



Electronic Frontiers
AUSTRALIA



Submission to the Public Consultation on an R18+ Classification for Computer Games

The Australian National Classification Scheme should include an R18+ classification category for computer games

Electronic Frontiers Australia and AusGamers

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Introduction

The purpose of this paper is to put forward arguments and evidence to support the case that it is time to upgrade the National Classification System (NCS) to include an R18+ adult classification for computer games. In this submission, we make three main arguments:

1. the arguments against introducing an R18+ rating are premised primarily on incorrect assumptions about games and their effects; and
2. introducing an R18+ classification to bring games in line with films will better empower Australian adults to make more informed decisions for themselves and on behalf of the children for whom they are responsible;
3. Australian adults should not be prevented from engaging with interactive entertainment that deals with complex adult themes and material and imagery that is unsuitable for children.

This paper was compiled on behalf of Electronic Frontiers Australia (EFA) and AusGamers. EFA is Australia's peak national non-profit organisation representing Internet users concerned with on-line freedoms and rights. AusGamers is one of Australia's largest gaming and technology sites, and has been a primary hub for the gaming community in Australia since its creation in 1999. This paper has been collaboratively written in consultation with our members; we believe it provides an accurate portrayal of the views of computer game players concerned with civil liberties in Australia.

This paper addresses the classification of computer games from the perspective of computer game players. As game players, we are intimately familiar with the effects that games have on our lives. As adults we are concerned about our rights to engage with interactive media that express adult themes. As parents we are concerned about the availability of accurate information about the content of video games, just as we are about films and books. As Australian citizens we are concerned about the classification and regulation of media and the inconsistency of the current National Classification Scheme.

Much of the debate about adult themes, sex, and violence in video games centres on the effects that games are believed to have on those who play them. Unfortunately, much of this debate is conducted by those who poorly understand computer games and the objects of the Australian National Classification Scheme (NCS).¹ We are fully aware that many violent games are not suitable for children; we also believe that in general, Australian parents are responsible parents, and we believe that empowering parents to make responsible choices is a better way to protect children than the current ban on R18+ games. In this paper we argue that we will all better be able to protect the children for whom we are responsible by introducing a clear R18+ Adult rating. We absolutely reject, however, the popular suggestion that 'gamers' are anti-social and likely to become violent as a result of playing violent games. We fear that many decisions about regulation of computer games are predicated upon an inaccurate model of 'the gamer' and the games he or she plays.

Games, like gamers, have grown up. The conception of the gamer as isolated, maladjusted and anti-social youth is wholly inaccurate. As we hope is becoming clear, computer games are enjoyed by an increasingly broad cross-section of the Australian community. Far from encouraging isolation,

1 Jeffrey Brand, '[A Review of the Classification Guidelines for Films and Computer Games](#)', Bond University Centre for New Media Research and Education (2002), 11-12.

computer games are social media — playing games brings people together and, critically, provides an important sense of community. Rather than mindless entertainment, computer games are expressive forms — they tell stories, and they allow us to tell our own stories. We reject the suggestion that these stories should be classified differently to stories told in movies and in books merely because games are interactive. As people who play these games, we can testify to what the overwhelming weight of scientific evidence shows: we can differentiate fiction from non-fiction and we are not susceptible to increased aggression or decreased sensitivity to violence as a result of playing games. For those of us who play them, games with adult themes are sometimes mere entertainment, just as violent movies are, but they are also sometimes more profound experiences that teach us about society and about ourselves as we explore themes that we can all agree are often unsuitable for children. We are extremely concerned that an approach that misunderstands adult game players will result in a regulatory framework in Australia that continues to treat interactive entertainment as children’s media and continues to delegitimise the growing complexity of computer games and the reasons that adults may wish to experience adult games.

History and Assumptions — the myths embedded in the current system

In the early 1990s, Australia introduced a classification system for computer and video games – choosing, as a nation, to create a legally-regulated system as opposed to the industry-driven solutions adopted by many other countries. The decision to omit an R18+ classification for video games was supported primarily by the recommendations of a Senate Committee in 1993.² This decision rested largely on three major assumptions, all of which have been shown to be incorrect:

1. Computer games are only for children;
2. “[t]he level of technology involved with the use of computer games means that many parents do not necessarily have the competency to ensure adequate parental guidance”³
3. “Having regard to the extra sensory intensity involved in the playing of interactive games and the implications of long-term effects on users,” games should be subject to “stricter criteria for classification than those applying to equivalent film and video classifications”⁴

The misconceived gamer

Computer games have been around since the mid-70s, and many of the people have grown up with them are now in their mid-30s. Statistics have shown that the average Australian gamer is 30 years old; more than 70 per cent are older than 18, and 20 per cent are more than 39 years old.⁵ This is up from 24 years in 2005, and is only set to increase further in the coming years.⁶ Many children do play games, but many parents do also. Games are targeted at almost every section of the population.

Contemporary computer games can no longer be thought of as entertainment for children. The analogy to films is telling; we understand that some films are made for younger audiences, but do not hold all films to that standard. The content of computer games increasingly deal with complex

2 Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies, Commonwealth of Australia, *Video and Computer Games and Classification Issues* (October 1993)

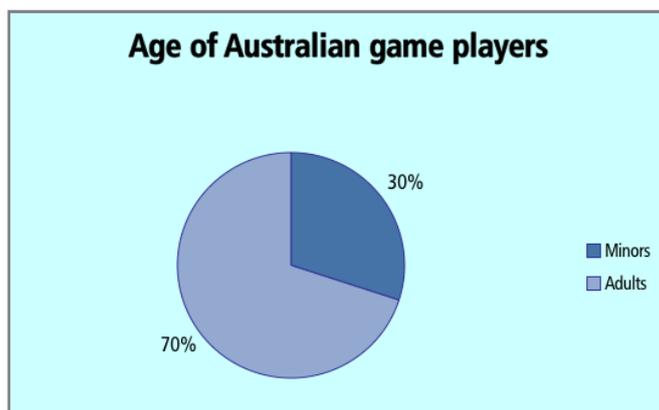
3 Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies, Commonwealth of Australia, *Video and Computer Games and Classification Issues* (October 1993), [2.86].

