage and the difficulties between marginalised groups and the law. Also *Power and Terror: Noam Chomsky In Our Times*, a documentary, was classified G under the previous guidelines.

The example provided in the submission does not support the view that the listing of themes in the G category classification has resulted in a change in permissible content in the G classification.

Summation

No discernable pattern of content movement was indicated by comparisons between the two years of G classified public exhibition films.

The analysis found no drug use or nudity in G classified public exhibition films since the introduction of the 2003 Guidelines.

An analysis of Board reports for films cited by submitters as examples of a change in standards found no evidence that the change in guidelines had resulted in changes in violent content, sexual references, themes or coarse language in G classified films.

Some submitters may have a different opinion about the desirable limits for content at G and therefore find some content unacceptable, however, consideration of more restrictive content in G rated films is not within the scope of this review.

7.3 PG classification for public exhibition films

The examination of Board reports for all public exhibition films classified PG were compared with those of the previous year.

The type of content for each classifiable element that received a PG classification was noted for comparison between the years.

No pattern of change was observed in the content of classifiable elements in the PG category for public exhibition films.

Very few submissions raised particular concerns about a change in permissible content in PG classified films. The areas where submitters felt some change in permissible content was occurring were:

- violence
- sexual references.

The content of films rated PG which were raised in submissions was examined, using both the previous guidelines and the 2003 Guidelines.

7.3.1 Violent content in PG classified public exhibition films

The PG category of the 2003 Guidelines states that ‘Violence should be mild and infrequent and be justified by content. Sexual violence is not permitted’.

For violent content to be considered ‘mild in impact’ it must be argued that it meets the context and impact tests in the 2003 Guidelines – the impact considerations include tests of detail, frequency, tone and treatment.

This criterion for violence at PG under the 2003 Guidelines matches those in the previous guidelines for violence at PG. Those guidelines state that ‘Violence may be discreetly implied or stylised and should also be mild in impact and not shown in detail’.

Concern about a change in standards resulting from the change in wording was raised by YMA. *Agent Cody Banks 2* was offered as an example of increased violence in content in PG films under the 2003 Guidelines. The Board report for *Agent Cody Banks 2* states:

The film contains some depictions of mild violence ... The martial arts style fight sequences are highly stylised and choreographed and the impact of the violence is no higher than mild.

The description provided in the film’s Board report suggests the content would have received a PG classification under the previous guidelines. As previously discussed (see section 5.5.1) *Agent Cody Banks*, the first film in the series, was classified PG under the previous guidelines. The YMA’s own review of the film suggested the

violent content in the second film, *Agent Cody Banks 2*, was toned down compared to the first.

The detailed examination in this Review of 29 public exhibition films containing PG level violence in the year prior the introduction of the guidelines and the 24 films in the first year of operation of the guidelines showed no change in the permissible violent content in PG classified films.

7.3.2 Sexual references in PG classified public exhibition films

Concerns were also raised by YMA about the perceived level of discretion in the treatment of themes and sexual references in PG classified films under the 2003 Guidelines (see section 5.5.2). The submitter provided a list of films they felt indicated a change in standards related to sexual references in PG films. Half the examples suggested by the submitter to support their argument were classified under the previous guidelines. The other two examples classified under the 2003 Guidelines were *Lost in Translation* and *Welcome to Mooseport*.

The Board report for *Lost in Translation* states the sexual references are infrequent and mild in impact. Two scenes are described in the Board report. One is a comic scene when Bob, the central character, receives a visit from a Japanese women, apparently sent by his hosts. In another scene Bob is depicted in a strip club. The Board report notes that while there are some pole dancers shown and some songs playing in the background with lyrics like ‘suck my titties’ and ‘checking out my pussy’ the scene is focused on the interaction between the two central characters and these other aspects are incidental and mild in impact.

The Board report for *Welcome to Mooseport* notes the humorous nature of the mostly verbal references which include: ‘Why are you wearing black underwear[to a date]?’ ‘Why are you looking up my dress?’; ‘ I’ll be buggered by a bear’; and ‘Him making her his booty poodle’. The Board notes the impact of these references was mitigated by the comedic context.

The previous guidelines stated ‘verbal references to sexual activity should be discreet.’ The 2003 Guidelines similarly has ‘Sexual activity should be mild and discreetly implied and be justified by context’, and the preamble in the 2003 Guidelines notes that ‘impact may be lessened where reference to a classifiable elements is verbal rather than visual’.

The wording change in the guidelines does not suggest a change in standards. The analysis of Board reports before and after the change in guidelines also does not show a change in standards. A comparison of the comments like those referred to above with sexual references in a number of films classified in the previous year including *Serving Sara*, *Two Weeks Notice*, *How to Lose a Guy in 10 Days* and *Crackerjack* suggests mild sexual references in PG classified films have existed previously and are not an outcome of the change in guidelines.

The concerns raised by a submitter about sexual references in PG classified films may be related to a misunderstanding of the nature of the PG category. As with the G

category, it does not necessarily indicate the storylines will be of interest to children. Indeed the guidelines for the category note: ‘It is not recommended for viewing by persons under 15 without guidance from parents or guardians’.

The category indicates the classifiable elements for the material should be no higher than mild. However, parents can make their own judgment of what material they believe is suitable viewing for their children. The classification system provides consumer advice for PG classified material to assist parents in making these decisions. The concerns raised about sexual references in the PG category do not support the argument that a change in permissible content resulted from a change in guidelines.

7.3.3 Nudity in PG classified films

The quantitative analysis reported in section 3.2.1 suggested a change in the number of films containing nudity in PG classified films in the year since the introduction of the 2003 Guidelines. The nudity content reported in Board reports for the years before and after the introduction of the 2003 Guidelines were examined. An example of PG nudity classified using the 2003 guidelines was in the film *Big Fish*, ‘brief shot of male buttock nudity after Amos, reverts to human form (after frolicking as a dog)’¹⁶. In all cases, the nudity described in the Board reports was outside of a sexual context and was not detailed. Therefore the nudity content is in keeping with the description of PG nudity in the previous guidelines.

7.3.4 Split decisions in PG classified films

Eleven decisions in the first year of operation of the 2003 Guidelines resulted in split decisions. In approximately half the split decisions, the minority view was that the content warranted a lower classification, suggesting that content of split decisions covered both the lower and upper boundaries of PG.

Where minority decisions felt the film warranted a higher classification, cumulative effects of elements most commonly informed the dissenting view. In other incidents, the majority view was that the context had mitigated against an impact higher than mild. Interestingly, the one split decision in the previous year was also based on a majority view that the context reduced the strength of the impact. The examples examined demonstrated that after considering the strength of all the classifiable elements, the Board considered the film as a whole when deciding upon the appropriate classification. The examination of split decisions indicated that considering the film as a whole is an integral part of the classification process and that classification is not necessarily the sum of the classifiable elements. The important role of context has always been considered by classifiers. The 2003 Guidelines give a greater recognition of this role.

The treatment of themes was the most common source of differences in opinion between Board members on the G/PG border. The previous guidelines stated that ‘the

¹⁶ Board report for the film *Big Fish*.

treatment of adult themes should be discreet and mild in impact’ and that more disturbing themes are generally not dealt with at PG level. The 2003 Guidelines state that ‘the treatment of themes should generally have a low sense of threat or menace, and be justified by context’.

In the previous guidelines the term ‘tone’ is noted in the introduction, which states that when making classification decisions ‘the Board takes into account factors such as tone’. The term is also defined as including the ‘quality or feeling of material, such as its ... menace’. ‘Tone’ was transferred into the 2003 Guidelines, where it is a characteristic of impact on page 5. Therefore the ‘low sense of threat or menace’ that appears in the 2003 Guidelines is related to tone, which existed in the previous guidelines. A low sense of threat or menace has a mild impact, and therefore a PG classification.

While the words are different, the impact and context tests ensure that the characteristics described in the previous guidelines (discreet and ‘mild in impact’) are taken into account. ‘Mild in impact’ is the impact test for PG material. Restrictions on ‘more disturbing themes’ are ensured by the fact that such themes, depending on their treatment, would be unlikely to meet the impact test for PG material of ‘mild’.

‘Discreet’ was defined in the previous guidelines as ‘with little or no detail and generally brief’. In the 2003 Guidelines, detail and brevity (or length), are characteristics of the impact test. The Board must refer to all the characteristics of impact.

It is therefore unlikely that the change in wording in the guidelines has had any impact on permissible content related to themes in the PG classification.

Summation

Careful examination of all Board reports for PG classified films in the year prior and the year following the introduction of the 2003 Guidelines shows no evidence of a change in standards in the PG classification for public exhibition films.

The detailed examination in this Review of 29 public exhibition films containing PG level violence in the year prior the introduction of the 2003 Guidelines, and the 24 films in the first year of operation of the 2003 Guidelines, showed no change in the permissible violent content in PG classified films.

No change in the level of sexual references in PG films was observed.

There has been no shift in the standards for nudity in PG classified films. The shift in the number of films in this category containing some nudity has been the result of a year to year change in the product mix on the market.

Examination of the Board reports did not reveal support for the arguments raised by submitters that more permissible violence content and content containing sexual references had resulted from the change in guidelines.

The Board reports showed that similar content to that used as evidence by submitters had been classified PG under the previous guidelines.

7.4 M classification for public exhibition films

The public exhibition films classified M represent the largest category of all classification decisions.

As done for other categories, the Board reports for the previous year were read to establish a benchmark for classifiable elements in the M category. The Board reports of decisions since the introduction of the 2003 Guidelines were then analysed to ascertain if any particular classifiable element had shifted.

No change in permissible content for any classifiable elements was discerned in this appraisal of Board reports.

7.4.1 Violence in public exhibition films classified M

Young Media Australia argued that the changes to the wording describing permissible violence under the M category had resulted in more films with stronger violent content in the M category (see section 5.6.1). On the contrary, the quantitative analysis of consumer advice for the two comparative years indicated a drop in the number of films with medium level violence and an overall drop in the proportion of public exhibition films containing strong enough violence to warrant a consumer advice label for violence (see section 3.2.1).

The only M classified film raised in the submission by YMA as evidence was *Ned Kelly*. This film did not provide support for the argument because the film had been classified MA15+ by the Board and was reviewed and given an M classification by the Review Board. Both decisions were made using the previous guidelines.

In the Board reports for films containing violence considered to have a moderate impact, it was generally stated that the incidences of violence were infrequent. The reports listed the scenes that contained moderate impact violence. The film *Bulletproof Monk* had the greatest number of violent scenes. This film is a martial arts film that contained ‘highly stylised’ fight scenes typical of the genre.

It is worth noting that the previous guidelines for the M category stated that, ‘in stylised treatments, depictions of violence may contain more detail and be more frequent if this does not increase the impact’.

In the case of the films described above, where more frequent incidence of violence was indicated, the Board report noted the stylised nature of the violence to explain the Board’s decision.

It should also be noted that the previous guidelines stated that in realistic treatments, depictions of violence that contain detail should be infrequent. The previous standards therefore were not a blank restriction on the frequency of all forms of violence in the M category. Under the 2003 Guidelines, the impact test of all classifiable elements for material classified M should be no higher than moderate. The impact test requires classifiers to consider whether the violence was stylised or realistic; the frequency; the

level of detail; brevity; production techniques and tone. This would result in similar classification outcomes for violent content under both set of guidelines.

Analysis of the Board reports did not indicate any change in the intensity or frequency of violence portrayed in M classified public exhibition films during the first year of the operation of the 2003 Guidelines.

7.4.2 Language in M classified public exhibition films

The proportion of films with consumer advice for low level coarse language at the M classification increased in the first year of operation of the 2003 Guidelines. The inspection of the Board reports containing this consumer advice showed no change in the type of language content in M classified films. The change in proportion of films in this category containing some coarse language content appears to be related to the change in product on the market.

7.4.3 Split decisions in M classified public exhibition films

There were only 12 split decisions out of the 204 M classified films in the year following the introduction of the 2003 Guidelines. Five of the 12 minority decisions sought a higher classification and seven of the minority opinions felt the film warranted a lower rating. These films, therefore, provided an indication of borderline PG/M content and the nature of content at the top end of M on the M/MA15+ border.

Treatment of themes emerged as the more difficult area on the PG/M border. It appears that the majority of the Board voted for a lower classification in these cases.

The pattern of split decisions does not appear to be related to the change in guidelines but to reflect the diversity of opinion in the community about the impact of some thematic material.

The borderline M/MA15+ decisions covered drug use, sexual references and violence. A similar pattern was shown for split decisions in the year prior to the change in guidelines.

Differences in opinion in both years for the various classifiable elements appear to be related to the influence of context on the perceived impact of the classifiable elements.

Summation

An examination of Board reports for the comparative years showed no change in the standards for M classified public exhibition films.

Special attention was given to content areas raised by submissions about the M classification, in particular violent content. There was no evidence of a change in the intensity or frequency of violence in M classified films.

A change in the proportion of films containing low level coarse language was reported in earlier sections of the report. The Board report analysis of films containing low level coarse language showed no change in the standards for this classifiable element in M classified films. It is therefore assumed the change in the relative proportion of these films represents a change in product on the market.

Similarly, a higher proportion of films containing horror or supernatural themes was observed for M classified films, however the Board report analysis suggests this is a reflection of the change in product on the market and unrelated to the change in guidelines.

The treatment of themes was the difficult area on the PG/M border. Inspection of the Board reports for these films did not indicate a shift in permissible content in the M or PG categories.

Perceptions of the influence of context on the strength of the impact of drug use, sexual references and violence led to differences in opinion about some films on the M/MA15+ border. Context was the key factor also in films on the M/MA15+ border in the year prior to the introduction of the 2003 Guidelines. The comparative analysis suggested there was no change in content on the M/MA15+ border.

7.5 Public exhibition films classified MA15+

A total of 107 Board reports for the year prior the introduction of the 2003 Guidelines provided a strong basis to form a benchmark about the type of content for each classifiable element in MA15+ classified public exhibition films.

The 95 Board reports for MA15+ classified films in the year since the introduction of the 2003 Guidelines were assessed against the prior year benchmark for the level of classifiable elements in MA15+ classified films. The analysis showed no discernable difference in the level of content for each of the classifiable elements in MA15+ films.

None of the submissions to the Review raised concerns specifically about content in MA15+ films.

7.5.1 Split decisions in the MA 15+ classification

The number of split decisions in MA15+ classified films was significantly reduced in the first year of the 2003 Guidelines. There were only five split decisions out of 95 MA15+ decisions, compared with 28 in the previous year. In two of the split decisions in the first year of the 2003 Guidelines, the minority felt the film warranted a lower classification and in three, the minority sought a higher classification.

The classification of violence and adult themes were the reasons for split decisions at MA15+. The split decision related to the perceived impact of violent content.

The perceived impact of adult themes contained in the films resulted in two of the split decisions where the minority view felt the films would be better accommodated in the R18+ category. Differences in the perceived impact of the violent content was the third reason for the split decision.

No link to the role of the 2003 Guidelines in these decisions could be discerned.

Summation

The analysis of the 95 Board reports for MA15+ classified films in the first year of operation of the 2003 Guidelines showed no discernable difference in the level of content for each of the classifiable elements in MA15+ films.

Neither submissions or quantitative indicators suggested permissible content in the MA15+ classification had changed.

The differential impact of violence and themes on individuals appears to influence the small number of split decisions in the first year of operation of the 2003 Guidelines.

There is no evidence that the introduction of the 2003 Guidelines resulted in more permissible content at the MA15+ level for public exhibition films.

7.6 Public exhibition films classified R18+

Only nine public exhibition films received an R18+ classification in the first year of operation of the 2003 Guidelines. Seventeen films were classified R18+ in the previous, comparison year.

The content of the 17 films in the year prior to the introduction of the 2003 Guidelines provide an adequate spread of content that can be found at R18+ to compare with the content of the 9 films rated R18+ in the subsequent year under the 2003 Guidelines.

The analysis of Board reports suggests no change in permissible content in R18+ category for public exhibition films since the introduction of the 2003 Guidelines.

The R18+ classification came under greatest scrutiny from the submitters to the Review. The areas where submitters perceived a change in standards for classifiable elements in R18+ films were:

- Actual sex
- Strong portrayals of sexual violence
- Stronger portrayals of realistic violence.

7.6.1 Actual sex

Four out of the nine films classified R18+ in the first year of operation of the 2003 guidelines contained elements of actual sex.

In both the 2003 Guidelines and the previous guidelines it is stated that, for sexual activity in R18+ classified content:

‘The general rule is simulation, –yes – the real thing, no’.

This general rule was cited by some submitters as a rule for universal application without exception. This interpretation of the guidelines misrepresents the nature and the purpose of the guidelines. The role of the guidelines is to elaborate on the type of permissible material within each category.

The general rule statement in the guidelines, in part, helps to define the sexually oriented R18+ classified films from those in the X18+ category which include actual and explicit sexual activity. It is written as a general rule, suggesting a broad rule of thumb used to distinguish the nature of the content in these two categories. If it was to be interpreted as a prohibition on actual sex in R18+ classified films, it would not need to be expressed as a general rule. (To be classified R18+, the material must also not exceed ‘high’ impact).

Concern was expressed regarding omission of the sentence, ‘nudity in a sexual context should not include obvious genital contact’ in the 2003 Guidelines. The OFLC comments that this sentence was unnecessary as this provision is already covered by the general rule. When making classification decisions about nudity in a sexual context, which includes genital contact, the Board considers and has always considered the general rule. This rule ensures that there is no change in classification standards in the R18+ category.

The use of discretion in applying the general rule for sexual activity is not new to the 2003 Guidelines. OFLC research has identified at least 12 films that have received an R18+ classification since 1990 which contain depictions of actual sexual activity, including the four films with actual sex that were classified in the first year of the 2003 Guidelines. All of these films were classified for public exhibition.

Of the 12 films containing actual sex classified since 1990, four involved sexual intercourse. In two of these four cases, the visuals were in the background on a

television monitor. In the other eight films, the nature of the sexual activity was either masturbation or fellatio. In all cases, the actual sex was brief.

While there has been an increase in the incidence of actual sex in films classified R18+ since the introduction of the 2003 Guidelines, this appears to be a function of the product that is currently on the market (see section 10.2.1).

OFLC research also shows that none of the dramatic films that have been refused classification since 1988 were refused *merely* because they contained actual sex.

Irreversible

Irreversible is a dramatic work that deals very graphically with serious social issues. The Board noted that ‘the themes of rape, revenge and violence are portrayed and dealt with in such a way that they may be offensive to some sections of the adult community... but were not offensive to the extent that the film warrants refused classification’.

The film *Irreversible* was widely cited in submissions as an example of more permissible content at R18+ under the 2003 Guidelines. The sexual content of the film was targeted as it was perceived to represent a loosening of the standards for sex at the R18+ classification level.

The Board report describes the following incident:

At 19.30 minutes, there is a brief depiction of actual fellatio on a television monitor as well as simulated rear entry intercourse between two males. Because the camera is panning wildly around the dark interior of the club, these depictions are fleeting and in the Board’s view, their impact does not exceed high.

The fleeting depiction of actual fellatio on a television monitor, while the camera is panning wildly around a dark interior, was cited by submitters as not permissible content for the R18+ classification. The change in the guidelines, some submitters argued, had resulted in this type of content being permitted (see section 5.8.1).

The test for *Irreversible* was the strength of the impact of individual classifiable elements and their cumulative impact. The Board report describes the elements that were considered in assessing the impact of the classifiable elements as high, but not exceeding high, as this would have warranted an RC decision.

The Board report also noted the other classification tools that informed the Board’s decision. The artistic merit and serious intent of the film (two of the matters to consider in section 11 of the Act) were noted, as were the general principles of the National Classification Code that adults should be able to read, hear and see what they want, and minors should be protected from material likely to harm or disturb them.

It should be noted that on 30 June 2004, *Irreversible* went to the Review Board where the Board’s decision was upheld. It is notable that, of the 15 Board and Review Board members who classified *Irreversible*, only one considered that the film should not be

R18+. The analysis of the Review Board's decision however is outside the scope of this Review's time period.

In the Cut

In the Cut was another example of an R18+ classified film with brief depictions of actual sex content classified in the first year of the operation of the 2003 Guidelines. This was a high budget Hollywood studio film directed by Jane Campion and starring Meg Ryan. The scene was described in the Board report:

At 8.50 minutes there is a brief close-up of explicit fellatio, with the female lips seen around the shaft of the male's penis... at 9.10 there is another brief close-up of explicit fellatio.

The Board report explains the decision in relation to the actual sex scene as:

In the Board's opinion, the general rule provided for in the R classification is sufficiently flexible to allow limited actual sexual activity in a mainstream film if it is not gratuitous and is appropriately situated within a mature and serious work aimed at an adult audience. (The Board notes that the X classification is a special and legally restricted category which contains only sexually explicit material and that the content of this film does not accord with the content parameters for the X classification).

... The brevity of the two explicit shots, their treatment within a dimly lit and shadowy setting and the oblique close-up camera angle (which all helped reduce the impact).

The Piano Teacher

Depictions of actual sex were found in the comparative year for the Review period. The Board report for the film *The Piano Teacher*, classified in the year prior the introduction of the 2003 Guidelines, describes actual sex scenes of a similar level of detail and brevity:

Whilst in a booth in an adult shop, views of the video she is watching are shown full screen, including actual fellatio and intercourse. There are also views of magazines on the bookshelves depicting actual sexual activity...

The research on past incidents of actual sex in R18+ classified films and the content in films in the two comparative years suggests that the change in the level of actual sex is not related to the change in guidelines but related to the product in the market in the operational review year.

7.6.2 Sexual violence in R18+ public exhibition films

Interpretation of the guidelines for sexual violence at R18+ was a central theme in the discussion of the film *Irreversible* in submissions to the Review (see section 5.8.2). The Board report's description of the rape scene was:

With the knife held at her head and his hand covering her mouth, he forces her skirt up and implicitly commits anal rape. The rapist is seen to thrust into her repeatedly as he physically and verbally abuses her. During the ordeal, Alex's hair covers her face but she groans and wails in response to the pain and terror.

The Board notes that:

The impact of the scene is high due to the lengthy, real time depiction of the act of sexual violation and the static, unedited camera work. The amount of verbal and visual detail in this scene was also considered to be a contributing factor in the Board's decision to classify the film R18+.

The previous guidelines specified that the portrayal of sexual violence may only be implied, and should not be detailed. The Board clearly considered the level of detail in the scene and felt it was not sufficient to warrant an RC recommendation.

Strong scenes of sexual violence were found in films classified in the comparison year under the previous guidelines, suggesting while the scene in *Irreversible* was at the top end of R18+ it does not represent a change in standards resulting from the change in guidelines.

7.6.3 Violence in R18+ public exhibition films

Irreversible was also the example given by submitters of increased graphic violence in R18+ films under the 2003 Guidelines (see section 5.8.3). Depictions of violence in the film were described in the Board report as 'graphic' and 'high in impact'. The wording in the previous guidelines for violence at R18+ states 'strong depictions of realistic violence may be shown but depictions with a high degree of impact should not be gratuitous or exploitative'.

In the Board's view, 'the classifiable elements in the film do not exceed high and are not offensive enough to the extent that the film warranted RC'.

7.6.4 Split decisions for R18+ classifications

Two out of the nine R18+ classification decisions made in the first year of operation of the 2003 Guidelines involved split decisions. In the case of the film *Thirteen*, the minority felt it could be accommodated in the MA15+ classification. In the case of video components of a multimedia production *La Fura dels Baus XXX* a minority felt it was RC in content.

The decisions again varied on judgments related to context and the cumulative impact of the content.

For the film *Thirteen*, the majority felt the cumulative effects of the elements required an adult perspective, while the minority felt the strength of the elements and their cumulative impact could be accommodated within the MA15+ category. The nature of the split decision did not appear to be related to changes in the guidelines. It is noted that, on review, the Review Board classified the film MA15+ (see section 8.1.1).

The other split decision was for the video components sequences accompanying the theatre production of *Les Fura dels Baux XXX* by Spanish theatre company La Fura dels Baus. As the Board report describes:

The film elements contain disparate subject matter including female and male genitalia, simulated sexual activity, graphic breast surgery, television news footage and simulated sexual assault.

In the minority view:

... the depictions of sexual violence were explicit rather than implied and that the impact of the material exceeds high. Furthermore, in the view of a minority of the Board, the film as submitted did not have sufficient context or artistic merit to allow it to be accommodated at R.

In the majority's view the sexual violence scene was implicit and lacked detail. The Board report noted that 'the implied sexual assault at this point are obscured by pixilation'. The majority argued that the film was 'unlikely to be screened without the context and narrative of the live production...in the majority view: 'The work has a serious artistic intent, is not intended to titillate and is likely to be heralded as a controversial work for an adult audience.'

The decision does not indicate a change in standards resulting from the change in guidelines. The Board members formulated their argument based on the 2003 Guidelines statement that 'sexual violence may be implied' at R18+. Board members differed in their reading of the film content in this particular case.

Summation

The analysis of nine Board reports for public exhibition films classified R18+ under the 2003 Guidelines suggests no change in permissible content in R18+ category.

The Board reports for the 17 films classified R18+ in the year prior under the previous guidelines suggested content of a similar strength as those films classified R18+ under the 2003 Guidelines.

There is no evidence to suggest the R18+ decision in relation to *Irreversible* was the result of the change in guidelines.

The increase in films containing actual sex elements in the year since the introduction of the 2003 Guidelines appears to be related to a change in product in the market rather than a change in standards. Similar content was found in films classified under the previous guidelines.

The depictions of sexual violence classified R18+ under the 2003 Guidelines do not suggest a change in standards for sexual violence in R18+ films.

7.7 Computer Games

A sample of computer games classification reports was examined using the same process as that undertaken for public exhibition films. Certain computer games, that is, those likely to be classified G, G(8+) or M, are given a recommendation for classification by computer games 'authorised assessors' (most of whom are hired by the games distribution companies). The assessment reports are considered by the Classification Board which has the responsibility for classification. Games likely to be at the MA15+ level are not recommended by assessors. Board reports are produced for MA15+ games. If the Board accepts an assessor's recommendation for a G, G8+ or M classification, the report written by the assessor becomes the basis for the decision report.

For both years in the Review period, a sample of around 25 decision reports from each computer game classification for each comparative year was reviewed. For computer games in the G(8+), M and MA15+ categories, the sample was biased towards games with the highest level of consumer advice in each of the categories. It was felt if there was a change in permissible material, it would be most likely be in this set of games. For G classified computer games, a random selection was taken as there is generally no consumer advice for that classification. The description of the content related to the classifiable elements contained in the reports for the year prior to the commencement of the 2003 Guidelines was used to establish a benchmark for content classified using the 2003 Guidelines.

No discernable shift in the nature of permissible material was detected in the sample of computer games reports reviewed.

For a small sample of computer games, a videotape demonstrating the classifiable elements in the computer games was viewed as a further check on the level of content. The content was considered in relation to both sets of guidelines.

The content viewed did not show any change in permissible content in games following the introduction of the 2003 Guidelines.

Summation

The nature of the content in various classification categories for computer games was similar for the two comparative years.

No discernable shift in the nature of permissible material was detected in the sample of computer games reports reviewed.

The 2003 Guidelines have not effected the classification decisions for computer games.

8 Review Board decision reports¹⁷

8.1 Review Board decisions in the operational review year

The role of the Classification Review Board is to review, on application, the decisions of the Classification Board on the classification of a product. In the first year of operation of the 2003 Guidelines, the Review Board dealt with eight applications. Seven decisions resulted from the eight applications in the period. The products and the review outcomes are presented in the table below.

Table 5: Review Board decisions 30 March 2003 – 29 March 2004

Product	Classification Board's Decision	Review Board Decision
Basic (Film)	MA15+	MA15+
Ken Park (Film)	RC	RC
Thirteen (Film)	R18+	MA15+
Silverball Product Version 8 (Computer Game)	RC	M
McLeod's Daughters (Video/DVD)	M	Out of time ¹⁸
One Perfect Day (Film)	MA15+	M
The Sexualisation of Girl Children and Adolescents on the Internet (CD-Rom interactive film)	RC	RC
Haunted Mansion (Film)	M	PG

The pattern of outcomes in the first year of operation of the 2003 Guidelines did not change significantly from the pattern in the previous year. Four out of seven Review Board decisions since the introduction of the 2003 Guidelines resulted in a change in classification. All the changed decisions resulted in a less restrictive category. This level of difference was similar to the level of changed classification in the previous year when eight out of 12 Review Board decisions resulted in a lower classification.

8.1.1 Reasons for Review Board's decisions under the 2003 Guidelines

The Review Board's use of the 2003 Guidelines in formulating its decisions was analysed to assess the impact of the 2003 Guidelines on the Review Board's decisions. The Review Board's decisions in the previous year were used as a point of reference.

¹⁸ Under section 43 of the Act, applications for review from persons other than the Commonwealth Attorney-General must be made within 30 days after receiving notice of the decision, or within such longer period as the Review Board allows.

Basic

In its decision to uphold the MA15+ classification for the film *Basic*, the Review Board made frequent reference to the 2003 Guidelines. In discussing the impact of the violence in the film, the Review Board noted particular scenes that were detailed, prolonged and realistic. This drew on the attributes of impact listed on page 5 of the 2003 Guidelines. The Review Board also made reference to the repetition of the violent acts, which again referenced an attribute of the impact test in coming to the conclusion that the impact was strong. The Review Board report also noted the particular specifications in the 2003 Guidelines in relation to depictions of violence and the use of strong coarse language.

See Attachment D for further information.

Ken Park

The Review Board concurred with the RC decision of the Board for the film *Ken Park*. The Review Board drew from both the Code and section 11 of the Act in their deliberations. The guidelines were used to test the fit of the material in the various classification categories. The RC decision was not solely related to the application of the ‘general rule’ to the actual sex in the film; it was related to the nature of the actual sex, the prolonged and detailed nature of the scenes and consideration of section 11 of the Act. See Attachment D for further information.

Thirteen

The film *Thirteen* was given an R18+ classification by the Board. The Review Board classified the film MA15+. In considering the classification of *Thirteen*, the Review Board drew extensively on the impact and context tests to support its decision. The difference in opinion between the Review Board and Board was in the perceived cumulative impact of the classifiable elements. As noted in the discussion of the split decisions of the Board (see section 7.6.4), cumulative impact is where differences in Board members’ opinions are most likely to occur. See Attachment D for further information.

Silverball Product Version 8

The Board refused classification for the game console *Silverball Product Version 8*. The Review Board classified the game console content M. *Silverball Product Version 8* is an arcade style game console that contains 113 action games, card games, general knowledge quizzes and other games. Fifteen games on the console are listed under the heading *Erotica*. These games contained some partial and total nudity that lead to the RC decision by the Classification Board. The Classification Board applied the general rule – stated in the 2003 Guidelines – that ‘except in material restricted to adults, nudity and sexual activity must not be related to incentives or rewards’.

Under the previous guidelines for the classification of computer games, games were refused classification if they contained, among other things, ‘nudity, including genitalia, unless there is a bona fide educational, medical or community health purpose’.

As an added guidance, the 2003 guidelines state that interactive material will, as a general rule, be refused classification if it contains ‘nudity and sexual activity ... related to incentives and rewards’ (page five of the 2003 Guidelines).

These protections, the impact and context tests, and the consideration that interactivity may intensify impact, ensure that the standards of the previous guidelines with regards to computer games are maintained in the 2003 Guidelines.

The Review Board made an exception to the general rule, and cited other sections of the 2003 Guidelines to support its decision. The Review Board noted the nature of the depictions of nudity (static, small and brief) and their likely impact. The extent to which the depictions of nudity were related to rewards was examined and in the Review Board’s opinion the nudity was incidental to play in some games, rather than reward for play. There are examples of incidental nudity in computer games under the previous guidelines, including *Danger Girl* (classified M in October 2000) and *Dead or Alive 3* (classified M in November 2001).

The Review Board drew on section 11 of the Act and the Code to further qualify its decision. The report considered that the likely players would be patrons of hotels and clubs, and that a casual passer-by would be unlikely to view potentially offensive material when the machine was in standby mode or when the games were being played.

The Review Board decision does not suggest any change in the standards under the 2003 Guidelines but a difference in opinion to that of the Board in the use of the classification tools. See Attachment D for further information.

One Perfect Day

The film *One Perfect Day* received an MA15+ classification from the Board. The Review Board classified the film M. *One Perfect Day* can be characterised as an anti-drug film that portrays the tragic consequences of drug taking on two young girls. The M classification decision of the Review Board was justified using the 2003 Guidelines and the assessment of the impact of the drug and death themes in the film. The educational merit of the film was also acknowledged in the decision, reflecting a reference to section 11 of the Act.

The previous guidelines stated that in the M category, ‘drug use may be discreetly shown; drug use should not be promoted or encouraged’.

The 2003 Guidelines state that ‘drug use should be justified by context’ in all categories from PG to MA.

The OFLC’s reason for the change in the guidelines was that the terms ‘promote’ and ‘encourage’ were in each category in the previous guidelines, from PG to R18+. However, material that promoted drug use was also refused classification, so the terms appeared in the RC category as well. It was considered inappropriate duplication to include such terms in the classifications when such depictions would be refused classification. Therefore, in clarifying the guidelines, these terms were

removed from the categories PG to R, and were left in the RC category only. In the 2003 Guidelines, the classification of drug use is dependent on impact and context. The gradation of drug use in the 2003 Guidelines comes from the hierarchy of impact.

The concept of discreet was transferred into the 2003 Guidelines via the impact test, and referred to in that test as detail and length. The Board must consider all the elements of impact, including detail, length, frequency and so on. For M films, the impact must be no higher than moderate. Taking the impact test into consideration, the Board would be likely to consider drug use that was promoted or encouraged as very high in impact and therefore RC.

Consequently, the overall effect is to mirror the previous standard that drug use may be discreetly shown, but not promoted or encouraged.

The Board and Review Board have differed in their opinions of the level of detail in the drug use scenes.

There was no evidence in the review of all the Board decisions (discussed in the previous chapter) that there has been a change in permissible content related to drug use among the various classification categories. See Attachment D for further information.

The Sexualisation of Girl Children and Adolescents on the Internet

The Sexualisation of Girl Children and Adolescents on the Internet – which was Refused Classification for child pornography – was outside the terms of reference for this Review which only dealt with public exhibition films and computer games.