4 Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies, Commonwealth of Australia, *Video and Computer Games and Classification Issues* (October 1993), [2.88].

5 Jeffrey Brand, Jill Borchard, and Kym Holmes, ‘*Interactive Australia 2009*’ (2009), 15-16.

6 Jeffrey Brand, Jill Borchard, and Kym Holmes, ‘*Interactive Australia 2009*’ (2009), 15, 36.

adult themes and depictions of issues that are not suitable for children. The most visible of these are those with very high levels of gore and violence – games like *Left 4 Dead 2* (RC); *F.E.A.R* and *F.E.A.R 2* (MA15+; adult rating in EU, US, and NZ); *Silent Hill: Homecoming* (MA15+; adult rating in EU, US, and NZ) – which serve to provide either a realistic horror experience or the excessive sensational experience of a B grade horror movie. Like horror films, horror games are not to everyone’s tastes (and many are certainly not suitable for children); there is no denying, however, that horror, as a genre, provides an extremely powerful experience that goes to the core of fiction in popular culture. From the excessive violence of Shakespeare’s *Titus Andronicus* to contemporary examples like Cormac McCarthy’s *Blood Meridian*, violence, mayhem, and horror form a central part of western culture. The appeal of such artistic forms is highly dependent on the viewer, but a number of themes emerge: the excess of violence can teach us the truth about the worst (and best) displays of humanity;⁷ the material may be inherently entertaining in its excess,⁸ or for the experiential thrill of the terror and visceral reactions it generates;⁹ or the enjoyment may come from the triumph of overcoming adversity and the palpable relief that accompanies a successful resolution.¹⁰ Whatever the appeal, it is apparent that extremely graphic stories have a place in contemporary Australian life. The goal of the NCS is not to change the media tastes of Australian adults, but to empower adults to make choices for themselves;¹¹ unless a radical departure from this goal is being considered, it is clear that violence and horror in video games fulfils the same legitimate role as violence and horror in literature and film and should not be banned simply because some people find it either distasteful or offensive.



In the context of video game violence, there is also a tendency to overlook the other adult themes that games express. The current generation of computer games continue to increase their complexity and subtlety about moral choices; the interactive nature of these experiences allow players to explore their morality and witness the effects of their actions. Most recently, *Call of Duty: Modern Warfare 2* notoriously gave players the ability to experience the unnerving and potentially soul-destroying conflict that an undercover counter-terrorist operative would experience when

7 See Felicity Collins, “Historical fiction and the allegorical truth of colonial violence in *The Proposition*” (2008) 14(1) *Cultural Studies Review* 55 (describing fiction as showing an “irrefutable truth” of frontier violence as a ‘fact’ of Australian history”).

8 See Linda Williams, “Film Bodies: Gender, Genre, and Excess,” (1991) 44(4) *Film Quarterly* 2-13.

9 Ben Croshaw, Video game censorship and the art of horror, *News.com.au*, October 15, 2008 <<http://www.news.com.au/video-game-censorship-and-the-art-of-horror/story-0-1111117746862>> (accessed 16 February 2010); Ron Tamborini & James Stiff, “Predictors of Horror Film Attendance and Appeal: An Analysis of the Audience for Frightening Films,” (1987) 14(4) *Communication Research* 415-436 at 418-9 (discussing “the thrill that frightening films provide regardless of their resolution”).

10 See Glenn Sparks & Cheri Sparks, “Violence, Mayhem, and Horror,” in *Media entertainment* (Dolf Zillmann & Peter Vorderer eds., 2000).

11 National Classification Code 2005 (Cth), Clause 1 (“adults should be able to read, hear and see what they want”).

embedded within a terrorist organisation. The interactivity allowed the game to show the complex plot of a story fraught with danger and moral dilemmas from several perspectives, which resulted in a critically acclaimed experience that challenges and confronts players emotionally and mentally at every stage. Other notable examples include the complexity of the Bioware role-playing games, which present the player with difficult moral choices to explore – moral choices which have real and significant effects on the way in which the story develops. The most recent examples from Bioware are Mass Effect 2, which deals with the atrocity of genocide and the motivations behind it, and Dragon Age: Origins, which explores the morality of good and evil in a much more subtle and complex way than many contemporary books and movies.

These games are entertainment forms, but they are also a fascinating study on morality and the consequences of our actions; as these games become more complex and are targeted at older audiences, the range of moral dilemmas they cover will also broaden. A more adult example comes in the form of the upcoming Heavy Rain:

Heavy Rain deals with parenthood, and the tragedies that keep parents up at night. In one heartbreaking scene, you sit next to your son and hope he says something to you. A schedule for his visit is pasted on the wall. Look at this scene in a certain way, and nothing happens. From another perspective, this is one of the most mature moments in modern gaming.¹²

The lack of an R18+ classification is a legacy of the initial misconception held in the early 1990's that computer games were only for children.¹³ As the complexity of computer games continues to develop and the audience continues to grow older, more games are likely to be banned in future; as this occurs, our lack of an R18+ rating will have an increasingly detrimental effect on the ability of Australian adults to engage with adult media.

The international discrepancy

Australia is the only liberal democracy not to recognise the expressive potential of adult video games. The classification systems of comparable countries around the world – including the UK, Europe, USA and New Zealand – all include an adult rating for video games.