Haunted Mansion

Haunted Mansion received an M classification from the Board. The Review Board classified the film PG. The Review Board based its decision on an assessment of the impact of the classifiable elements. The reasons and words used in justifying the assessment drew heavily from the words used in the previous guidelines for PG classified films. The Review Board referred to the familiarity of the haunted house genre and to historical context as factors that mitigated against the film's impact. This decision is in line with the criteria set by the previous guidelines for PG films and does not suggest a shift in standards under the 2003 Guidelines. See Attachment D for further information.

Summation

The Review Board came to the same classification decision as the Board in three of the seven decisions.

In four of the seven decisions, the Review Board consistently made lower decisions using the same guidelines.

The Review Board's reports drew on the 2003 Guidelines in explaining decisions as well as on the Code and section 11 of the Act.

There was no evidence in the Review Board's decisions made in the operational review year of a change in permissible content in the various classification categories.

9 Industry Perceptions of the Impact of Changes in the Guidelines

9.1 Computer Games Industry

The Interactive Entertainment Association of Australia (IEAA), an industry association covering computer games distributors in Australia, was the only industry body to provide a submission to the Review. The IEAA submission endorsed the adoption of the 2003 Guidelines (see section 5.2). The IEAA felt the framework of the 2003 Guidelines improved the clarity of the guidelines and made them easier to integrate and use when making classifications for computer games.

The IEAA stated it was their opinion that the guidelines had not changed the standards for the classification of games.

9.2 Film Industry

Interviews were conducted with industry association representatives in motion picture exhibition and distribution. A few interviews were also conducted with representatives from home entertainment distribution companies. The views expressed are outlined in the following paragraphs according to the role performed by the interviewee in the industry.

The film industry representatives interviewed were:

- Brendan Gutsell, Chief Executive Officer, Motion Picture Distributors Association of Australia
- Richard Payten, President, Australian Independent Distributors Association; and Managing Director, Becker Entertainment
- Denis Parks, President, Cinema Operators Association of Australia
- Ross Entwistle, Chairman, Motion Pictures Distributors Association of Australia; and Managing Director, Columbia Tristar Films Pty Ltd
- Alan Finney, Managing Director, Buena Vista International (Australia) Pty Ltd
- Simon Bush, Chief Executive Officer, Australian Visual Software Distributors Association.

9.2.1 Film Exhibitors

The cinema exhibition spokesperson said there were no reports of a change in consumer dissatisfaction with the classifications of films since the introduction of the 2003 Guidelines. He reported that the occasional complaint was lodged but incidents of this occurring since the introduction of the 2003 Guidelines were no more than the usual low level. He expressed the view that the Review Board's PG classification of *Harry Potter and the Prisoner of Azkaban*, previously classified M by the Classification Board, showed the 2003 Guidelines were working and that the change in the film's classification was more in line with consumer expectations. He felt if anything, the decisions by the Classification Board tended toward higher classification decisions since the introduction of the 2003 Guidelines, again citing the *Harry Potter and the Prisoner of Azkaban* decision.

9.2.2 Film Distributors

The distributors interviewed reported no perceived change in classification decisions following the introduction of the 2003 Guidelines. Those distributors expressed the view that concerns by community groups were based on the presumption of change rather than fact.

The increase in the number of films in the market with elements of actual sex was not perceived by distributors interviewed as a trend. One distributor felt filmmakers, in telling their stories, would always test boundaries. Another distributor noted that the R18+ classification decisions in regard to actual sex in mainstream films like *In the Cut* reflected the movement in the community towards more acceptance of actual sex in R18+ classified films. The distributor commented that the occasional incident of actual sex in mainstream films did not represent a flood, it reflected a small change and did not represent a trend.

Generally the distributors felt the combining of the guidelines was a positive step as what the industry needs is consistency across genres and media in classification information.

9.2.3 Home Entertainment Distributors

The Australian Visual Software Distributors Association (AVSDA) represents the distributors of video and DVDs for sale/hire. The chief executive officer expressed satisfaction with the 2003 Guidelines.

AVSDA had not observed any change in classification decisions with the introduction of the 2003 Guidelines.

Summation

Industry representatives have not observed a change in classification standards for public exhibition films, sale/hire films (videos or DVDs) or computer games.

Some change in the type of product available in the market was noted. A few more films containing actual sex were being made but the incidents were very low and did not represent an increasing trend.

10 Media Perceptions of the Impact of Changes in the Guidelines

Media articles regarding classification standards since the introduction of the 2003 Guidelines were reviewed. The issues related to the objective of the Review were noted. In particular, environmental factors that might have an impact on the interpretation of the data related to changes in content were researched.

10.1 Media Articles

Debate in media articles prior to the launch of the 2003 Guidelines focused on the classification of computer games under the combined guidelines. In particular, the absence of an R18+ category for computer games figured strongly in the debate. Computer games industry groups advocated for its inclusion while community groups such as Young Media Australia, and members of parliament and/or religious leaders like Fred Nile expressed concern about children gaining access to more adult games.

Following the implementation of the 2003 Guidelines, the focus in the media articles was on concerns related to the listing of all six classifiable elements under the G category.

Articles criticising the RC classification for the film *Ken Park* and the perceived conservatism of the classification system were also prevalent during the review period. The application by the South Australian Attorney-General for a review of the R18+ classification for *Irreversible* also came under fire .

The issues raised from the review of the media articles were either outside the scope of this review or have been raised through other information already reported in this report.

10.2 Interviews with Product Reviewers

Interviews were conducted with reviewers of computer games and films. Reviewers have access to a large volume and variety of product in the market. Their perception of product trends and perceived changes in the content in the various classification categories was seen as useful information for contextualising the other information analysed.

10.2.1 Film Reviewer

The film reviewer for *The Sydney Morning Herald*, Gary Maddox, confirmed that there was an increase in films with actual sex elements available in the art house end of the product market. He did not see this as an increasing trend.

In his appraisal of the content of G classified films, he observed that these films now are made to be read at multiple levels with gags being pitched to go over the heads of children but making them accessible to the adults in the audience. He felt that if the 'double meaning' gags aimed at adults were classified too conservatively, then there would soon be nothing left in the G classification.

10.2.2 Computer Games Reviewer

The Playstation 2 Magazine computer games reviewer, Richie Young, reported no change in the classification standards of computer games under the 2003 Guidelines.

He felt the increase in graphics quality in computer games and the increasing crossover of product from cinema films to computer games was a key trend impacting computer games' content. Mr Young thought a closer alignment between computer games and film and video classification was desirable and felt the introduction of an R18+ category for computer games would assist in gaining parity. This aspect of the guidelines is outside the scope of the Review.

Summation

Media articles over the review period focused on a few issues. The exclusion of an R18+ category for computer games in the combined guidelines received substantial debate but this is outside the scope of the Review. Concerns raised by some organisations about the perceived changes in standards for G classified material in relation to drug use and nudity also received coverage. Other articles covered the argument criticising or supporting some classification decisions for controversial films such as *Irreversible*. The information covered in these articles did not provide any new substantive information to inform the review.

The product reviewers interviewed have not observed a change in classification standards for public exhibition films or computer games.

Some change in the type of product available in the market was noted.

A few more films containing actual sex were being made but the incidents were very low and did not represent an increasing trend.

G films increasingly include content pitched over the heads of children to make them appealing to adults.

Key trends in computer games include improved graphic quality and more merging of film content into computer games.

11 Explanatory Statement for the 2003 Guidelines and relevant legal advice

The 2003 Guidelines were tabled in the Commonwealth Parliament on 24 March 2003. Accompanying these guidelines was an Explanatory Statement (ES), issued with the authority of the Attorney-General. This Review considered the ES (at Attachment F).

The ES states that there is no change in classification standards from the previous guidelines. The ES states that the 2003 Guidelines ‘do not contain changes in classification standards’ and that there is ‘no change in the classification standards for computer games’. The ES may be referred to resolve any ambiguity or obscurity in the 2003 Guidelines, although none have been identified.

12 Conclusion

This Review has conducted a detailed audit of public exhibition film and computer games classification decisions for the first year of operation of the 2003 Guidelines. The objective of the Review was to examine the effect of the 2003 Guidelines on the level of content that falls into the various classification categories for public exhibition film and computer games.

An extensive review of classification decisions in the first year of operation of the 2003 Guidelines was conducted, using both quantitative and qualitative techniques, and extensive consultation with community groups, industry and the primary users of the guidelines, the Board and the Review Board.

The submissions to the Review largely argued that the 2003 Guidelines had resulted in a change in permissible content in some classification categories. A few submissions expressed support for the guidelines and the belief that no change in standards had occurred.

12.1 Strength of Evidence Supporting the Perceived Change

Particular examples of decisions have been cited by the submitters to this Review as evidence of a change, yet a more careful examination of the material found that the decisions met the criteria outlined in the 2003 Guidelines and the previous guidelines.

In a number of incidences, the films used as evidence by submitters of the effects of the 2003 Guidelines were films classified under the previous guidelines.

People hold different opinions on the appropriate classification of individual films and computer games. Board members themselves, from time to time, differ in their opinions as to the appropriate category for some material. This fact underlines the human element that is involved in any classification decision and in particular, a complex decision-making process like media content classification. An isolated instance where people's opinions differ is not evidence of ineffective decision-making tools or ineffective decision-makers. Material that sits close to the fuzzy borders between classification categories will continue to spur debate within the Classification Boards and the community.

Submitters' arguments suggested a lack of understanding of how the 2003 Guidelines are intended for use. Confusion about how the impact test is employed by classifiers was a key misunderstanding that resulted in a misinterpretation of the likely effect of the 2003 Guidelines on the type of content permissible in the various classification categories.

12.2 Submissions Indicate a Lack of Understanding of How the Guidelines Work

Submitters' misunderstanding of the guidelines and lack of due regard for the principles of the Code and section 11 of the Act have resulted in an, albeit misguided, lack of confidence in the classification system among some sectors of the community.

Finding ways of addressing these misunderstandings is crucial to ensure all sectors of the community have confidence in the classification system. A recommendation of this report is directed at this issue.

12.3 Consistency in Classification Decisions Before and After the Change in Guidelines

OFLC complaints data shows that only a small number of film and computer game classification decisions have triggered some level of dissatisfaction with members of the community since the introduction of the 2003 Guidelines. There is no evidence of widespread concern about any classification decisions. Indeed the level of complaint in the year since their introduction was lower than the previous year.

The isolated number of products where dissatisfaction was expressed through complaints or submissions did not represent a class of material that was uniformly shifting categories. No change in standards could be inferred from the evidence provided in submissions to the Review.

There is also no observable evidence of a change in the standards regarding classification decisions made with the 2003 Guidelines compared with decisions made with the previous guidelines.

On the basis of the evidence examined, Classification Board decisions on the whole tended towards a higher classification when material was more difficult to classify into a definite category based on of its classifiable elements. This was evident in split decisions of the Classification Board and the tendency of the Review Board to decrease the classification of films and games in the first year of operation of the 2003 Guidelines.

A comparative analysis based on 1,250 Board report decisions for public exhibition films, computer games and R18+ sale/hire films containing sexual content showed decisions made in the first year of operation of the 2003 Guidelines aligned with decisions made under the previous guidelines. Specifically:

- Despite some community concerns about a possible increase in drug use and nudity in G films, and concerns expressed in Review submissions, no G classified films in the first year of operation of the 2003 Guidelines contained drug use or nudity. There were instances of drug use and nudity in G films with the previous guidelines.

- Thematic material in G classified films in the first year of operation of the 2003 Guidelines was similar to the strength of thematic material in G classified films classified under previous guidelines.
- While some people found the G classification for *The Cat in the Hat* inappropriate, no link could be established between the Board decision and the change in guidelines. The Board's decision was consistent with decisions made about G classified films under the previous guidelines.
- The few instances of verbal sexual references in films raised by submitters were of a nature that the Board felt could be accommodated in the G classification because of the discreet and careful treatment it received.
- There was no indication that violent content was shifting between classification categories. Depictions of violence in G, PG and M classified films showed no greater intensity than violent content classified in those categories under the previous guidelines.
- The classification of films containing depictions of sexual violence under the 2003 Guidelines has also been consistent with the treatment of similar content under the previous guidelines.
- There is no evidence to suggest the R18+ decision in relation to *Irreversible* was the result of the change in guidelines. This and other classification decisions about films with actual sex and sexual violence were consistent with decisions made under the previous guidelines for similar content.
- The past year has seen an increase in the film market of product containing elements of actual sex. Some filmmakers, particularly the French, are adding this element to their storytelling.
- The concern raised in one submission that the increase in public exhibition films with actual sex would result in a blurring of the boundaries between R18+ and X18+ classified sale/hire product was shown be unfounded. There was a decrease in the proportion of R18+ sale/hire product mainly concerned with sex. Further investigation of the nature of the sexual content in product with the label 'mainly concerned with sex' in Board reports found none of them mention 'actual' sexual activity.
- The nature of the content in various classification categories for computer games was similar for the two comparative years. There was no discernable shift in the nature of permissible material in the sample of computer games reviewed.
- The low public concern about computer games classification – reflected in the small number of complaints and lack of attention in submissions – also suggests the 2003 Guidelines have not affected classification decisions for computer games.

- The film and computer game industries support the 2003 Guidelines in their current form and have not detected a shift in classification decisions made since the change in guidelines.

12.4 Support for the guidelines

Most key users of the guidelines – Classification Board and Review Board members and authorised assessors – expressed satisfaction with the 2003 Guidelines. Stability of decisions made since their introduction suggests the 2003 Guidelines are performing their function in providing guidance to classifiers.

Given no evidence was found that the level of content that falls into the various classification categories for film or computer games had changed, no specific change to the wording of the 2003 Guidelines is required to maintain community standards.

Providing ways to assist the broader public’s reading of the 2003 Guidelines is strongly recommended. Confidence that the 2003 Guidelines reflect current community standards is fundamental. Consumers need to know they can rely on for advice the classification provides in choosing film, video and computer games for themselves and those in their care.

A number of solutions could be considered. One possible solution is an education campaign and training workshops for interested parties. The second possibility is a redesign of the layout of the 2003 Guidelines to improve the integration of the key principles contained on pages 4 and 5 with the classification categories and the elements. This is not a change in wording but a change in layout.

Recommendations

1. No changes to the 2003 Guidelines are required as no change in standards has been observed.
2. A mechanism to improve the public’s understanding of the 2003 Guidelines is recommended to ensure all sectors of the community have confidence in the classification system.

Glossary

Term or abbreviation	Explanation
2003 Guidelines	<i>Guidelines for the Classification of Films and Computer Games</i> (commenced on 30 March 2003)
Act, the	The <i>Classification (Publications, Films and Computer Games) Act 1995</i> (Commonwealth)
Australian Attorney-General	Attorney-General of Australia and Minister responsible for censorship matters
Authorised assessor	A person authorised by the Director under section 17(3) of the Act to make recommendations to the Board on the classification of computer games that are likely to be classified G, G8+ or M
Board, the	Classification Board
Board member	A statutory appointee to the Classification Board, established under the Classification Act
Board report	A report written by the Board which details the reasons for a classification decision.
Censorship Ministers	Commonwealth, State and Territory Ministers responsible for censorship matters
Classification Board (the Board)	Statutory body established under the Act. The Classification Board classifies computer games, films (including videos and DVDs), and certain publications
Classification guidelines	Guidelines on the application of the National Classification Code, approved by Censorship Ministers. Guidelines exist for the classification of films and computer games (the 2003 Guidelines), and publications
Classification Review Board (the Review Board)	Statutory body established under the Classification Act. The Classification Review Board is a part-time statutory body convened, as required, to review decisions made by the Board
Code, the	The National Classification Code
Consumer advice	Section 20 of the Act provides that the Board and Review Board must determine consumer advice, providing information about content, for films classified PG, M, MA15+, R18+ and X18+, and computer games classified G8+, M and MA15+. Consumer advice gives the principal elements that contributed to the classification of the product and indicates the intensity or frequency of those elements. The Board and Review Board may determine consumer advice for films and computer games classified G, and for publications classified Unrestricted.

National classification scheme	A cooperative Commonwealth, State and Territory regulatory scheme for the classification of publications, films and computer games
National Classification Code (the Code)	A code that sets out how films, computer games and publications are to be classified.
Office of Film and Literature Classification (OFLC)	Commonwealth statutory agency in the Australian Attorney-General's portfolio that provides administrative support to the Board and the Review Board
Previous guidelines	The Guidelines for the Classification of Films and Videotapes, and the Guidelines for the Classification of Computer Games. Both were replaced in March 2003 with the <i>Guidelines for the Classification of Films and Computer Games</i> (the 2003 Guidelines)
Review Board	Classification Review Board
Review Board member	Statutory appointee to the Review Board under the Act
Review Board report	A report written by the Review Board which details the reasons for a decision about a film or computer game
Steering Committee	The Operational Review Steering Committee, which comprised staff of the OFLC and the Attorney-General's Department and was chaired by the Senior Executive, Strategy and Communication, OFLC

Attachment A – 2003 Guidelines



Australian Government

Office of Film and Literature Classification

**Guidelines for
the Classification
of Films and
Computer Games
2003**

**Office of Film and
Literature Classification**

Informing your choices

In accordance with subsection 12(3) of the Commonwealth *Classification (Publications, Films and Computer Games) Act 1995*, the *Guidelines for the Classification of Films and Computer Games* were agreed to by Commonwealth, State and Territory Censorship Ministers to come into effect on 30 March 2003.