- United Kingdom: Until 2009, the British Board of Film Classification (BBFC) classified many computer games for sale in the United Kingdom. The BBFC included two ratings that were restricted to over-18s, the standard "18" and another, sex-based "Restricted 18" which is only to be stocked in licensed sex shops or shown in specially licensed cinemas. Computer games or other products that exceed the criteria for an 18 rating are rejected by the Board, and cannot be legally supplied anywhere in the UK. Only two games have ever been rejected by the BBFC, 1997's Carmageddon (a decision later overturned by the Video Appeals Committee), and Manhunt 2 ten years later (which was later edited and re-submitted for an 18 rating).
- Europe: In September 2009, the UK Department of Culture, Media and Sport officially adopted the Pan European Game Information (PEGI) system. The PEGI system is used throughout twenty-nine countries in Europe, where their ratings are legally enforceable in some countries (Finland, Netherlands, Norway, Poland and Spain), and used as guidelines in others. As an organisation, PEGI includes an 18 rating, which classifies games "suitable only for persons 18

12 Ben Kuchera, Heavy Rain: why a great game may be destined to fail, Ars Technica, February 1, 2010 <<http://arstechnica.com/gaming/news/2010/02/heavy-rain-why-a-great-game-may-be-destined-to-fail.ars>> (accessed 16 February 2010).

13 Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies, Commonwealth of Australia, [Video and Computer Games and Classification Issues](#) (October 1993).

years of age and older". These titles may include strong sexual content, explicit references to gambling, vulgar language (either spoken or in song lyrics), and graphic violence.

- North America: The United States and Canada use the Entertainment Software Rating Board (ESRB), a self-regulatory industry organisation to assign their age and content ratings. Game developers and publishers voluntarily submit their games for ratings, which range from Early Childhood (eC) up to Adults Only, which is legally restricted. The Mature rating (unsuitable for persons under 17 years of age) is not legally enforceable, but many retailers in North America (including Target, Best Buy, GameStop and Wal-Mart) have a policy of not selling games with this rating to anyone under age without parental presence and approval.

Similarly, many North American retailers in have refused to stock games which are rated Adults Only, and most of the major game console manufacturers (Microsoft, Nintendo and Sony) have strict policies restricting the release and sale of adults-only titles on their platforms. Perhaps because of this, game developers have been self-monitoring their titles, and only twenty-five products have been given an AO rating since 1994 (most of them for Windows or Apple computers).

- New Zealand: The New Zealand Office of Film and Literature Classification (NZOLFC) features legally-restricted ratings of R13, R15, R16 and R18. However, computer games are technically exempt from classification unless the game is "likely to be restricted" if it were classified. The same classifications apply to both film and computer games: if a game is classified as R18 with the note "contains violence", the violence contained in that game is considered to be as strong as the violence in a DVD or film with the same rating and note. The NZOFLC may also ban computer games that exceed the R18 criteria, making it illegal to possess, supply or import the game.

Recognising that many people use ratings as a way of making informed choices, games on sale in New Zealand may feature ratings from overseas classification bodies such as the Australian Classification Board, PEGI or the ESRB. While these are not legally binding in New Zealand, they do provide consumers with more information about the game's content and whether or not it is suitable to play.

Around the world there are other classification offices which also feature adult ratings for video games:

- Germany: Germany's USK (Entertainment Software Control) is perceived as being one of the strictest in the world – games that are seen to glorify war or violation of human rights, or which contain "brutal, moderately bloody" violence, are restricted to gamers over 18. If a game exceeds the USK 18 criteria, it will be sent to the Federal Verification Office for Child-Endangering Media (BPjM), who will rule whether or not it may be sold – on request – to persons showing proof of age over 18. Any game unrated by the USK may not be displayed or advertised in public, thus severely restricting the public's access to the title. In addition to

this, while it is legal to sell unrated titles, various publishers (including Microsoft) have chosen not to sell any games that the USK has refused to classify, to avoid public backlash.

- Japan: Japan uses two organisations to classify computer game releases, depending on platform. Both include an 18+ rating, and many controversial titles that are said to be “Japan-only” are not legally available in that country.

PC games are classified by the Ethics Organisation of Computer Software (EOCS), formed by members of Japan’s adult gaming industry. The organisation has been set up to promote a sense of “ethical responsibility” when it comes to the production and distribution of computer software, as well as the end user. EOCS also includes a restricted adults-only rating.

Console games are classified by Computer Entertainment Rating Organisation (CERO), which includes a restricted 18+ rating, “Z”. If a game exceeds the criteria for a “Z” marking, the game is banned from Japanese consoles.

It is clear that Australia lags behind the rest of the world in its lack of an Adult rating for computer games. We strongly believe that Australian citizens deserve to be treated as responsible adults in their choices of interactive entertainment. We see little reason why Australia should not lead the way in empowering its citizens in making informed choices in this context, and are deeply saddened to instead see our classification system reflect policy informed primarily by fear and inaccuracy.

The consequences: increased copyright infringement

The widespread availability of uncensored computer games in other countries provides an incentive for Australian citizens to obtain unauthorised copies of games that are not available in Australian retail stores. The lack of an R18+ rating does not prevent Australians from accessing games – it often only prevents purchasing or hiring from Australian retailers. Australia’s retail game industry already suffers from highly inflated prices compared to international markets; the limited availability of adult games further damages this market. Apart from increased rates of copyright infringement, the lack of an R18+ rating also leads to increased imports from international retailers, as Australians are able to readily purchase games that are refused classification through digital distribution or internet based retailers.