Des Clark
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GUIDELINES FOR THE CLASSIFICATION OF FILMS AND COMPUTER GAMES

Introduction to the Guidelines

Background

The *Guidelines for the Classification of Films and Computer Games* (the **Guidelines**) are a tool for classifying films and computer games. They help explain the different classification categories, and the scope and limits of material suitable for each category. They are revised from time to time, with extensive community input.

The legal context

The national classification scheme is based on:

- the Commonwealth *Classification (Publications, Films and Computer Games) Act 1995* (the **Act**), and
- a cooperative agreement between Commonwealth, State and Territory governments.

Under the scheme, the Commonwealth makes the classification decisions, and the States and Territories enforce them.

The Act contains a National Classification Code (the **Code**). It also allows Guidelines to be made. By agreement, the Commonwealth, State and Territory Ministers can vary the Code and the Guidelines.

The Act requires films and computer games to be classified, using the Code and the Guidelines, before they are released or advertised.

Classification decisions are made by the Classification Board. Its decisions can be reviewed by the Classification Review Board. Administrative support for both Boards is provided by the Commonwealth Office of Film and Literature Classification.

Classification categories

The Act names the classification categories for films and computer games, and the Code describes them. The categories are:

- G
- PG/G(8+)
- M/M(15+)
- MA/MA(15+)
- R
- X
- RC

Note: R and X apply to films only.

Classification criteria

The Act

Under the Act, each of the following matters must be taken into account in classifying films and computer games:

- (a) the standards of morality, decency and propriety generally accepted by reasonable adults;
- (b) the literary, artistic or educational merit (if any) of the publication, film or computer game;
- (c) the general character of the publication, film or computer game, including whether it is of a medical, legal or scientific character;
- (d) the persons or class of persons to or amongst whom it is published or is intended or likely to be published.

The Code

Under the Code, classification decisions are to give effect, as far as possible, to the following principles:

- (a) adults should be able to read, hear and see what they want;
- (b) minors should be protected from material likely to harm or disturb them;
- (c) everyone should be protected from exposure to unsolicited material that they find offensive;
- (d) the need to take account of community concerns about:
 - (i) depictions that condone or incite violence, particularly sexual violence; and
 - (ii) the portrayal of persons in a demeaning manner.

Consumer advice

Except for G classifications, the Act requires the Classification Board to provide consumer advice about the content of films and computer games it classifies. (For G classifications, the Act gives the Board the option whether to provide consumer information.) This information helps consumers make informed choices.

The Guidelines

Using the Guidelines: Essential principles

Three essential principles underlie the use of the Guidelines:

- the importance of context
- assessing impact
- the six classifiable elements

Except for the X category, each classification category takes a similar form. It begins with an “impact test” that determines the threshold for the category. It then lists the six classifiable elements, with a statement limiting the content of each element.

Importance of context

Context is crucial in determining whether a classifiable element is justified by the story-line or themes. In particular, the way in which important social issues are dealt with may require a mature or adult perspective. This means that material that falls into a particular classification category in one context may fall outside it in another.

Assessing impact

The Guidelines use the following hierarchy of impact:

- very mild - G
- mild - PG/G(8+)
- moderate - M/M(15+)
- strong - MA/MA(15+)
- high - R
- very high - RC

Assessing the impact of material requires considering not only the treatment of individual classifiable elements but also their cumulative effect. It also requires considering the purpose and tone of a sequence.

Impact may be higher where a scene:

- contains greater detail, including the use of close-ups and slow motion
- uses accentuation techniques, such as lighting, perspective and resolution
- uses special effects, such as lighting and sound, resolution, colour, size of image, characterisation and tone
- is prolonged
- is repeated frequently
- is realistic, rather than stylised
- encourages interactivity.

Interactivity includes the use of incentives and rewards, technical features and competitive intensity. As a general rule:

- except in material restricted to adults, nudity and sexual activity must not be related to incentives or rewards
- material that contains drug use and sexual violence related to incentives or rewards is

Refused Classification.

Impact may be lessened where reference to a classifiable element is verbal rather than visual. For example, a verbal reference to sexual violence is generally of less impact than a visual depiction. Also, some visual impacts have less impact than others: for example, an incidental depiction may have less impact than a direct one.

The classifiable elements

The six classifiable elements in a film or computer game are:

- themes
- violence
- sex
- language
- drug use
- nudity

The classification takes account of the context and impact of each of these elements, including their frequency and intensity, and their cumulative effect. It also takes account of the purpose and tone of a sequence, and how material is treated.

CATEGORIES



G – GENERAL



Impact test

The impact of the classifiable elements for material classified G should be very mild only.

Note: The G classification is for a general audience. However, it does not necessarily indicate that children will enjoy the film or computer game. Some G films and games contain themes, story-lines or game play that do not interest children.

Classifiable elements

THEMES

The treatment of themes should have a very low sense of threat or menace, and be justified by context.

VIOLENCE

Violence should have only a low sense of threat or menace, and be justified by context.

Sexual violence is not permitted.

SEX

Sexual activity should be very mild and very discreetly implied, and be justified by context.

LANGUAGE

Coarse language should be very mild and infrequent, and be justified by context.

DRUG USE

Drug use should be implied only very discreetly, and be justified by context.

NUDITY

Nudity should be justified by context.

Note: Some of the terms used in this category are defined in the List of Terms at the end of these Guidelines.



PG – PARENTAL GUIDANCE



Impact test

The impact of the classifiable elements for material classified PG/G(8+) should be no higher than mild.

Note: Material classified PG/G(8+) may contain material which some children find confusing or upsetting, and may require the guidance of parents or guardians. It is not recommended for viewing by persons under 15 without guidance from parents or guardians.

Classifiable elements

THEMES

The treatment of themes should generally have a low sense of threat or menace and be justified by context.

VIOLENCE

Violence should be mild and infrequent, and be justified by context.

Sexual violence is not permitted.

SEX

Sexual activity should be mild and discreetly implied, and be justified by context.

LANGUAGE

Coarse language should be mild and infrequent, and be justified by context.

DRUG USE

Drug use should be justified by context.

NUDITY

Nudity should be justified by context.

Note: Some of the terms used in this category are defined in the List of Terms at the end of these Guidelines.



M – MATURE



Impact test

The impact of the classifiable elements for material classified M/M(15+) should be no higher than moderate.

Note: Material classified M/M(15+) is not recommended for persons under 15 years of age. There are no legal restrictions on access.

Classifiable elements

THEMES

The treatment of themes may have a moderate sense of threat or menace, if justified by context.

VIOLENCE

Moderate violence is permitted, if justified by context.

Sexual violence should be very limited and justified by context.

SEX

Sexual activity should be discreetly implied, if justified by context.

LANGUAGE

Coarse language may be used.

Aggressive or strong coarse language should be infrequent and justified by context.

DRUG USE

Drug use should be justified by context.

NUDITY

Nudity should be justified by context.

Note: Some of the terms used in this category are defined in the List of Terms at the end of these Guidelines.



**MA – MATURE ACCOMPANIED
MA (15+) – MATURE RESTRICTED**



Impact test

The impact of material classified MA/MA(15+) should be no higher than strong.

Note: Material classified MA/MA(15+) is considered unsuitable for persons under 15 years of age. It is a legally restricted category.

Classifiable elements

THEMES

The treatment of strong themes should be justified by context.

VIOLENCE

Violence should be justified by context.

Sexual violence may be implied, if justified by context.

SEX

Sexual activity may be implied.

LANGUAGE

Strong coarse language may be used.

Aggressive or very strong coarse language should be infrequent.

DRUG USE

Drug use should be justified by context.

NUDITY

Nudity should be justified by context.

Note: Some of the terms used in this category are defined in the List of Terms at the end of these Guidelines.



R – RESTRICTED

Impact test

The impact of material classified R should not exceed high.

Note: This classification category applies only to films. Material classified R is legally restricted to adults. Some material classified R may be offensive to sections of the adult community.

Classifiable elements

THEMES

There are virtually no restrictions on the treatment of themes.

VIOLENCE

Violence is permitted.

Sexual violence may be implied, if justified by context.

SEX

Sexual activity may be realistically simulated. The general rule is “simulation, yes – the real thing, no”.

LANGUAGE

There are virtually no restrictions on language.

DRUG USE

Drug use is permitted.

NUDITY

Nudity is permitted.

Note: Some of the terms used in this category are defined in the List of Terms at the end of these Guidelines.



X – RESTRICTED

CONTAINS CONSENSUAL SEXUALLY EXPLICIT ACTIVITY (Restricted to adults 18 years and over*)

**Available only for sale or hire in the ACT and Northern Territory.*

Note: This classification category applies only to films. This classification is a special and legally restricted category which contains only sexually explicit material. That is material which contains real depictions of actual sexual intercourse and other sexual activity between consenting adults.

No depiction of violence, sexual violence, sexualised violence or coercion is allowed in the category. It does not allow sexually assaultive language. Nor does it allow consensual depictions which purposefully demean anyone involved in that activity for the enjoyment of viewers.

Fetishes such as body piercing, application of substances such as candle wax, 'golden showers', bondage, spanking or fisting are not permitted.

As the category is restricted to activity between consenting adults, it does not permit any depictions of non-adult persons, including those aged 16 or 17, nor of adult persons who look like they are under 18 years. Nor does it permit persons 18 years of age or over to be portrayed as minors.

Note: Some of the terms used in this category are defined in the List of Terms at the end of these Guidelines.

RC – REFUSED CLASSIFICATION

Note: Films that exceed the R and X classification categories will be Refused Classification. Computer games that exceed the MA(15+) classification category will be Refused Classification.

Films and computer games will be refused classification if they include or contain any of the following:

CRIME OR VIOLENCE

Detailed instruction or promotion in matters of crime or violence.

The promotion or provision of instruction in paedophile activity.

Depictions of child sexual abuse or any other exploitative or offensive depictions involving a person who is or who looks like a child under 16 years.

Gratuitous, exploitative or offensive depictions of:

- (i) violence with a very high degree of impact or which are excessively frequent, prolonged or detailed;
- (ii) cruelty or real violence which are very detailed or which have a high impact;
- (iii) sexual violence.

SEX

Depictions of practices such as bestiality.

Gratuitous, exploitative or offensive depictions of:

- (i) sexual activity accompanied by fetishes or practices which are offensive or abhorrent;
- (ii) incest fantasies or other fantasies which are offensive or abhorrent.

DRUG USE

Detailed instruction in the use of proscribed drugs.

Material promoting or encouraging proscribed drug use.

Note: Some of the terms used in this category are defined in the List of Terms at the end of these Guidelines.

List of Terms

Note: Words which are used in the Guidelines but which are not contained in this List of Terms take their usual dictionary meaning. Refer to the latest edition of The Macquarie Dictionary.

Coercion:	The use of threat or power to force agreement to sexual activity.
Demean:	A depiction or description, directly or indirectly sexual in nature, which debases or appears to debase the person or the character depicted.
Elements:	Themes, violence, sex, coarse language, drug use and nudity.
Exploitative:	Appearing to purposefully debase or abuse for the enjoyment of others, and lacking moral, artistic or other values.
Fetish:	An object, an action or a non-sexual part of the body which gives sexual gratification.
Intensity:	Strength of the treatment or subject matter; strength of engagement or involvement.
Offensive:	Material which causes outrage or extreme disgust.
Sexual Activity:	Matters pertaining to sexual acts, but not limited to sexual intercourse.

Sexual Violence:	Sexual assault or aggression, in which the victim does not consent.
Sexualised Violence:	Where sex and violence are connected in the story, although sexual violence may not necessarily occur.
Themes:	Social issues such as crime, suicide, drug and alcohol dependency, death, serious illness, family breakdown and racism.
Treatment:	The way in which material is handled or presented.
Violence:	Acts of violence; the threat or effects of violence.

Attachment B – Previous Guidelines



These guidelines were approved by Commonwealth, State and Territory Censorship Ministers in accordance with Section 12(3) of the Commonwealth *Classification (Publications Films and Computer Games) Act 1995* on 18 September 2000.

**GUIDELINES FOR THE CLASSIFICATION
OF FILMS AND VIDEOTAPES
(Amendment No.3)**

SCHEDULE

GUIDELINES FOR THE CLASSIFICATION OF FILMS AND VIDEOTAPES

INTRODUCTION

Films and videotapes, whether they are locally made or come from overseas, have to be classified before they can be sold, hired or shown publicly in Australia.

Classification is done by the Classification Board (the Board) which is located at the Sydney-based Office of Film and Literature Classification.

When making its classification decisions, the Board is required to reflect contemporary community standards and must apply criteria which are set out in the National Classification Code (the Code).

The Code is determined under the Classification (Publications, Films and Computer Games) Act 1995 (the Classification Act). The Code contains the general principles which form the basis of the Classification Guidelines (the Guidelines).

The Code states:

Classification decisions are to give effect, as far as possible, to the following principles:

- (a) adults should be able to read, hear and see what they want;
- (b) minors should be protected from material likely to harm or disturb them;
- (c) everyone should be protected from exposure to unsolicited material that they find offensive;
- (d) the need to take account of community concerns about:
 - (i) depictions that condone or incite violence, particularly sexual violence; and
 - (ii) the portrayal of persons in a demeaning manner.

Particular attention is paid, when classification decisions are made, to the protection of minors from material that is disturbing or harmful.

The concept of demeaning spelt out in the Code applies in making decisions across all of the classification categories. It refers to depictions, directly or indirectly sexual in nature which debase or appear to debase the person or the character depicted.

The Code names and broadly describes the six classification categories. G, PG and M are advisory categories. MA and R are legally restricted categories. X is a special category which is also legally restricted. The Code also describes material that is refused classification.

The Guidelines describe in more detail the nature of the different classification categories, and the scope and limits of material suitable for each category. Both the Code and the Guidelines are agreed to by Commonwealth, State and Territory Ministers with censorship responsibilities.

By law, the Board must apply both the Code and the Guidelines when making classification decisions. The Board must also take into account other matters contained in the Classification Act, set out in Section 11.

The relevant part of section 11 states:

The matters to be taken into account in making a decision on the classification of a film include:

- (a) the standards of morality, decency and propriety generally accepted by reasonable adults; and
- (b) the literary, artistic or educational merit (if any) of the film; and
- (c) the general character of the film, including whether it is of a medical, legal or scientific character; and
- (d) the persons or class of persons to or amongst whom it is published or is intended or likely to be published.

Brief history

Film classification guidelines were first written in 1980. These were intended simply as a working document for members of the Film Censorship Board (now known as the Classification Board). In 1984 and again in 1988 revised guidelines were drawn up by the Board and agreed to by State and Federal Ministers responsible for censorship. Since that time the Guidelines have been made publicly available in order to help consumers better understand the classification system. They have been distributed in schools, for example, as part of an educational campaign about the classification scheme.

In 1993 the Guidelines were up-dated to include the new MA category. This category was introduced in response to community concern about the impact of some of the stronger material classified M. That is, material which was recommended for mature audiences, but to which children had unrestricted access.

While the Guidelines are intended primarily for use by the Board in making its decisions, they are also designed to inform consumers about the basis for those decisions.

Consultation process

The Guidelines are revised from time to time in consultation with members of the public, community groups and organisations, including contributors to research. The views of complainants, industry groups and other interested parties are sought. The revised guidelines are scrutinised by a language expert; community input and responses are reviewed by an independent person with expertise in the area of censorship and classification. Once approved by Commonwealth, State and Territory Ministers, the Guidelines must be formally gazetted and tabled in the respective Parliaments.

Guidelines contents and use

The Guidelines aim to be as objective as possible, while retaining the flexibility needed to accommodate notions of merit and community standards (s. 11, the Classification Act).

The Guidelines contain descriptions of each of the classification categories. The categories indicate the most suitable audience for the film, in terms of age and legal restriction.

Each classification category contains a list of the criteria used by the Board when making classification decisions. These criteria relate to the classifiable elements of violence, sex, coarse language, adult themes, drug use and nudity.

In considering each element, the Board makes classification decisions based on the impact of individual elements and their cumulative effect. The content and treatment of elements contribute to the impact. The Board takes into account factors such as tone, duration, frequency and the amount of visual or verbal detail. The relationship of classifiable elements to the narrative also contributes to the impact of a film, and therefore its classification.

In describing classification criteria, the Guidelines sometimes use language which can be interpreted in a number of ways. To clarify the way words are used in the Guidelines, a glossary of terms is included.

Consumer advice

In making classification decisions, the Board also decides what consumer advice should be provided. The law requires that consumer advice is shown with the classification symbol on posters, advertisements and video jackets.

Consumer advice is designed to alert consumers to the elements that have contributed to the classification. It should help people to make informed choices about the films and videos they choose for themselves or for their children.

Consumer advice is generally not provided for material classified G. As this category is suitable for viewing by all ages, it can be expected not to contain anything which might require consumer advice.

The Guidelines

GENERAL (Suitable for all ages)

This is a category which is considered suitable for all viewers.

The G classification symbol does not necessarily indicate that the film is one that children will enjoy. Some G films contain themes or story-lines that are of no interest to children.

Parents should feel confident that children can watch material in this classification without supervision. Material classified G will not be harmful or disturbing to children. Whether or not the film is intended for children, the treatment of themes and other classifiable elements will be careful and discreet.

Violence: Violence may be very discreetly implied, but should:

- have a light tone, or
- have a very low sense of threat or menace, and
- be infrequent, and
- not be gratuitous

Sex: Sexual activity should:

- only be suggested in very discreet visual or verbal references, and
- be infrequent, and
- not be gratuitous

Coarse Language: Coarse language should:

- be very mild and infrequent, and
- not be gratuitous



PARENTAL GUIDANCE

(Parental guidance recommended for persons under 15 years)

The PG classification signals to parents that material in this category contains depictions or references which could be confusing or upsetting, to children without adult guidance. Material classified PG will not be harmful or disturbing to children.

Parents may choose to preview the material for their children; some may choose to watch the material with their children. Others might find it sufficient to be accessible during or after the viewing to discuss the content.

Violence: Violence may be discreetly implied or stylised, and should also be:

- mild in impact, and
- not shown in detail

Sex: Sexual activity may be suggested, but should:

- be discreet, and
- be infrequent, and
- not be gratuitous

Verbal references to sexual activity should be discreet.

Coarse Language: Coarse language should be mild and infrequent.

Adult Themes: Supernatural or mild horror themes may be included.

The treatment of adult themes should be discreet and mild in impact.

More disturbing themes are not generally dealt with at PG level.

Drug Use: Discreet verbal references and mild, incidental visuals of drug use may be included, but these should not promote or encourage drug use.

Nudity: Nudity outside of a sexual context should not be detailed or gratuitous.



MATURE

(Recommended for mature audiences 15 years and over)

The Mature category is advisory and not legally restricted. However, material in this category cannot be recommended for those under 15 years.

Films classified M contain material that is considered to be potentially harmful or disturbing to those under 15 years. Depictions and references to classifiable elements may contain detail. However, the impact will not be so strong as to require restriction.

Violence:

Generally, depictions of violence should:

- not contain a lot of detail and
- not be prolonged

In realistic treatments, depictions of violence that contain detail should:

- be infrequent and
- not have a high impact and/or
- not be gratuitous

In stylised treatments, depictions of violence may contain more detail and be more frequent if this does not increase the impact.

Verbal and indirect visual references to sexual violence may only be included if they are:

- discreet and infrequent, and
- strongly justified by the narrative or a documentary context.

Sex:

Sexual activity may be discreetly implied.

Nudity in a sexual context should not contain a lot of detail, or be prolonged.

Verbal references to sexual activity may be more detailed than depictions if this does not increase the impact.

Coarse Language:

Coarse language may be used.

Generally, coarse language that is stronger, detailed or very aggressive should:

- be infrequent and
- not be gratuitous

Adult Themes:

Most themes can be dealt with, but the treatment should be discreet, and the impact should not be high.

Drug Use:

Drug use may be discreetly shown.
Drug use should not be promoted or encouraged.

Nudity:

Nudity outside of a sexual context may be shown but depictions that contain any detail should not be gratuitous.

MA¹⁵⁺ **MATURE ACCOMPANIED**

(Restrictions apply to persons under the age of 15*)

***The MA category is legally restricted. Children under fifteen will not be allowed to see MA films in the cinema or hire them on video unless in the company of a parent or adult guardian.**

Material classified MA deals with issues or contains depictions which require a mature perspective. This is because the impact of individual elements or a combination of elements is considered likely to be harmful or disturbing to viewers under 15 years of age.

Violence: Generally, depictions of violence should not have a high impact. Depictions with a high impact should be infrequent, and should not be prolonged or gratuitous.

Realistic treatments may contain detailed depictions, but these should not be prolonged.

Depictions of violence in stylised treatments may be more detailed and more frequent than depictions of violence in close to real life situations or in realistic treatments if this does not increase the impact.

Visual suggestions of sexual violence are permitted only if they are not frequent, prolonged, gratuitous or exploitative.

Sex: Sexual activity may be implied.

Depictions of nudity in a sexual context which contain detail should not be exploitative.

Verbal references may be more detailed than depictions, if this does not increase the impact.

Coarse Language: Coarse language may be used.

Coarse language that is very strong, aggressive or detailed should not be gratuitous.

Adult Themes: The treatment of themes with a high degree of intensity should be discreet.

Drug Use: Drug use may be shown, but should not be promoted or encouraged.

More detailed depictions should not have a high degree of impact.

R 18+ RESTRICTED

(Restricted to adults 18 years and over)

The R category is legally restricted to adults. Material which is given a restricted classification is unsuitable for those under 18 years of age. Material classified R deals with issues or contains depictions which require an adult perspective.

The classification is not intended as a comment on the quality of the material. Some material may be offensive to some sections of the adult community. Material which promotes or incites or instructs in matters of crime and/or violence is not permitted.

- Violence:* Depictions of violence which are excessive will not be permitted.
- Strong depictions of realistic violence may be shown but depictions with a high degree of impact should not be gratuitous or exploitative.
- Sexual violence may only be implied and should not be detailed.
- Depictions must not be frequent, gratuitous or exploitative.
- Gratuitous, exploitative or offensive depictions of cruelty or real violence will not be permitted.
- Sex:* Sexual activity may be realistically simulated; the general rule is "simulation, yes - the real thing, no."
- Nudity in a sexual context should not include obvious genital contact.
- Verbal references may be more detailed than depictions.
- Coarse Language:* There are virtually no restrictions on coarse language at R level.
- Adult Themes:* The treatment of any themes with a very high degree of intensity should not be exploitative.
- Drug Use:* Drug use may be shown but not gratuitously detailed.
- Drug use should not be promoted or encouraged.
- Detailed instruction in drug misuse is not permitted.

X 18+ RESTRICTED

CONTAINS CONSENSUAL SEXUALLY EXPLICIT ACTIVITY

(Restricted to adults 18 years and over*)

*Available only for sale or hire in the ACT and Northern Territory

This classification is a special and legally restricted category which contains only sexually explicit material. That is material which contains real depictions of actual sexual intercourse and other sexual activity between consenting adults.

No depiction of violence, sexual violence, sexualised violence or coercion is allowed in the category. It does not allow sexually assaultive language. Nor does it allow consensual depictions which purposefully demean anyone involved in that activity for the enjoyment of viewers.

Fetishes such as body piercing, application of substances such as candle wax, 'golden showers', bondage, spanking or fisting are not permitted.

As the category is restricted to activity between consenting adults, it does not permit any depictions of non-adult persons, including those aged 16 or 17, nor of adult persons who look like they are under 18 years. Nor does it permit persons 18 years of age or over to be portrayed as minors.

RC REFUSED CLASSIFICATION

As pointed out in the introduction, films and videos must be classified. A film or video which does not have the authorised classification symbols or the consumer advice is either an unclassified film or video, or it has been refused classification.

Films or videos which contain elements beyond those set out in the above classification categories are refused classification.

Films or videos which fall within the criteria for refused classification cannot be legally brought into Australia.

The Classification Code sets out the criteria for refusing to classify a film or video. The criteria fall into three categories. These include films that:

- depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should be classified RC.
- depict in a way that is likely to cause offence to a reasonable adult a person who is or who looks like a child under 16 (whether or not engaged in sexual activity), or;
- promote, incite or instruct in matters of crime or violence.

Films and videos will be refused classification if they appear to purposefully debase or abuse for the enjoyment of viewers, and which lack moral, artistic or other values, to the extent that they offend against generally accepted standards of morality, decency and propriety.

Films and videos will be refused classification:

- (a) if they promote or provide instruction in paedophile activity;

or if they contain:

- (b) depictions of child sexual abuse or any other exploitative or offensive depictions involving a person who is or who looks like a child under 16;
- (c) detailed instruction in:
 - (i) matters of crime or violence,
 - (ii) the use of proscribed drugs;
- (d) depictions of practices such as bestiality;

or if they contain gratuitous, exploitative or offensive depictions of:

- (e) violence with a very high degree of impact or which are excessively frequent, prolonged or detailed;
- (f) cruelty or real violence which are very detailed or which have a high impact;
- (g) sexual violence;

- (h) sexual activity accompanied by fetishes or practices which are offensive or abhorrent;
- (i) incest fantasies or other fantasies which are offensive or abhorrent.

GLOSSARY OF TERMS

Abuse:	Maltreat or assault, especially sexually.
Adult Themes:	Issues dealing with aspects of adult life that are potentially harmful to minors, or disturbing. Adult themes may include verbal references to and depictions associated with issues such as suicide, crime, corruption, marital problems, emotional trauma, drug and alcohol dependency, death and serious illness, racism, religious issues.
Advisory:	(applies to G, PG and M) These classifications do not legally restrict anyone from seeing or hiring the film. They recommend the most suitable audience for the film, in terms of age and level of parental supervision.
Coarse language:	At G level, this might include “bloody” or “bugger”. At PG level, it might include “shit”. At M , it includes “fuck”.
Coercion:	The use of threat to force agreement to sexual activity.
Demean:	A depiction, directly or indirectly sexual in nature, which debases or appears to debase the person or the character depicted.
Depiction:	Representation, portrayal on screen.
Detail:	The amount of verbal or visual information in the representation of a subject. Detail can include close-up visuals, repeated, prolonged or slow-motion visuals, and accentuation through lighting.
Discreet:	With little or no detail and generally brief.
Disturb/disturbing:	Cause emotional trauma.
Drugs:	Detailed instruction in the use of proscribed drugs is refused classification. Proscribed drugs are those specified in Schedule 4 (referred to in Regulation 4A (1A) (e)) of the Customs (Prohibited Imports) Regulations.

Elements:	Classifiable elements include violence, sex, coarse language, adult themes, drug use, nudity - the Classification Board assesses the impact of these when making classification decisions.
Excessive	Treatment which exceeds reasonable limits, especially in terms of detail, duration or frequency
Exploitative:	Appearing to purposefully debase or abuse for the enjoyment of viewers, and lacking moral, artistic or other values.
Fetish:	An object, an action, or a non-sexual part of the body which gives sexual gratification.
Gratuitous:	Material which is unwarranted or uncalled for, and included without the justification of a defensible story-line or artistic merit.
Harm/harmful:	Cause developmental damage.
Impact:	The strength of the effect on the viewer.
Implied:	Depiction/s of a subject in which an act or thing is inferred or indicated without actually being seen.
Intensity:	Strength of treatment or subject matter.
Material:	The content of films or videos.
Nudity:	Nudity can consist of frontal or rear above and below waist visuals, full frontal or full rear visuals for both sexes, or breast nudity for females. The amount of detail is determined not only by the content of the nudity shown, but by other factors including closeness and duration of visuals, repetition, and clarity.
Offensive:	Material which causes outrage or extreme disgust to most people.
Real:	Actual
Realistic:	(see Treatment)
Reasonable Adult:	Possessing common sense and an open mind, and able to balance personal opinion with generally accepted community standards.
Sexual Activity:	Matters pertaining to sexual arousal but not limited only to portrayals of sexual intercourse.
Sexual Violence:	The act of sexual assault or aggression, in which the victim does not consent.

Sexualised Violence:	Where sex and violence are connected in the story, although sexual violence may not necessarily occur.
Sexually Explicit Material:	Real sex on screen.
Simulation:	Simulated sexual activity is not real, but looks realistic.
Suggested:	Mild, discreet treatment of a subject in which an act or thing is hinted at.
Suggestion:	Mild, discreet treatment of a subject in which an act or thing is hinted at, generally through discreet focus on part of, rather than the whole picture.
Stylised:	(see Treatment)
Tone:	The quality or feeling of material, such as its sadness, humour, menace, lightness, or seriousness.
Treatment:	The artistic handling of a scene or a film, especially with regard to style. In a realistic treatment , the material appears real to the viewer. It may be close to real life, and feel authentic. In a stylised treatment , the viewer is conscious of the unreality; examples include musicals, horror films, animation and fantasy.
Unsuitable:	Material that is not appropriate to viewers under 18 years, because of its ability to harm (cause developmental damage) or disturb (cause emotional trauma).
Violence:	Includes not only acts of violence, but also the threat or result of violence.
Visual Reference:	An image related to, but not of, classifiable elements such as violence, sex, and drug use.



These guidelines were approved by Commonwealth, State and Territory Censorship Ministers in accordance with Section 12(3) of the Commonwealth *Classification (Publications Films and Computer Games) Act 1995* on 15 April 1999.

GUIDELINES FOR THE CLASSIFICATION OF COMPUTER GAMES (Amendment No.1)

Computer games, whether they are locally made or come from overseas, have to be classified before they can be sold, hired or demonstrated in Australia.

Classification is done by the Classification Board (the Board) which is located at the Sydney-based Office of Film and Literature Classification.

When making its classification decisions, the Board is required to reflect contemporary community standards and must apply criteria which are set out in the National Classification Code (the Code).

The Code is determined under the *Classification (Publications, Films and Computer Games) Act 1995* (the Act). The Code contains the general principles which form the basis of the Guidelines for Classification of Computer Games (the Guidelines).

The main features of the classification scheme for computer games are:

- Computer games offered for sale, hire or arcade use are subject to classification against an agreed set of guidelines. The exceptions are:
 - (i) 'Bulletin Board Systems' are not regulated under this scheme; and (ii) business, accounting or educational software is not regulated unless it contains 'adult' type material.
- These guidelines are, at the direction of Commonwealth, State and Territory Ministers, to be applied more strictly than those for the classification of film and videotape. The Ministers are concerned that games, because of their 'interactive' nature, may have greater impact, and therefore greater potential for harm or detriment, on young minds than film and videotape.

- Under this scheme, classification decisions are to give effect, as far as is possible, to the principles spelled out in the Code that:
 - (a) adults should be able to read, hear and see what they want;
 - (b) minors should be protected from material likely to harm or disturb them;
 - (c) everyone should be protected from exposure to unsolicited material that they find offensive; and
 - (d) the need to take account of community concerns about:
 - depictions which condone or incite violence and, in particular, sexual violence; and
 - the portrayal of persons in a demeaning manner.
- The stronger computer games are banned, some material is restricted for sale to those 15 years and over.
- Consumer information is displayed on packaging and advertising. These measures are designed to assist parents to choose material for themselves and those in their care.
- There are substantial penalties under State and Territory laws for selling unclassified games, particularly those subsequently classified restricted or refused classification.

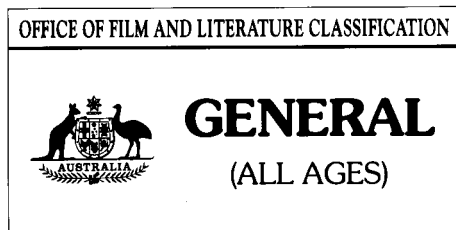
The structure of the classification system is:

General	<p>This category is suitable for all persons under 15 years. It may be recognised by the display of the following words on packaging or advertising matter:</p> <ul style="list-style-type: none">- 'Suitable for all ages'.
General (8+)	<p>This category is also suitable for persons under 15 years but may not be appropriate to younger children under 8 years who may have difficulty distinguishing between fantasy and reality. It may be recognised by the display of the following words on packaging or advertising matter:</p> <ul style="list-style-type: none">- 'Suitable for children 8 years and over'.
Mature	<p>This category is suitable for persons 15 years and over. Additional information may be provided by the display of the following words on packaging or advertising matter:</p> <ul style="list-style-type: none">- 'Suitable for persons 15 years and over'.
MA	<p>This category is restricted to persons 15 years and over.</p>
Refused Classification	<p>Material so classified may not be sold, hired, exhibited, displayed, demonstrated or advertised.</p>

GENERAL 'G'

(Suitable for All Ages)

Material considered to be 'suitable for all ages' is to include on the front cover of its packaging a marking (prominent text on a contrasting background) such as -

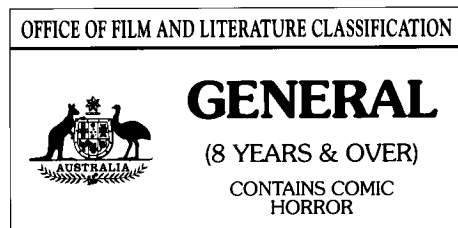


This classification is suitable for the youngest child and should not require parental supervision.

GENERAL 'G(8+)'

(Suitable for children 8 years and over)

'General' material considered to be 'suitable for children 8 years and over' is to include on its packaging an appropriate warning (prominent text on a contrasting background) such as -



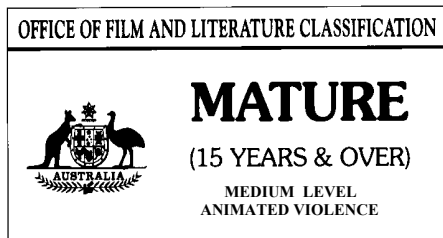
Material which falls into this category would contain elements which might disturb or distress very young children. Elements which might warrant this category would include:

- depictions of unrealistic or stylised violence even where these are considered mild
- mild horror or potentially frightening fantasy characters or situations
- the mildest expletives, but only if infrequent.

MATURE 'M(15+)'

(Suitable for persons 15 years and over)

'Mature' material considered 'suitable for persons 15 years and over' is to include on its packaging an appropriate warning (prominent text on a contrasting background) such as -



Material which falls into this category would contain elements which might disturb, harm or offend those under 15 years to the extent that it is recommended for use by those 15 years and over. Elements which might warrant this category would include:

- depictions of realistic violence of low intensity (eg punches, kicks, blows to realistic animated characters or real-life images)
- supernatural or horror scenarios, but not if graphic or impactful
- mild sexual references
- low level coarse language, but not if excessive.