History has shown the general rule that unnecessarily harsh restrictions (particularly prohibition) consistently lead to under-ground or ‘black market’ approaches without the safeguards that effective, reasonable government regulation can provide. In many cases, these gamers would prefer to purchase their games locally, supporting the domestic economy, but are prevented from doing so. If an adult R18+ rating were introduced, many of these gamers would buy their titles from Australian retailers rather than illegally downloading a copy or ordering from overseas. Not only would this provide an economic benefit to Australian retailers, but it would provide a better, safe environment for consumer transactions and ensure that the Australian classification system remains relevant in empowering Australians to make informed choices about their choice of interactive entertainment.

The consequences: limited freedom of expression and a stifling regulatory framework

The lack of an adult rating has a significant limiting effect on the freedom of developers – particularly independent developers – to express themselves and create complex adult stories. In recent years,

computer games have become more sophisticated (in terms of graphics and technologies as well as storyline) to the point where the medium is now widely accepted as one of the most exciting forms of art and entertainment. Currently, however, the lack of an R18+ rating means that developers are not able to sell or advertise interactive media aimed at adults. Queensland goes so far as to criminalise the development of a game that is RC or “unsuitable for a minor to play”,¹⁴ and Western Australia prohibits all possession of games that “would, if classified, be classified RC”.¹⁵ These restrictions are surprisingly out of place in a western liberal democracy; in no other art or entertainment form do we consider limiting creative expression to that which is suitable for a minor. Australia’s lack of an adult rating has a very real limiting effect on the ability of Australian adults to express themselves, and no reasonable justification exists for this continued irregular censorship.

The disparity in Australian censorship laws is much more pronounced because of the untenable distinction between interactive and non-interactive entertainment. Films are now being released with immersive 3D graphics, and DVD and Blu-Ray discs increasingly contain interactive software programs. The current lines of entertainment devices mean that games and films may be played on the same equipment – even on the same disc – and the line is increasingly blurring between the two media.

It is common now for entertainment titles to be released in several formats – as films, games, television series, and books, sometimes simultaneously. As film-makers continue to take advantage of the growing interactivity in entertainment, we expect that some developers will seek to include a computer game based on the film with the film’s DVD or Blu-Ray release. The National Classification Scheme currently provides the Classification Board with the power to choose whether the final release is a “film” or a “game”. If the Board chooses to classify it as a film, the game can be released and played in Australia under an R18+ rating. If the Board decides the final release is a game, the “high impact” violence breaches the MA15+ criteria, meaning the entire work is Refused Classification, and is not able to be legally distributed in Australia.

This disparity and uncertainty in Australian law is undesirable. It leads to regulatory risk for Australia’s burgeoning game development industry,¹⁶ and unacceptably limits the freedom of expression of Australian artists and developers. The inconsistency in the classification system seems to be founded on incorrect assumptions about the expressive nature and effect of computer games. We argue strongly that, fifteen years after the introduction of the NCS, it is now time to reconcile these inconsistencies and allow Australian adults to create and play interactive experiences that deal with complex adult themes.

Australian parents are responsible parents

Electronic games have been a form of personal entertainment for the better part of 40 years. Over the years, the computer games market has adapted and evolved to accommodate a huge increase in demand and game sophistication. Accordingly to the Interactive Australia/Bond University 2009 report, nearly 90% of Australian households now have a device for playing interactive computer

14 Classification of Computer Games and Images Act 1995 (QLD) s 27.

15 Classification (Publications, Films and Computer Games) Enforcement Act 1996 (WA) s 89.

16 iGEA, ‘Games Sales Resilient in 2009 Despite Tough Economic Climate’ (19 January 2010) <<http://www.igea.net/2010/01/games-sales-resilient-in-2009-despite-tough-economic-climate/>> (reporting that the Australian game industry achieved record sales of \$2bn in 2009).

games.¹⁷ Further, 80% of parents surveyed for this report said that they choose to play computer games with their children; over two-thirds of parents agreed that gaming was a good way to spend time with their children.¹⁸

In the debate about the introduction of an R18+ classification for games, we have heard a number of concerns expressed about the availability of adult games in a market that appeals to children. These concerns generally seem to focus on the fact that children – particularly older children – have a degree of autonomy in their entertainment habits and choices. There is an idea that children understand this game space, whereas their parents do not. The concern, therefore, is that parents may be unable to recognise and monitor when their children have gained access – whether intentionally or unwittingly – to adult content before the children have been exposed to the content (or in other words, before the damage has been done).

In this submission, we argue that these concerns can be better addressed by an R18+ classification for games rather than the current scheme. This is because the R18+ mark is a clear and certain sign to parents of the content included in a game, and a much stronger sign than the MA15+ rating, which as we will show, is currently applied to a number of games that are classified “adult only” elsewhere in the world. Australian parents are responsible parents who supervise their children and seek to make informed choices about their children’s entertainment. An R18+ classification will better empower parents to make these choices and be confident in their choices and in the National Classification Scheme.

Purchasing games

The introduction of a R18+ rating for games would provide clear guidelines for retailers and largely ensure that games inappropriate for children are not sold or hired directly to children. It would also greatly assist parents in their game purchasing decisions. According to videogamefacts.com.au, an online resource created by Microsoft to help families make informed choices about video gaming, 4 in 5 Australian parents are influenced by the Classification Board’s ratings when buying video games for their children. However, the Interactive Australia 2009 report found that nearly two-thirds (63%) of adults surveyed were unaware that Australia does not have an R18+ rating for games.¹⁹ The impact of this finding is significant. If parents are guided by the classification they see on a video game cover, and yet are unaware that there is not a stronger classification applied to games than MA15+, they may invest in games for their children that actually contain stronger and more violent content than the parent would expect to be included in an MA15+ game or with which the parent is comfortable. In fact, the Interactive Australia 2009 report includes comments from parents such as, “If I knew that [there was no adult rating] I wouldn’t think MA15+ was for my 15-year-old”.²⁰