'MA (15+)'

(Restricted to persons 15 years and over)

Computer games or images classified 'MA' may not be sold, hired or demonstrated to persons under 15 years. The packaging for this category of games will display (prominent text on a contrasting background) a marking such as -



Material which falls into this category would contain elements likely to disturb, harm or offend those under 15 years to the extent that it should be restricted to those 15 years and over. Elements which might warrant this category would include:

- depictions of realistic violence of medium intensity (eg impactful punches, kicks, blows and blood-shed to realistic animated characters or real-life images)
- graphic or impactful supernatural or horror scenarios
- strong sexual references
- use of frequent crude language, but not if excessive, unduly assaultative or sexually explicit
- nudity, including genital detail, but only if there is a 'bona fide' educational, medical or community health purpose.

RC REFUSED CLASSIFICATION

Material which includes any of the following will be refused classification:

Violence:

- depictions of realistic violence, even if not detailed, relished or cruel (eg. excessive and serious violence such as realistic depictions of dismemberment accompanied by loss of blood to real life images);
- extreme 'horror' scenarios or special effects; or
- depictions of unduly detailed and/or relished acts of extreme violence or cruelty.

Sex:

- nudity, including genitalia unless there is a 'bona fide' educational, medical or community health purpose;
- simulated or explicit depictions of sexual acts between consenting adults;
- any depiction of sexual violence or sexual activity involving non-consent of any kind; or
- depictions of child sexual abuse, bestiality, sexual acts accompanied by offensive fetishes, or exploitative incest fantasies.

Language:

- use of sexually explicit language.

Other:

- promotion or provision of instruction in paedophile activity.
- detailed instruction or encouragement in:
 - (i) matters of crime or violence; or
 - (ii) the abuse of proscribed drugs;
- depictions which encourage the use of tobacco or alcohol, or which depict drug abuse; or
- depictions which are likely to endorse or promote ethnic, racial or religious hatred.

CONSUMER ADVICE LINES

Consumer advice lines reflect the principal element(s) that contributed to the classification of a game/image (eg, the words 'contains frequent animated violence'). They are displayed on packaging and advertising and are intended to assist the purchaser to make an informed choice for personal use or for use by persons under his/her care.

CONSUMER ADVICE LINES (PROVISIONAL LIST)

G(8+) comic/mild horror
fantasy elements unsuitable for young children
low level animated violence
low level coarse language
adult themes

M(15+) low level violence
medium level violence
low level animated violence
medium level animated violence
low level coarse language
medium level coarse language
horror theme
adult themes
sexual references

MA(15+) medium level animated violence
high level animated violence
medium level violence
high level violence
medium level coarse language
horror theme
adult themes
sexual references

Attachment C – Authors of Submissions

Individuals (159 submissions)

Last Name	First Name
Alexander	Kurt
Andrews	Linda
Archer	Richard
Baker	Chris
Baker	Dayle
Baker	Glenn
Ballinger	David
Barnes	Philip
Bartlett	Linda
Battersby	Debbie
Beere	Ray
Bennett	Betty
Bennett	Ursula
Benz	Elke
Bernard	David
Bettenay	Melissa
Bienlenberg	Thomas
Blake	Tara
Blatchford	Lachlan
Bohn	H
Bokma	Menno
Bonanno	David
Buchiw	Patricia
Burt	Darren
Butler	Ruth
Camm	J M
Cavill	Stephen
Chandrasegaran	Suryan Robert
Chanh	Yiah
Clark	Leonard
Clay	David
Cohen	Helene
Cunningham	Charles
Dale	H
Day	Brendan
Den-Batter	Denise
Dent	L J
Devine	John
Dickson	Ian
Doughty	David
Doust	Geoff
Draper, MP	Trish
Edmonds	Therese

Egan
Ewers
Fairweather
Ferguson
Fesuk
Filmer
Fracalossi
Frith
Gallehawk
Gilbert
Goodwin
Gordyn
Grant
Graves
Graziotin
Gullo
Hailes
Hair
Hair
Hall
Hammond
Harrison-Smith
Hart
Harwin
Hawkins
Hicks
Hiscox
Hoysted
James
Janes
Jentz
Jones
Kamst
Katos
Kinmont
Kinsman
Kirkland
Kokonis
Lawrence
Letchford
Ludlow
Macdonald
Macpherson
Mann
Mardon
Marffy
Mcallan

Shirley
Robert
Amanda
Andrew
Eileen
Peter
Maria
Eric
Paul
Vivienne
David
Cornelius
Steve
Margaret
Susan
Chas
Chris
Adam
John
Anne
Bonny
Lachlan
Chris
Kathy
John
Lesly
Brenda
Alan A
Barbara
Tim
Brian
Jen
Anne
Spero
Matthew
Arthur
Bill & Helen
George & Lydia
Claire & Colin
John
Ann
Dalene
John
Jack
Chris
Elmer
Andrew

Mcdonald
Mcgregor
Mcgrory
Mifsud
Minty
Mitchell
Mkoka
Mueller
Munchow
Murphy
Newport
Nixon
Northey
Nunn
Okeh
Oldfield
Ordish
Parker
Phillips
Piercy
Purcell
Quirk
Reller
'Remo'
Roberts
Robertson
Robinson
Robinson
Rofe
Rogers
Rundle
Saad
Savill
Scott
Sebregts
Slucki
Smith
Smith
Stapleton
Steele
Sullivan
Tatters
Thorpe
Thorpe
Tonkin
Tostevin
Trezise

Julie
Vanessa
Columb
Steve
Marion & John
Lois
A
Arthur
Gerald
K M
Heather
Padre Les
Brett
Georgina
Ndubuisi
Colin
Paul
Jo
Peter
Mathew
D
Cameron
David

Noel
Eddie & Shirley
Sylvia
Andrew
Mary
Robert
Pauline
Nicola
Bryce And Donna
Craig
Alex
Stefan
David
Simon
Duane
J
A J
Marcia
Michael
Kaia
Ross
Dean
Judy

Van Gend
Vander Veen
Vartis
Vicziány
Walton
Watkins
Whitehead
Wilkinson
Williams
Williams
Williams
Willis
Woodall
Worby
Yule
Yun
Zodins
Two with no name provided
Three confidential submissions

David
Wayne
Tina
Steve
Jannah
Brisa
Laurence
Gavin
Alex
Rachel
Rod
Tony & Barbi
Helen
Mandy
Valerie
Neville
Kate

Organisations (21 submissions)

Australian Christian Lobby
Australian Family Association, VIC
Australian Family Association, WA
Australian Institute Of Family Counselling
Catholic Women's League, Archdiocese of Sydney
Catholic Women's League of Australia Inc
Catholic Women's League of Australia, NSW
Catholic Women's League of Victoria/Wagga Wagga Inc
Christian Reformed Churches of Australia
Festival of Light, NSW
Festival of Light, SA
Interactive Entertainment Association of Australia
Media Standards Australia
Presbyterian Church of Australia
St Vincent De Paul Society, NSW/ACT
Saltshakers
The Salvation Army Of Australia, Eastern Territory
Young Media Australia
Youth With A Mission, Canberra
Youth With A Mission, SA Inc
One confidential submission

Total: 180 submissions

Attachment D – OFLC responses to titles referred to in the report

Further information about these decisions can be requested from the Office of Film and Literature Classification (tel: 02-9289-7100; email: oflcswitch@oflc.gov.au).

Agent Cody Banks

On 20 March 2003, the Classification Board classified the film *Agent Cody Banks* PG with the consumer advice ‘medium level violence’. In its report, the Board noted that:

Cody Banks seems to be an average teenager, hopelessly shy around girls, until he is called up by the CIA. Having been trained as a CIA agent at a summer camp Cody is sent to prep school to befriend Natalie Connors and access to her father. Mr Connors is a scientist who is unknowingly developing nanobot technologies that may jeopardise America’s defence capabilities. Cody must defeat the evil ERIS organisation to prove himself as an agent and save Natalie...

... Pursuant to the Guidelines for the Classification of Films and Videotapes, the film warrants a PG classification for medium level violence that may be confusing or upsetting to children without adult guidance.

... Generally depictions of violence are discreetly implied or stylised, are mild in impact and not shown in detail.

Agent Cody Banks 2: Destination London

On 11 March 2004, the Board classified the film *Agent Cody Banks 2: Destination London* PG with the consumer advice ‘medium level violence’. In its report, the Board noted that:

Teenage spy Cody Banks is sent to London to foil a plot to take over the world by controlling the minds of world leaders meeting at a summit in Buckingham Palace.

... Pursuant to the *Guidelines for the Classification of Films and Computer Games*, the film warrants a PG classification for medium level violence that may be confusing or upsetting to children without adult guidance.

The film contains some depictions of mild violence ... The martial arts style fight sequences are highly stylised and choreographed and the impact of the violence is no higher than mild.

Anatomy of Hell

On 5 May 2004, the Board classified *Anatomy of Hell* R18+ with the consumer advice ‘strong sexual violence, graphic violence, sexual activity’. The Board’s decision report stated that:

In the majority of the Board's view the sexually explicit content can be accommodated within the R classification, taking into account matters set out in section 11 of the Classification Act and in accordance with the R classification guidelines.

The R guidelines state that, 'the general rule is simulation, yes – the real thing, no.' The general rule provides the Board with a discretion in certain limited instances to permit explicit depictions of sexual activity within an educational or artistic context within the R classification.

In assessing the impact of the depictions of actual sexual activity, the Board took into account the film's artistic merit and serious purpose. The film is likely to be well-heralded to prospective viewers, it is intellectually challenging, it is a foreign language film and is not likely to have a wide public appeal in Australia.

The explicit sexual images in the film are within the context of a serious exploration of taboo subjects with the apparent intention of unsettling and challenging the audience. Furthermore, they are generally brief and are not intended to titillate the viewer. The depictions of actual sex in the film, while confronting and offensive to some sections of the adult community, are in line with other films such as 'Romance', 'Intimacy', 'In the Realm of the Senses' and 'In the Cut' which have generally been accepted by the public.

This film contains material that may be offensive to some sections of the adult community. This film is unsuitable for those under 18 years of age and with appropriate consumer advice warrants an R classification.

On 23 June 2004, at the request of the South Australian Attorney-General, who is responsible for censorship matters in that state, the Australian Attorney-General submitted an application for review of the classification of *Anatomy of Hell*.

On 7 July 2004, the Review Board classified *Anatomy of Hell* R18+ with the consumer advice 'Actual sex, high level sex scenes, high level themes'. The Review Board considered that although the film contained content of a high level, the depictions were justified by context and could be accommodated within the R18+ classification.

The Review Board noted in its reasons for decision that:

...the film was a serious attempt at a complex subject and that it had some artistic intent. Having regard to the matters required to be considered in the Act, the Code and the Guidelines, the majority felt that the film was most appropriately assigned an R18+ classification. The Review Board believed in the majority that the various controversial scenes were depicted in context and could be accommodated in the R18+ classification.

The Review Board therefore found in the majority that the treatment of the high-level themes was justified by context, as were the sex and depiction of the scene involving the girl child. Further, the Board found that the impact of the material was high, but not so high as to warrant a more restrictive rating than the legally restrictive R18+

classification. The majority were mindful of the principle contained within the Code that adults should be able to read, hear and see what they want. The majority considered that minors would be protected through the legally restrictive R18+ classification.

The minority view was that the number of actual sex scenes coupled with the demeaning depiction of the girl, and to a lesser extent the guy, and the girl child in these sexualised scenes provided a cumulative impact that was very high and as such the film should be refused classification. In addition, the minority view was that the scene involving the girl child was an offensive depiction of a person under 16 years of age and the film should have been refused classification.

The Review Board's written reasons for the classification decision are available on the OFLC website at www.oflc.gov.au.

Baise-Moi

On 19 September 2001 the Board, in a 6-5 majority decision, classified the film *Baise-Moi* R18+ with the consumer advice 'strong sexual violence, high level violence, actual sex and adult themes'. The R18+ category for films is legally restricted to adults. In its report, the Board noted that:

In the majority of the Board's view the sexually explicit content can be accommodated within the R18+ classification, taking into account matters set out in section 11 of the Classification Act and in accordance with the R18+ classification guidelines. The R18+ guidelines state that, 'the general rule is simulation, yes – the real thing, no'. The general rule provides the Board with a discretion in certain limited instances to permit explicit depictions of sexual activity within an educational or artistic context within the R18+ classification.

The impact of the violence, sexual violence and depictions of actual sexual activity is mitigated by its artistic merit and serious cultural purpose. The film has been released internationally and is already well-heralded to prospective viewers, it is intellectually challenging, it is a foreign language film and is not likely to have a wide public appeal in Australia.

In contrast to pornographic works, many of the explicit images are brief and are not intended to provide sexual gratification to the viewer. The depictions of actual sex in the latter part of the film are in line with other films such as 'Romance' which have generally been accepted by the public.

On 21 April 2002, the previous Australian Attorney-General, the Hon Daryl Williams AM QC MP, requested a review of the Board's decision. On 10 May 2002, the Review Board met to review the R18+ classification of the film.

In a unanimous decision, the Review Board classified the film RC (Refused Classification). A film classified RC cannot be shown legally in Australia. The Review Board noted in its reasons for decision that:

The (Review) Board considered that the film contained scenes of violence which had a very high degree of impact and were prolonged and detailed. It also considered there were prolonged scenes of sexual violence. In a cumulative sense, the film as a

whole depicted strong scenes of sex and violence which were inextricably linked throughout. This interaction of sex and violence in the film increased the impact of the individual scenes.

The (Review) Board also considered the statement in the Code regarding community concerns about the portrayal of persons in a demeaning manner...

... In balancing the matters for consideration under the legislative scheme, whilst acknowledging the film has artistic merit, the (Review) Board did not consider its 'serious cultural purpose' was sufficient to warrant a classification except 'RC'.

The Review Board's written reasons for the classification decision are available on the OFLC website at www.oflc.gov.au.

Basic

On 14 April 2003, the Board classified the film *Basic* MA15+ with the consumer advice 'medium level violence'. In its report, the Board stated that:

An ex-Army Ranger turned DEA agent is drawn into an ever-widening mystery surrounding the disappearance of the hated Sgt. Nathan West as well as several of his elite Special Forces trainees on what appears to be a routine military exercise during a hurricane in the jungles of Panama.

... The impact of violence is strong and is justified by context.

Darkened vision, torrential rain and fast movement within a Special Forces exercise carried out in a hurricane situation in the jungles of Panama mitigate the impact of some depictions. However, the cumulative effect of several violent incidents, which are sometimes repetitive throughout the film, increases the overall impact.

The Board notes that coarse language can be accommodated in a lower classification.

In the Board's opinion the impact of the above elements warrants MA classification.

On 2 May 2003, the Classification Review Board met to hear an application for review of the film from the distributor, Icon Film Distribution. The Review Board decided to classify the film MA15+ with the consumer advice 'violence, strong coarse language'. In its reasons for decision, the Review Board said:

In reaching its decision to classify *Basic* MA15+ with the consumer advice 'Violence, Strong Coarse Language' the Review Board took particular note of the Guidelines in the MA classification that 'violence should be justified by the context' and that 'strong coarse language may be used'. It was further noted that the M classification requires that 'moderate violence is permitted' and 'coarse language may be used.' The Review Board concluded that the cumulative impact of the violence, particularly as detailed in the scenes described, was strong and that the violence was justified in the military context. The Review Board noted that this was not a war film, nor was it a retelling of an historical event and nor was it based on a true story.

The applicant stated in its submission that ‘It should also not be forgotten that the end of the film makes it perfectly clear that the whole operation was a sting from the start. Any residual impact which may have lingered through the film is dispelled when the film’s plot is laid out for all to see’.

Notwithstanding this submission, the Review Board decided that the denouement at the end did not mitigate the impact of the violent scenes, which were seen repeatedly in different scenarios.

The Review Board’s written reasons for the classification decision are available on the OFLC website at www.oflc.gov.au.

Brother Bear

The Board classified the film *Brother Bear* G on 28 October 2003. The Board was of the opinion that the impact of all classifiable elements within the film was very mild and could be accommodated at the G level.

The film contains a hunting scene which ends in the death of the brother. In the 2003 Guidelines, violence may be included within the G classification, however, it should only have a low sense of threat or menace and be justified by context. The Board was of the opinion that the depictions of violence within *Brother Bear* only had a low sense of threat or menace and are justified in the context of a story of adventure and self-discovery. Furthermore, the Board felt that the themes of loss and bereavement are treated with care and discretion.

Bulletproof Monk

On 6 May 2003, the Board classified the film *Bulletproof Monk* M with the consumer advice ‘medium level violence, low level coarse language’. In its reasons for decision, the Board noted that:

A mystical scroll is protected by a nameless Monk, who must train and guide a young mentor so that the scroll can be passed on and protected for another 60 years.

... this film is classified M as the impact of the classifiable elements is moderate. Material classified M/M(15+) is not recommended for persons under 15 years of age...

... The depictions of violence are highly stylised and most involve martial arts fighting, complete with kicks, punches and gravity defying spins through the air. All depictions are moderate in impact and justified by context.

... The film contains infrequent use of ‘fuck’ language. At 19.30 minutes during a fight sequence between Kar and Funktastic, a rap song is played. The lyrics contain one incident of ‘motherfucker’ language.

In the Board’s view this film warrants a classification of M for the elements mentioned above and cannot be recommended for persons under 15 years of age.