The risk of MA15+ games being more violent than parents anticipate is legitimate, particularly when coupled with the knowledge that a number of games that are classified MA15+ in Australia have in fact been classified as “adults only” in other jurisdictions in the world. Our findings indicate that this is not an uncommon occurrence. By reviewing classification ratings made in Europe, America and New Zealand (all of which have an R18+ classification or equivalent), it is revealed that more than half of Australia’s MA15+ games currently on sale are considered globally as being unsuitable for minors, being recommended or restricted to 17 or 18 years and over in other

17 Jeffrey Brand, Jill Borchard, and Kym Holmes, ‘Interactive Australia 2009’ (2009), 9.

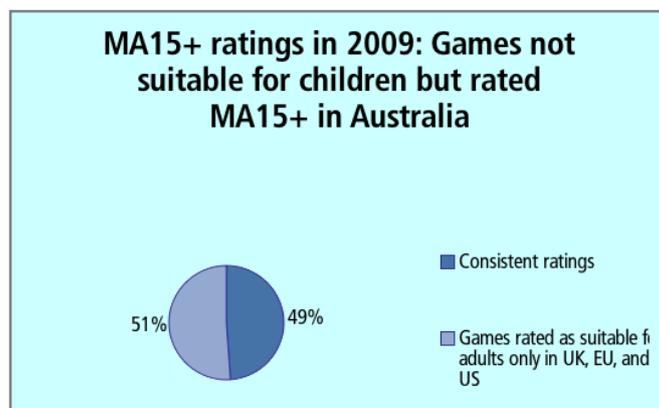
18 Jeffrey Brand, Jill Borchard, and Kym Holmes, ‘Interactive Australia 2009’ (2009), 38.

19 Jeffrey Brand, Jill Borchard, and Kym Holmes, ‘Interactive Australia 2009’ (2009), 42, 46.

20 Jeffrey Brand, Jill Borchard, and Kym Holmes, ‘Interactive Australia 2009’ (2009), 42.

jurisdictions. The table in Appendix 1 sets out the classifications of various games in a number of jurisdictions around the world, and demonstrates the discrepancy between Australia's classification system for games and those elsewhere.

Australian parents are familiar and comfortable with the Australian classification system as it applies to film,²¹ and it is reasonable for them to assume that the system is consistent across films and computer games. To the extent that any parents experience confusion when purchasing a game about whether the game is suitable for their child, we believe that this confusion can be traced to the inconsistencies between the classification schemes for films and games and between the classification schemes in Australia and elsewhere. Introducing an R18+ classification for video games would provide parents and adults with the information they need to make informed decisions and would provide a complete range of classifications for both consumers and retailers to make responsible computer game purchases and sales.



Parental supervision

We believe that Australian parents are responsible parents who take proper care and consideration in supervising their children's activities. In the Interactive Australia 2009 report, the overwhelming majority of parents surveyed (92%) stated that they keep a close eye on the games being played in their household, with 78% stating that an adult is present when games are purchased for their children.²²

For this reason, we believe that concerns that allowing R18+ games into Australia will expose more children to more unsuitable content are, for the most part, unfounded. We already expect parents to be responsible for their children's film viewing habits, and Australian parents have lived up to this responsibility. Introducing an R18+ category for games will no more expose minors to unsuitable content than the existence of an R18+ category for films does. If anything, its introduction will simply serve to take the pressure off parents by providing them with an unambiguous restricted

21 In part because of the educational campaigns run by the Australian Government about the National Classification Scheme for films.

22 Jeffrey Brand, Jill Borchard, and Kym Holmes, 'Interactive Australia 2009' (2009), 44-6.

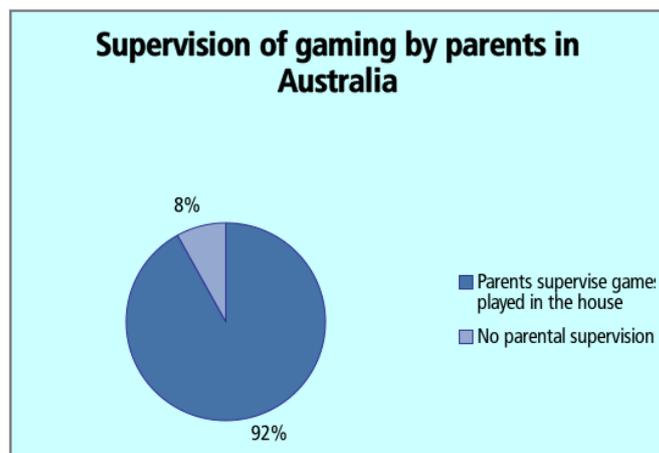
category with which they can be certain, and by better enabling them to control the games that enter their house at purchase-point.

Parental “locks”

It is well understood that parents cannot be physically present to supervise their children’s game-playing at all times. However, the current range of game consoles provide easy and effective ‘locks’ to regulate the content that can be accessed when a parent is not present.

There are two apparent risks that may arise where a parent is physically absent. The first is that a child may somehow gain access to an adult game and bring this into the house to play without his or her parents’ knowledge. While this is not a possibility that can be prevented absolutely, as argued above the introduction of a clearly demarcated R18+ classification for games will only make it more difficult for children to gain access to adult games in the first place, largely because tighter restrictions will be placed on those buying and selling R18+ games. The second risk that may arise is that where a household includes a number of game-players of varying ages, there may be both adult and children’s games present in the house and a child may seek to play one of the adult game-player’s games while that adult is absent. Fortunately, there exist technical measures that parents can employ to ensure that their children cannot play adult games on the family console when an adult is not present, in either of the situations identified here.