Cat in the Hat

On 2 December 2003 the Board classified the film *The Cat in the Hat* G. The Board was of the opinion that the impact of all classifiable elements within the film was very mild and could be accommodated at the G level.

Very mild coarse language can be accommodated in the G classification if it is very mild, infrequent and justified by context. The Board noted a small number of very mild double-entendres in *The Cat in the Hat*. For example, when the Cat is holding a mud-covered hoe he refers to it as a 'Dirty Hoe.' The Board felt that these references were mitigated by the lack of detail and the fact that the references have a literal meaning ie: the Cat is indeed holding a dirt-covered hoe.

At one point the Cat describes his car using a number of words that start with the letters 'S', 'H', 'I' and 'T'. However, the word, 'S.H.I.T' or 'shit' is not written or spoken at any point in the film. The use of obscure long sentences that form acronyms was viewed as inaccessible to child audiences.

Violence can be accommodated in the G classification if it is very mild in impact, only has a low sense of threat or menace, and is justified by context. The Board noted a small number of broadly comic and 'cartoonish' depictions of violence that are very mild in impact. For this reason, the Board decided that *The Cat in the Hat* could be accommodated within the G classification.

Finding Nemo

On 9 May 2003, the Board classified *Finding Nemo* G with the consumer advice 'Some scenes may scare very young children'. Although not mandatory for the G classification, the Board felt it appropriate to include the consumer advice in order to assist consumers and parents to make a more informed entertainment choice for themselves and those in their care.

In the Board's opinion, the film can be accommodated in the G category as the instances of violence in the film have a low sense of threat or menace and are justified by the context. The Board noted that the impact of the film is lowered by the humorous context of the characters and the fact that the film has a positive resolution.

The minority of the Board thought that the film warranted a PG classification with the consumer advice 'low level violence'. The minority was of the view that the film contained violence which was mild and infrequent, and justified by context. Further, the scenes where Nemo was upset (at 14 minutes when he is captured and screams to his father for help and at 57 minutes when he lies looking depressed in the fish tank), and where Marlin is despondent (at 40 minutes when he tries to leave Dory and she cries, and at 82 minutes when he tells her it is too late as he believes that Nemo has gone forever) all added to the cumulative impact of the film, and contributed to a PG classification.

Harry Potter and the Prisoner of Azkaban

On 28 May 2004 the Board classified the film *Harry Potter and the Prisoner of Azkaban* M with the consumer advice 'Horror elements'. Material classified M is not recommended for persons under 15 years of age. The Board's decision report stated that:

... this film warrants an M classification as, in accordance with Part 5 of the Films Table of the National Classification Code, it cannot be recommended for viewing by persons who are under 15.

The classifiable elements are themes involving horror elements that are moderate in impact (several of which are inextricably linked to violence) and do not exceed a moderate sense of menace or threat.

An application for review of the decision was submitted to the Review Board from the film's distributor, Roadshow Films. A three-member panel of the Review Board met on 11 June 2004 and classified *Harry Potter and the Prisoner of Azkaban* PG (Parental Guidance) with the consumer advice, 'Some fantasy scenes may frighten young children'.

The Review Board considered that the context of the film was important. The film is based on a very popular children's fantasy book and film franchise that a large part of the audience would be very familiar with.

In the view of the Review Board the classifiable elements in the film could be accommodated in the PG classification. The 'themes' and 'violence' elements were justified by the overall context of the film. The scenes which fall within those elements, generally, are resolved with a positive outcome by the use of 'magic' or 'wizardry'. The impact was, in the Review Board's view, no higher than mild.

In the 2003 Guidelines, violence can be accommodated in the PG classification if it is very mild in impact, has a low sense of threat or menace, and is justified by context. In addition to its view that the violent elements were justified by context, the Review Board was of the opinion that the sense of threat or menace in the film is generally low.

The Review Board's written reasons for the classification decision are available on the OFLC website at www.oflc.gov.au.

The Haunted Mansion

On 3 December 2003 the Board classified the film *The Haunted Mansion* M with the consumer advice 'Supernatural themes'. An M classification means that the film is not recommended for persons under 15 years of age. The Board report stated in its reasons for decision that:

... this film warrants an M classification as, in accordance with Part 5 of the Films Table of the National Classification Code, it cannot be recommended for viewing by persons under 15.

Pursuant to the *Guidelines for the Classification of Films and Computer Games*, this film is classified M as the impact of the classifiable elements is moderate.

... Themes dealing with supernatural elements are moderate and justified within the context of a 'haunted house' scenario.

An application for review of the decision was submitted to the Review Board from the film's distributor, Buena Vista International (Australia) Pty Ltd. A three-member panel of the Review Board met on 15 January 2004 and classified *The Haunted Mansion* PG (Parental Guidance) with the consumer advice 'Some scenes may scare young children'.

In the Review Board's opinion, the film warrants a PG classification because it contains material which might frighten some children. The Review Board believed that the overall impact of the classifiable elements in the full context of the film was mild and did not warrant an M classification. The Review Board's reasons for decision stated that:

The Review Board found that *Haunted Mansion* contains:

- (a) Scenes containing fairly mild and infrequent violence, especially at 2 & 44 minutes (Master Gracey, now a ghost, briefly seen hanging from a rope) and 54 minutes (lengthy sequence with Jim and Megan set in a crypt). These scenes were justified by context and mild in overall impact.
- (b) Supernatural themes that had a low sense of threat and menace and were overall justified by context.

The depiction of violence in relation to the hanging scene (appearing briefly at 2 minutes and repeated as a flash at 44 minutes), contained no real detail and was stylised.

Other scenes containing elements of violence were likewise regarded as acceptable within a PG rating.

There is a supernatural theme throughout the film.

The Review Board believed that the supernatural theme is justified within the context of the 'haunted house' scenario. The film is essentially in the tradition of many other films in which ghosts are not intended to frighten audiences but to entertain through interaction with earthly characters. To the extent that some scenes or aspects may be frightening to some very young children, there is clearly no sense of terror generated from the film. Further, the film has a positive and humorous conclusion.

The Review Board agreed with the applicant's submission that *Haunted Mansion* will be seen by audiences as a 'Fun Ghost Story'. The stylised fantasy elements, family setting and lighthearted humour of the Walt Disney production mitigate the impact of potentially disturbing scenes.

The Review Board's written reasons for the classification decision are available on the OFLC website at www.oflc.gov.au.

In The Cut

On 29 August 2003, the Board classified the film *In The Cut* R18+ with the consumer advice ‘high level sex scenes, medium level violence’. The Board noted in its report that:

A New York teacher, Frannie Avery, witnesses a sexual act in a bar. Shortly afterward she is questioned by a detective, James Malloy, about a brutal killing that has taken place in her neighbourhood. The pair begin a sexually charged affair as the lonely and confused Frannie increasingly comes to believe that Malloy is the killer (due to a tattoo he has in common with the perpetrator). After Frannie’s sister, Pauline, is murdered the serial killer’s identity is revealed.

... The classifiable elements are high level sex scenes and medium level violence, neither of which exceeds a high viewing impact.

... The Board notes the wording in the classifiable element paragraph relating to sex in the Guidelines at the R classification category which state: ‘Sexual activity may be realistically simulated; the general rule is ‘simulation, yes – the real thing, no.’ In the Board’s opinion, the general rule provided for in the R classification is sufficiently flexible to allow limited actual sexual activity in a mainstream film if it is not gratuitous and is appropriately situated within a mature and serious work aimed at an adult audience. (The Board notes that the X classification ‘is a special and legally restricted category which contains only sexually explicit material’ and that the content of this film does not accord with the content parameters for the X classification.)

The Board is of the view that while this film is likely to be offensive to some sections of the adult community, it is not offensive to the extent that it warrants an RC classification. For the following reasons the Board is able to accommodate the film within the legally restricted R classification: The brevity of the two explicit shots, their treatment within a dimly lit and shadowy setting, and the oblique close-up camera angle (which all help to reduce the impact).

The Board also believes that the sex scenes are contextually justified by the framework of the plot and characterizations within a seriously intentioned adult film, and are not gratuitous in their treatment. *In the Cut* is a restrained adaptation of a literary work of the same name by author Susanna Moore, and the director, Jane Campion, is a widely respected and serious director of films intended for a mature audience, with such previous credits as *The Portrait of a Lady*, *Holy Smoke* and *The Piano*.

Irreversible

On 19 November 2003, eight members of the Board unanimously classified the film *Irreversible* R18+ with the consumer advice ‘strong sexual violence, graphic violence, sexual activity’.

The Board noted that ‘the themes of rape, revenge and violence are portrayed and dealt with in such a way that they may be offensive to some sections of the adult

community... but were not offensive to the extent that the film warrants refused classification'. In applying the guidelines, the Board considered that the impact of the classifiable elements do not exceed high and could be accommodated at the R18+ classification.

On 24 May 2004, at the request of the South Australian Attorney-General, the Australian Attorney-General submitted an application for review of the classification of *Irreversible*.

On 30 June 2004, a six member panel of the Review Board, in a 5:1 majority decision, classified *Irreversible* R18+ with the consumer advice 'high level sexual violence, graphic violence, sexual activity.'

The Review Board considered that although the cumulative impact of the film was strong and disturbing, the content of *Irreversible* did not exceed the guidelines for the R18+ classification. The Review Board said in its reasons for decision that:

...while the overall impact of the material was high, there was not sufficient strength in the behaviour of the protagonists to cause a higher level of impact for any individual scene or cumulatively. Scenes were dealt with in a realistic yet restrained manner that was neither gratuitous nor exploitative. Each scene was justified by the context in which it was presented and the overall theme of the film. The film techniques used by the film-maker – of low lighting, mid to long range shots (rather than close ups), and fleeting glimpses of action (such as in the sex club) rather than slow motion, meant that elements that may have had a very high impact were reduced in impact to high or strong...

...While the classifiable elements and the impact in the overall context of the film *Irreversible* do not justify an RC classification, they do make the film unsuitable for persons less than 18 years of age and warrant specific consumer advice relating to the sexual violence, graphic violence and actual sex contained in the film.

The Review Board's written reasons for the classification decision are available on the Office of Film and Literature website at www.oflc.gov.au.

Ken Park

On 21 May 2003, a seven member panel of the Board classified *Ken Park* Refused Classification (RC). In the Board's opinion the film warranted an RC classification as it deals with sex in such a way that offends against the standards of morality, decency or propriety generally accepted by reasonable adults. In particular, the Board noted depictions of actual sexual activity involving characters who are portrayed as minors. Due to the impact, intensity, cumulative effect, tone and treatment of these depictions, the Board was of the view that the film could not be given a lower classification.

In making its decision, the Board took account of the principle in the National Classification Code that 'adults should be able to read, hear and see what they want'. The Board considered the artistic merit of the film and its likely audience. The Board also took account of community concerns about cinematic depictions of young

persons, both in general and, in particular, within the context of explicit depictions of sexual activity.

On 29 May 2003, the Sydney Film Festival (SFF) applied to the Classification Review Board for a review of the classification decision of the Classification Board. On 6 June 2003, a three member panel of the Review Board considered the application for review and classified the film RC.

In the Review Board's majority opinion, the film warranted an RC classification as it exceeds the 'high' level impact test permitted for an R classification and it could not be accommodated in the X classification. In making its decision, the Review Board took into account written and oral submissions by the SFF. The Review Board found that the film depicted scenes of sex and violence in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that it warranted an RC classification. The Review Board found that these included scenes of child sexual abuse, actual sex by people depicted as minors and sexualised violence.

The Review Board's written reasons for the classification decision are available on the OFLC website at www.oflc.gov.au.

La Fura Dels Baus XXX

On 2 February 2004, the Board classified the film component of *La Fura Dels Baus XXX* R18+ with the consumer advice 'strong sexual violence, sexual activity'. The theatre production *La Fura Dels Baus XXX* included video screens displaying disparate subject matter including depictions of sexual activity and sexual violence.

The Board took into account the principle in the Code that 'adults should be able to read, hear and see what they want' together with other principles including 'minors should be protected from material likely to harm or disturb them'.

In applying the classification guidelines, the Board considered that the classifiable elements of the film did not exceed the high impact level and could be accommodated at the R18+ category.

Looney Tunes: Back in Action

On 23 October 2003 the Board classified an unfinished print of the film *Looney Tunes: Back in Action* G. On 27 November 2003 the Board classified the final print of the film G. In its reports for both versions of the film, the Board stated that:

The film contains instances of comic violence between cartoon characters and humans. As in the cartoons, every character survives unscathed, events such as car crashes, falling from great heights, being hurled about or squashed by heavy objects. However within this comedic context there is a very low sense of threat or menace and the overall impact is very mild.

In the Board's view this film warrants a G classification as it does not warrant restriction or recommendation. The impact of the classifiable elements is very mild.

Lost in Translation

The Board classified the film *Lost in Translation* PG with the consumer advice 'sexual references, Low level coarse language' on 16 September 2003. The 2003 Guidelines note that material classified PG may contain material which some children find confusing or upsetting and may require the guidance of parent or guardians. It is not recommended for viewing by persons under 15 without guidance from parents or guardians.

The film contains a scene in a strip club depicting nudity. The Board noted that in the scene some brief full frontal breast and buttock nudity is present, however, the Board was of the opinion that the scene is not detailed and is peripheral to the main focus which is on the actors.

There were concerns regarding the language use in the film, in particular the use of the phrase 'suck my titties' in a song within the background soundtrack of the film. The Board noted that the use of coarse language within the film is infrequent and not higher than mild and accordingly, can be accommodated within the PG classification.

Overall, the Board's view was that *Lost in Translation* warrants a PG classification, particularly as its tone and content is comedic and light hearted.

Love Actually

The Board classified the film *Love Actually* M with the consumer advice 'sexual references, Nudity, Low level coarse language' on 7 November 2003. The Board noted a number of moderate impact verbal and visual references within a comedic context, full length nudity which is justified by context and occasional use of coarse language which is used naturalistically and is not aggressive.

There were concerns that the film contained simulated sex, such as the sequence of scenes involving a couple who are 'stand-ins' for a movie and are rehearsing sex scenes for a light check.

In the 2003 Guidelines, context is crucial in determining whether a classifiable element is justified by the story-line or themes. The Board was of the opinion that these scenes are presented in such a way that the audience is aware that they are not representations of sexual activity but comic rehearsal scenes. This is made clear by the accompanying dialogue and the intervention of the film crew. Within this context, the impact of this element is moderate and can be accommodated within the M classification.

Love's Brother

On 3 November 2003, the Classification Board classified the film *Love's Brother* G. In its reasons for decision, the Board stated:

Australia, 1950s. When the luckless Angelo writes to prospective bride, Rosetta, he includes a photo of his handsome brother Gino instead of himself. When Rosetta arrives from Italy she has already fallen for the image of Gino.

... Pursuant to the *Guidelines for the Classification of Films and Computer Games*, the film warrants a G classification as it is considered suitable for all ages.

Love's Brother is a genial romance about destiny and mistaken identity. The film contains several very discreet sexual references. At 33 minutes Gino tries to counsel Angelo about the impending wedding night asking him, 'Haven't you ever done it before at the bordello in town?' And at 56 minutes Gino tries to clear the men's magazines out of his room before Rosetta sees them. There are no depictions of the magazine's contents. In the Board's view these very discreet references can be accommodated at the G level.

Manhunt

On 21 October 2003 the Classification Board classified the computer game *Manhunt* MA15+ with the consumer advice 'medium level animated violence'. Computer games classified MA15+ are not suitable for children under 15, who are not permitted to buy or hire MA15+ games. In its report, the Board stated that:

An inmate on death row awakens to find himself within a game. Following mysterious instructions he must fight his way out of gang-infested environments.

... The classifiable element is medium-level animated violence that does not exceed a strong viewing and/or playing impact.

On 30 August 2004, at the request of the Western Australian Minister for Justice, who is responsible for censorship matters in that state, the Australian Attorney-General submitted an application for review of the classification of *Manhunt*.

On 28 September 2004, in a majority 3:1 decision, the Review Board classified *Manhunt* RC (Refused Classification). Computer games that exceed the criteria in MA15+ must be classified RC and cannot be sold, hired, demonstrated or advertised in Australia.

The Review Board was of the opinion that the game contains elements beyond those set out in the 2003 Guidelines and the legislation for a computer game at the MA15+ classification. The Review Board noted that the impact of specific interactive game play scenes and the ability to 'kill' characters in the game for an unlimited period with the accompanying detail in some scenes was of high impact. As such the material was beyond that which minors should be able to play.

The Review Board's written reasons for the classification decision are available on the OFLC website at www.oflc.gov.au.

Ned

The short film *Ned* was classified G on 20 May 2003. In its report, the Board noted that:

A very religious young man attempts to spread the word by door knocking. However his innocence and good intentions are not always appreciated.

The Board notes a very mild sexual reference occurs in the film.

At 4 minutes the young man is expressing what he believes is the code of conduct necessary to maintain a good life. He explains to the old lady that one should avoid circumstances in which one becomes involved in passionate kisses, and advises to 'stay out of the zone', explaining that 'touching in places... you know that you have to keep covered at decent beaches... is wrong'.

This reference to sexual activity is very discreet, justified by the context and very mild in impact. The film can thus be accommodated at the G classification.

Ned Kelly

On 17 March 2003, the Board classified the film *Ned Kelly* MA15+ with the consumer advice 'Medium level violence, adult themes' using the previous guidelines.