Each of the current major computer game consoles feature a “parental lock” or “family setting” which enable parents to determine the level of content that can be played even when they are not present. Using a password or PIN, parents can choose the highest classification permitted for that console, effectively restricting the console to games rated PG or lower, or – at its most extreme – only those rated G. This functionality is currently available for the Sony PlayStation 2



and PlayStation 3, Microsoft Xbox 360 and Nintendo Wii, as well as the Sony PlayStation Portable and Nintendo DSi. The Apple iPhone and iPod Touch, while not as sturdy a gaming platform as the others, also include parental controls to restrict the type of content that may be played. These are the platforms that most games are currently being developed for, so it is expected that any games introduced into Australia under the new R18+ rating will be able to be restricted by the parental control systems currently in place on these devices. In 2009, a Newspoll study commissioned by the Interactive Games and Entertainment Association (iGEA) demonstrated that 79% of parents

would use these parental locks on their consoles, restricting access based on classification as well as setting time limits for their children's gaming.²³

Concerns have been raised that because of the technologically savvy nature of the younger generation, children may be able to bypass these parental locks. However, these systems are locked (and accessed) with the assistance of a password or PIN. As long as parents have chosen their password or PIN with care, there is no reason to think that children could access the system simply because they are "technologically savvy". If parents are unaware of their ability to lock gaming consoles, the best government response would be educational, rather than restricting the availability of adult games.

Conclusion: A clearer classification mark is safer

In conclusion, we argue that Australian parents are responsible parents who, with the right guidance, can effectively manage their children's game-playing habits and limit their children's exposure to adult content. An R18+ classification for games will assist parents in this endeavour, by providing them with certainty about their choices in selecting games and empowering them to take an active role in communicating with their children about why a particular game is or is not appropriate for them.

There is no causal link between the interactivity of video games and aggressive behaviour

In some areas of media and society, allegations have been made that the interactivity of games (particularly violent games) has the potential to cause or increase aggressive behaviour in children. However, an evidence-based approach to this issue suggests the contrary. When research is collated, it is found that not only does the interactivity of video games have no overall effect on behaviour, but that video games have less influence on behavioural change than film or television. In fact, the research shows that in some cases playing video games has a positive effect on cognitive ability.²⁴ The consistent focus of media and government attention on video games leads unacceptably to a reduction in sensitivity and response to the important factors – such as depression – that do contribute to youth violence.²⁵

At every stage since the introduction of the National Classification Scheme in 1995, reviews of the scheme have supported the introduction of an R18+ rating for computer games. The 1994 report by Dr Kevin Durkin found no causal link between playing computer games and aggression.²⁶ The 1999 report by Dr Durkin and Kate Aisbett once again found that "there is no evidence to support fears that computer game play contributes substantially to aggression in the community"²⁷ and recommended that an R classification be introduced due to the lack of such a link and the aging demographic of game players.²⁸ In 2001, an independent study entitled 'The effects of violent video

23 See IGEA, 'Parents all thumbs when it comes to gaming controls' (07 December 2009) <<http://www.igea.net/2009/12/parents-all-thumbs-when-it-comes-to-gaming-controls/>>.

24 Christopher Ferguson, 'The Good, The Bad and the Ugly: A Meta-analytic Review of Positive and Negative Effects of Violent Video Games' (2007) *Psychiatr Q* 78: 309-316, 314.

25 See Christopher Ferguson, Claudia San Miguel, and Richard Hartley, 'Violent Video Games, Carharisi Seeking, Bullying, and Delinquency: A Multivariate Analysis of Effects' (2009) *Journal of Paediatrics* <<http://www.tamui.edu/~cferguson/LYOJPed.pdf>>.

26 Kevin Durkin, 'Computer Games: their effects on young people: a review' (1995), 42-3.

27 Kevin Durkin and Kate Aisbett, 'Computer games and Australians Today' (1999), 124.

28 Kevin Durkin and Kate Aisbett, 'Computer games and Australians Today' (1999), 126-7.

games on aggression: a meta-analysis' cumulated findings across existing research on the effects of violent video games to discern important trends in resulting behaviour.²⁹ The study concluded that violent video games have a lesser effect on aggression than television violence has. Similarly, 'The Good, The Bad and the Ugly: A Meta-analytic Review of Positive and Negative Effects of Violent Video Games' (2007) concluded that not only was there no evidence to support the contention that violent video game playing leads to aggressive behaviour, but also that players of violent video games often developed higher visuospatial cognition (spacial awareness).³⁰

A 2002 public consultation conducted by Dr Jeffrey Brand recommended the introduction of an R18+ classification for games in Australia.³¹ Dr Brand's 2003 comparative analysis of international rating systems 'urgently' recommended more study and the harmonisation of Australian laws with international standards.³² Most recently, research by Dr Brand, Jill Borchard, and Kym Holmes commissioned by the Interactive Entertainment Association of Australia in 2009 shows that parents take an active role in supervising the games that their children are exposed to, and showed an overwhelming level of support for the introduction of an R18+ rating for computer games.³³

The Australian Classification Guidelines already provide a means by which any increased impact due to interactivity can be taken into account in the classification of a computer game. Because the Classification Board has the power to take interactivity into account in assessing a game's rating, there is no need to further limit the categories of classification on this ground. The introduction of an R18+ classification for games will still allow the Australian Classification Board the freedom to refuse games which are considered abhorrent in nature or go further than what is permitted under the R18+ classification.

The current government prides itself on an evidence-based approach to policy. The evidence is clear that there is no reason for the NCS to impose different classification categories for films and computer games and that there is no reason for the disparity between the NCS and international classification standards that recognise an adult rating for computer games. Furthermore, the evidence strongly supports the introduction of an R18+ rating in order to empower adults and parents and to cater to the desire of adult gamers to play games with adult themes.

29 John Sherry, *The effects of violent video games on aggression: a meta-analysis* (2001)

30 Christopher John Ferguson, 'The Good, The Bad and the Ugly: A Meta-analytic Review of Positive and Negative Effects of Violent Video Games' (2007) *Psychiatr Q* 78: 309-316, 314.

31 Jeffrey Brand, 'A Review of the Classification Guidelines for Films and Computer Games', Bond University Centre for New Media Research and Education (2002), 32.

32 Jeffrey Brand, 'A Comparative Analysis of Ratings, Classification and Censorship in Selected Countries around the World' (2003), 20.

33 Jeffrey Brand, Jill Borchard, and Kym Holmes, 'Interactive Australia 2009' (2009), 42-6.

Conclusion

The national classification code clearly sets out the objectives of classification in Australia:

- (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:
 - iv) depictions that condone or incite violence, particularly sexual violence; and
 - v) the portrayal of persons in a demeaning manner.³⁴

We believe that the introduction of an R18+ rating for computer games is supported by each of these four objectives. The first provides the critical over-arching framework for classification in Australia: adults should have the right to determine which games they wish to play. The NCS currently requires that films be refused classification where they depict sufficiently abhorrent phenomena, contain child sexual abuse material, or promote, incite, or instruct in matters of crime or violence. Such material would continue to be refused classification if an R18+ rating were introduced for computer games. For all other material, there is no justification why a distinction should be drawn between games and films, and Australian adults should have the ability to play adult games just as they have the ability to watch adult films should they choose to.

The second and third objectives, that minors be protected from material that is likely to disturb them and that everyone should be protected from unsolicited exposure to potentially offensive material, are related. Both of these goals are better served by introducing an R18+ rating than under the current system. Introducing an R18+ rating will send a clear message to parents that a particular game is likely to be unsuitable for their minor children. A clear R18+ rating empowers adults and parents to make appropriate decisions for themselves and for the children for whom they are responsible. The disparity between computer game ratings and ratings for films adds unnecessary confusion to the system and fails to clearly inform Australians about the content of games that they buy or hire. Furthermore, the disparity between Australia and international ratings systems currently indicates international consensus that a high proportion of games rated MA15+ in Australia should actually be rated as suitable for adults only. For all of these reasons, introducing an R18+ rating would be more likely to protect children and more likely to empower adults than the current system.

Finally, the NCS requires that classification take into account community concerns. We argue strongly that the vocal minority that oppose the introduction of an R18+ rating are not representative of Australian society. Australian society is generally tolerant of the rights of adults to choose to view or experience material that particular persons may find offensive; furthermore, many Australian adults enjoy playing games that are not suitable for children. The recent Interactive Australia 2009 report shows that 91% of Australian adults support the introduction of an R18+ classification.³⁵ To assume that the vocal minority that opposes the introduction of an R18+ rating for games is representative of community standards does a great disservice to the Australian community, the overwhelming majority of whom are not supportive of overly restrictive government limits on the content of media.

34 [National Classification Code 2005](#) (Cth)

35 Jeffrey Brand, Jill Borchard, and Kym Holmes, ['Interactive Australia 2009'](#) (2009), 46.

APPENDIX*Table of Information Comparing Australian and Overseas Classification*

Title	Date	CB Rating	ESRB Rating	BBFC Rating	PEGI Rating	NZ OFLC Rating
Afro Samurai	5/01/2009	MA15+	MATURE	18	18	R16
Silent Hill: Homecoming	5/01/2009	MA15+	MATURE	18	18	R18
The Godfather 2	13/01/2009	MA15+	MATURE	18	18	R18
Grand Theft Auto: Chinatown Wars	14/01/2009	MA15+	MATURE	18	18	R16
MadWorld	16/01/2009	MA15+	MATURE	18	18	R18
HEI\$T	19/01/2009	MA15+	MATURE	N/A	18	R16
Resistance: Retribution	19/01/2009	MA15+	MATURE	18	16	R13
Grand Theft Auto IV: The Lost And Damned	30/01/2009	MA15+	MATURE	18	18	R18
Wanted: Weapons Of Fate	2/02/2009	MA15+	MATURE	18	18	R16
X-Men Origins: Wolverine	13/02/2009	MA15+	MATURE	18	18	R18
Leisure Suit Larry: Box Office Bust	18/02/2009	MA15+	MATURE	18	16	R18
Company Of Heroes: Tales Of Valor	25/02/2009	MA15+	MATURE	15	16	R13
Watchmen - The End Is Nigh Part 2	27/02/2009	MA15+	MATURE	15	16	R18
Velvet Assassin	3/03/2009	MA15+	MATURE	15	18	R16
Zombie Apocalypse	5/03/2009	MA15+	MATURE	N/A	18	R16
UFC 2009 Undisputed	9/03/2009	MA15+	TEEN	15	16	R16
Red Faction: Guerrilla	9/03/2009	MA15+	MATURE	N/A	16	R16
Resident Evil V - Bonus Disc	18/03/2009	MA15+	MATURE	18	18	R18
Men Of War	20/03/2009	MA15+	MATURE	15	18	R16
Call Of Juarez: Bound In Blood	27/03/2009	MA15+	MATURE	N/A	18	R16
Battlestrike: Shadow Of Stalingrad	31/03/2009	MA15+	N/A	N/A	16	N/A
Prototype	2/04/2009	MA15+	MATURE	18	18	R18
Armed Forces Corp	6/04/2009	MA15+	MATURE	N/A	16	N/A
NecroVisioN	7/04/2009	RC	MATURE	18	18	N/A
Burn Zombie Burn	20/04/2009	MA15+	MATURE	N/A	N/A	R13
Infernal: Hell's Vengeance	23/04/2009	MA15+	MATURE	N/A	16	N/A
Wolfenstein	29/04/2009	MA15+	MATURE	18	18	18
Sexy Poker	13/05/2009	RC	MATURE	15	12	N/A
Agarest: Generations Of War	19/05/2009	MA15+	N/A	N/A	12	N/A
Arma II	19/05/2009	MA15+	MATURE	N/A	16	R16
Il2 Sturmovik: Birds Of Prey	25/05/2009	MA15+	TEEN	7	7	PG
Fallout 3: The Pit and Operation: Anchorage	2/06/2009	MA15+	MATURE	18	18	R18
Bayonetta	5/06/2009	MA15+	MATURE	15	18	R16
Operation Flashpoint: Dragon Rising	8/07/2009	MA15+	MATURE	15	18	R16