The Board was of the opinion that the film warranted a MA15+ classification for depictions of violence and adult themes that were likely to be harmful or disturbing to those under 15 years.

The Board noted there were infrequent scenes of high impact violence which contained some detail but were not prolonged. A minority of the Board considered that the violence in the film could be accommodated at the M classification as depictions of violence with detail were infrequent and the impact was not so strong as to require restriction.

The Board also noted that the treatment of themes with a high degree of intensity was discreet. In the minority view, the treatment of adult themes was discreet and the impact was not high. Furthermore, in the minority view the impact was further mitigated by the film being based on an iconic Australian story and located within an historical context.

The Review Board met on Friday 21 March 2003 to consider an application for review submitted by the film's distributor, United International Pictures. The Review Board determined that the film should be classified M with the consumer advice 'Medium level violence, adult themes'. The Review Board noted in its report that:

...the film warranted a M15+ classification with the consumer advice of medium level violence and adult themes as the depictions of violence were neither prolonged nor shown in detail. Where there were scenes that contained detail, such as in the Lonigan shooting, Mr Dan Kennedy's death and the final shootout at Glenrowan,

they were not of high impact because of the discreet treatment, nor were they – given the historical nature of the subject – gratuitous. The adult themes pertaining to suicide and the violent, turbulent lives of the Kellys were treated discreetly and the impact was not high.

The Review Board's written reasons for the classification decision are available on the OFLC website at www.oflc.gov.au.

One Perfect Day

On 30 October 2003, the Board classified the film *One Perfect Day* MA15+ with the consumer advice, 'drug use, adult themes'. In its reasons for decision, the Board noted that:

Tommy returns to Australia after the tragic death of his sister Emma from a drug overdose and finds a meaningful avenue for his musical explorations through rave culture.

... The classifiable elements are drug use and adult themes, neither of which exceed a strong viewing impact.

... The film contains adult themes in the form of the deaths of Emma and Alysse (who dies at 88.30 minutes after being injected with an unspecified substance by Hector) – as well as the cumulative focus upon drug related matters (such as drug dealing, use of drugs as a recreational/ lifestyle option, and the deaths of two main characters through drug-related misadventure and violence).

On 5 December 2003 the Review Board met to consider an application for review of this film from the distributor, Roadshow Entertainment. The Review Board classified *One Perfect Day* M15+ with the consumer advice 'drug and death themes'. In its report the Review Board said that:

... the drug taking and death themes were not glamorized nor exploitative or gratuitous. The Review Board found that the film depicted youth culture sensitively and realistically and that the drug taking and death scenes were justified by the context and were not likely to emotionally harm or distress children under the age of 15.

... The Review Board believed that the impact of the classifiable elements in the overall context of the film did not warrant an MA15+ classification. The Review Board found that while the film contained some moderate to strong scenes of drug and death themes, these were justified by the context and the impact mitigated by the film's significant educational merit.

The Review Board's written reasons for the classification decision are available on the OFLC website at www.oflc.gov.au.

Passion of the Christ

On 13 February 2004, the Board classified *The Passion of Christ* MA15+ with the consumer advice 'graphic violence'. Films classified MA15+ are unsuitable for

persons under 15 years of age. In addition there are legal restrictions on the public exhibition of films classified MA15+. Persons under 15 years of age are not allowed to view MA15+ films unless in the company of a parent or adult guardian.

The 2003 Guidelines permit strong level violence at the MA15+ classification if it is justified by context. The Board is of the opinion that the combination of strong violence and the extended sequences of moderate violence make for an overall viewing impact that does not exceed strong. As such, the film is appropriately accommodated within the MA15+ classification.

In respect of the contention that *The Passion of the Christ* is anti-Semitic, neither the Classification Act, the National Classification Code, or the Guidelines explicitly refer to issues of religion, blasphemy or propaganda. However, at the MA classification the treatment of strong themes is permissible if justified by content.

Prisoner of Paradise

On 2 September 2003, the Board classified the film *Prisoner of Paradise* G. The Board stated in its report that the film was a:

Documentary on the German-Jewish actor/director Kurt Geron who was ordered by the Nazis to direct a propaganda film on the concentration camp Theresienstadt, where he was interned during World War II. The Nazis hoped to silence international concern about the fate of the Jews by showing Theresienstadt as a 'utopian community'.

... Pursuant to the *Guidelines for the Classification of Films and Computer Games*, this film is classified G as the impact of the classifiable elements is very mild. The G classification is for a general audience. However, it does not necessarily indicate that children will enjoy the film or computer game. Some G films and games contain themes, story-lines or game play that do not interest children.

A minority view of the Board believes that this film is more appropriately accommodated at the PG classification due to references to the number of Jews killed by the Nazis at the Auschwitz concentration camp, the treatment of Jews and a brief ankle-high image of the bare feet of a Jewish prisoner being dragged behind the jack-booted feet of a soldier.

Romance

In a majority decision, on 14 January 2000 the Board classified the film *Romance* RC (Refused Classification) for sexual violence within a film that contains sexually explicit material. In its reasons for decision, the Board noted that:

A majority of the Board decided that the film is appropriately classified 'RC' as it contains explicit depictions of actual sexual activity, which exceed the 'R' classification but may be accommodated in the 'X' classification, and a depiction of implied sexual violence, which exceeds the 'X' classification, thereby warranting an 'RC' classification.

An application for a review of the Board's decision on *Romance* was made by the film's Australian distributor, Potential Films. The Review Board met on 28 January 2000 and decided to uphold the appeal and classify the film R18+ with the consumer advice, 'high level sex scenes'.

The Review Board was of the opinion that the film can be accommodated in the R18+ classification. They noted that while the film may offend some sections of the adult community, it does not offend against generally accepted standards to the extent that it should be banned.

Silverball Product Version 8

On 7 October 2003, the Board classified the computer game *Silverball RC* (Refused classification).

The computer game was submitted in the format of an amusement machine containing over 100 games including quizzes, puzzles and card games. In a small number of the games, as the player proceeds, a picture of a fully or partially naked female or male is displayed on the screen. As the player successfully progresses through the game (for example, by winning a poker hand), the degree of nudity increases.

The Board's decision report noted that:

In the Board's majority view this game warrants an RC classification, as it offers depictions of nudity as an incentive or reward to interactive gameplay.

In the Board's majority view, the general rule in the *Guidelines for the Classification of Films and Computer Games* stating: '...except in material restricted to adults, nudity and sexual activity must not be related to incentives or rewards' applies to the gameplay described above, as the player is shown photographs with increasing amounts of nudity following successful gameplay. Therefore the game cannot be accommodated in the MA(15+) classification and must be Refused Classification.

In addition, the game 'Quizard Erotic' include pictures with upper body (including breast) nudity, but these images are shown regardless of the player's success in the gameplay (answering 'sex oriented' trivia questions). Further, the amount of nudity revealed in these images is not determined by the player's success. The Board's majority view is that this gameplay does not provide nudity as an incentive or reward, but that the nudity is incidental to gameplay. These depictions of nudity are not greater than strong in impact and would not require the game to be refused classification. However, some consider this gameplay also offered nudity as an incentive or reward and would require the game to be classified 'Refused Classification'.

The distributor submitted the computer game to the Review Board for a review of the Board's decision. On 21 November 2003 the Review Board determined an M classification for the computer game, with the consumer advice, 'contains some nudity'. The Review Board noted that:

In this matter the Review Board accepted the submission of the applicant that the general rule did not apply for some games. The Review Board found that the general rule did not apply for the following reasons:

- The photographs are static pictures with little accompanying sound (the words ‘Oh yeah’ are repeated in some activities). The photographs can not be manipulated by the player in anyway. The player can not control the duration of the photograph’s presence, nor the size of the picture. In all games, the pictures are present for moments or seconds.
- The photographs are, at most, moderate in impact
- The interactivity is with the game play rather than the photographs for the games *Striptease* and *Striptease 2*, which contained the photographs with moderate impact.
- Whilst the interactivity was with the photographs in *Match It Girls* and *Match It Boys*, the pictures diminish in size and duration as the complexity of the game increases. As the player becomes more skilled in matching pairs of pictures, more pictures appear, the pictures decrease in size and any impact they may have had as depictions of nudity is diminished.

The Review Board accepted the applicant’s submission that the nudity was incidental to play rather than reward for play for some games.

Further, the Review Board found that the quizzes contained educational material regarding health matters.

The Review Board also considered persons or class of persons to or amongst whom the game is published or is intended or likely to be published. The Review Board accepted the applicant’s submission that the *Silverball* console had been commercially unsuccessful in gaming arcades and that its intended and likely audience was patrons of hotels and clubs.

The Review Board noted that a casual glance at the console would not afford a passerby a view of offensive material either in its ‘standby’ mode or when it was being played. Also, the only invitation to play the *Erotica* games was provided by the symbols for male and female. It appears that the manufacturers of the product have taken steps to ensure that casual observers are unable to view unsolicited material.

The Review Board’s written reasons for the classification decision are available on the OFLC website at www.oflc.gov.au.

The Human Journey – In Search of Human Origins/A Tale of Two Species/The Creative Explosion

On 26 September 2002, the Board classified the documentary *The Human Journey – In Search of Human Origins/A Tale of Two Species/The Creative Explosion G*. In its report, the Board noted that:

(This film is a) Three part documentary that follows the evolution of modern humans from their beginnings in Africa. DVD includes: trailer for the feature and two stills of a map of human evolution.

... the film warrants a G classification as it is considered suitable for all ages.

... The treatment of classifiable elements in the film is careful and discreet.

In reaching this decision, it was noted that the documentary contained natural nudity in 'tribal' settings, including long shots of male genitals in a scene that recreates the features and lifestyle of early humans. The nudity has very low detail and is presented in a naturalistic manner.

The Piano Teacher

On 12 June 2002, the Board classified *The Piano Teacher* R18+ with the consumer advice, 'adult themes, actual sex'.

The Board noted in its report that:

A lonely piano teacher who self mutilates and frequents peep shows in pornography shops forms a liaison with an infatuated student who becomes violent on discovering her masochistic desires.

... The film contains adult themes and depictions of actual sexual activity which cannot be accommodated in a lesser category.

The treatment of the themes of self mutilation, voyeurism, incest and sexual violence have a very high degree of intensity but are not exploitative within the context of the film.

... Although the general rule for Sex at R is 'simulation, yes – the real thing, no,' the Board is obliged to consider section 11 of the Act and is of the opinion that, although some scenes may be offensive to some sections of the adult community, the depictions of actual sex in this film can be accommodated in the R classification.

The Wild Thornberrys Movie

On 14 January 2003, the Board classified *The Wild Thornberrys Movie* G. In its report, the Board noted that:

Based on the television series, Eliza Thornberry and her family travel around Africa filming the wildlife and fauna. Eliza spends a short period at a boarding school in London before running away and travelling back to Africa.

... The Board notes there are some scenes of violence in this animated film. However, in the majority of the Board's view, the violence is very discreetly implied with a light tone and very low sense of threat or menace. Further, the violence is infrequent and not gratuitous.

... There is no material in this film which could be harmful or disturbing, nor confusing or upsetting to children and the film is appropriately classified G.

Thirteen

On 4 September 2003 the Board classified the film *Thirteen* R18+ with the consumer advice 'adult themes, drug use'. The Board stated in its report that:

The impact of adult themes is considered to be high.

The film tells the story of two troubled young girls Tracy and Evie, who cope with their difficult life circumstances in various self destructive ways. Their lives spin out of control as they use and sell drugs, shoplift and engage in sexual experimentation...

...In the Board's majority view the cumulative effect of the elements require an adult perspective. The Board took into account the serious context of the film and the sensitive portrayal of the problematic themes of self harm and drug use. However it is considered that taken as a whole the impact of the material is high...

...In the Board's minority view the impact of the material did not exceed strong and could be accommodated within the MA classification category.

An application for review of the decision was submitted to the Review Board from the film's distributor, Twentieth Century Fox. A three-member panel of the Review Board met on 6 November 2003 and classified *Thirteen* MA15+ with the consumer advice 'adult themes, drug use'.

In the Review Board's opinion, the film warrants an MA15+ classification because it contains material considered unsuitable for persons under 15 years of age, specifically due to its adult themes, drug use and strong impact. The Review Board believed that the classifiable elements and impact in the overall context of the film did not warrant an R18+ classification. The Review Board considered specific consumer advice relating to the adult themes and drug use contained in the film was warranted.

The Review Board's written reasons for the classification decision are available on the OFLC website at www.oflc.gov.au.

Welcome to Mooseport

On 13 February 2004, the Board classified the film *Welcome to Mooseport* PG with the consumer advice 'sexual references, low level coarse language, nudity'. In its report, the Board stated that:

The ex-president of the United States runs against a local handyman in the race for Mooseport mayor.

... Pursuant to the *Guidelines for the Classification of Films and Computer Games*, the film warrants a PG classification for sexual references, low level coarse language and nudity that may be confusing or upsetting to children without adult guidance.

The impact of the (sexual) references is mitigated by the comedy context.

... In the Board's view the impact of these references (nudity, coarse language, sexual references) is no higher than mild.

Attachment E – Key Users of the Guidelines Interviewed

Classification Board

Des Clark, Director
Paul Hunt, Deputy Director
Wendy Banfield, Senior Classifier
Marie-Louise Carroll, Senior Classifier
Robert Sanderson, Member
Alexandra Greene, Member
Lynn Townsend, Member

Classification Review Board

Maureen Shelley, Convenor
Robin Harvey, Member
Kathryn Smith, Member

Computer Games Authorised Assessors

Elisa Biberian, Activision
Lisa Greenland, Sony Computer Entertainment
Anthony Howitt, Microsoft XBox

Attachment F - Explanatory Statement for the 2003 Guidelines

EXPLANATORY STATEMENT

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) ACT 1995

GUIDELINES FOR THE CLASSIFICATION OF FILMS AND COMPUTER GAMES

On 29 January 2003, Commonwealth, State and Territory Classification Ministers agreed to the *Guidelines for the Classification of Films and Computer Games* (the Combined Guidelines).

At the Ministers' meeting in November 2002, Commonwealth, State and Territory Classification Ministers or their representatives agreed to the Combined Guidelines. Since Victoria was not represented at the meeting due to caretaker conventions, final approval of the Guidelines was not able to be completed. On 29 January 2003, the Victorian Minister, the Attorney-General the Hon Rob Hulls MP, agreed to the new combined Guidelines.

Ministers have agreed that the Combined Guidelines will come into effect on 30 March 2003. The Combined Guidelines will replace the Guidelines for the Classification of Films and Videotapes, and the Guidelines for the Classification of Computer Games.

Subsection 12(3) of the *Classification (Publications, Films and Computer Games) Act 1995* provides that classification guidelines are taken to be amended if the Minister and each participating State and Territory Minister agree. Subsection 12(4) of the Classification Act provides that the Minister must cause a copy of the amended guidelines to be published in the *Gazette*. On 26 March 2003, the Combined Guidelines were published in the *Gazette*.

Clause 9 of the Intergovernmental Agreement between the Commonwealth and the States and Territories provides that all Ministers must table amended guidelines in their respective Parliaments within 30 sitting days of publication in the *Gazette*. Steps are now being taken to table the Combined Guidelines in State and Territory Parliaments. The classification guidelines are not a disallowable instrument.

At the request of Classification Ministers, the Office of Film and Literature Classification conducted the Review of the Classification Guidelines for Films and Computer Games to ensure that the guidelines continued to reflect current community standards, and to take account of changes in technology and converging media.

The guidelines review process included consulting with the public, community and interest groups, and the film and computer games industries. The OFLC circulated the review discussion paper and draft combined *Guidelines for the Classification of Films and Computer Games* to the public, industry, relevant organisations and to 800 Commonwealth, State and Territory Parliamentarians. There were 372 submissions to the review.

An independent expert, Dr Jeffrey E Brand, Co-director of the Bond University Centre for New Media Research and Education, analysed the submissions and the draft combined Guidelines. In March 2002, Dr Brand made recommendations to Ministers on the draft Guidelines in a report, *A Review of the Classification Guidelines for Films and Computer Games – Assessment of Public Submissions on the Discussion Paper and Draft Revised Guidelines* (February 2002).

Associate Professor Peter Butt of the Faculty of Law, University of Sydney, was the independent language consultant who advised on drafting the revised Guidelines to ensure that they were clear and readable. The Combined Guidelines are simpler to use than the previous guidelines.

The Review of the Classification Guidelines for Films and Computer Games has shown community standards about classification media have not changed appreciably. The Combined Guidelines therefore do not contain changes in classification standards.

There is no R or X classification for computer games. Ministers agreed not to introduce an R classification for computer games which would have made adult only games available. On balance, not all Ministers were satisfied children would not access games classified as suitable only for adults.

In 1994 when the computer games guidelines were first introduced, Ministers expressed their concern that games, because of their interactive nature, might have greater impact on, and therefore greater potential for harm to, young minds than film. To deal with this, the existing Guidelines for the Classification of Computer Games require the Classification Board and the Classification Review Board to apply those guidelines more restrictively than the film guidelines. In the Combined Guidelines, the 'impact test', together with an assessment of content for each classifiable element, will enable the Boards to continue to treat interactivity with care. The discussion of impact specifically refers to interactivity and how it may increase the impact of classifiable material. There will therefore be no change in the classification standards for computer games.