Electronic Frontiers Australia and AusGamers

Wet	10/07/2009	MA15+	MATURE	18	18	R18
Obscure: The Aftermath	15/07/2009	MA15+	MATURE	N/A	16	N/A
Risen	20/07/2009	RC	MATURE	N/A	16	R16
Dead Space Extraction	21/07/2009	MA15+	MATURE	18	18	R16
Juon: The Grudge	21/07/2009	MA15+	MATURE	N/A	16	N/A
Alpha Protocol	29/07/2009	MA15+	MATURE	15	18	R16
Dragon Age - Origins	29/07/2009	MA15+	MATURE	18	18	R16
Fallout 3: Broken Steel and Point Lookout	30/07/2009	MA15+	MATURE	18	18	R18
Ninja Gaiden Sigma 2	30/07/2009	MA15+	MATURE	N/A	16	R16
Borderlands	4/08/2009	MA15+	MATURE	18	18	R18
Resident Evil The Darkside Chronicles	10/08/2009	MA15+	MATURE	15	18	R16
Brutal Legend	12/08/2009	MA15+	MATURE	15	18	R16
Red Faction: Guerrilla	14/08/2009	MA15+	MATURE	N/A	16	R16
Grand Theft Auto: Chinatown Wars	19/08/2009	MA15+	MATURE	18	18	R16
Rogue Warrior	25/08/2009	MA15+	MATURE	18	18	R18
South Park Let's Go Tower Defense Play!	26/08/2009	MA15+	MATURE	N/A	16	N/A
Fairytale Fights	28/08/2009	MA15+	MATURE	N/A	16	R16
Uncharted 2 - Among Thieves	4/09/2009	MA15+	TEEN	15	16	R16
Bloodhunt	14/09/2009	MA15+	N/A	N/A	N/A	N/A
Left 4 Dead 2 (original)	15/09/2009	RC	MATURE	18	18	R18
Assassin's Creed II	17/09/2009	MA15+	MATURE	15	18	R16
Assassin's Creed: Bloodlines	17/09/2009	MA15+	MATURE	N/A	16	R13
Fallout 3 - Mothership Zeta	17/09/2009	MA15+	MATURE	18	18	R18
Way Of The Samurai 3	28/09/2009	MA15+	MATURE	18	N/A	R16
Call Of Duty: Modern Warfare Reflex	29/09/2009	MA15+	MATURE	N/A	16	R16
The Saboteur	2/10/2009	MA15+	MATURE	15	18	R16
Grand Theft Auto: The Ballad Of Gay Tony	6/10/2009	MA15+	N/A	18	18	R18
SAW	6/10/2009	MA15+	MATURE	18	18	N/A
Undead Knights	6/10/2009	MA15+	MATURE	N/A	N/A	N/A
Left 4 Dead 2 (edited)	7/10/2009	MA15+	edited	edited	edited	edited
Samurai Shodown - Edge Of Destiny	7/10/2009	MA15+	MATURE	N/A	N/A	N/A
Serious Sam	8/10/2009	MA15+	MATURE	N/A	18	N/A
Call Of Duty: Modern Warfare 2	15/10/2009	MA15+	MATURE	18	18	R18
Call Of Duty: Modern Warfare Reflex Edition	9/10/2009	MA15+	MATURE	N/A	16	R16
Dementium 2	16/10/2009	MA15+	MATURE	15	N/A	N/A
Tom Clancy's Ghost Recon Predator	19/10/2009	MA15+	N/A	N/A	N/A	N/A
Darksiders	23/10/2009	MA15+	MATURE	15	18	R16
Left 4 Dead 2 (review)	23/10/2009	RC	MATURE	18	18	R18
Army of Two - The 40th Day	27/10/2009	MA15+	MATURE	18	18	R18
Bioshock 2	2/11/2009	MA15+	MATURE	18	N/A	R16

Killing Floor	2/11/2009	MA15+	MATURE	15	18	R16
Heavy Rain	17/11/2009	MA15+	MATURE	15	N/A	R18
Code Of Honor 3: Desperate Measures	24/11/2009	MA15+	MATURE	N/A	16	N/A
Dead To Rights: Retribution	24/11/2009	MA15+	MATURE	18	N/A	N/A
Just Cause 2	24/11/2009	MA15+	MATURE	15	16	R18
Mass Effect 2	24/11/2009	MA15+	MATURE	15	18	R13
CrimeCraft	26/11/2009	RC	MATURE	N/A	N/A	N/A
Dante's Inferno	27/11/2009	MA15+	MATURE	18	N/A	R16
Resident Evil 5 Gold Edition	27/11/2009	MA15+	MATURE	18	N/A	N/A
Aliens vs. Predator (original)	3/12/2009	RC	MATURE	18	16	R18
Yakuza 3	8/12/2009	MA15+	MATURE	18	N/A	N/A
Wolfschanze 2	10/12/2009	MA15+	N/A	N/A	16	N/A
Nier	17/12/2009	MA15+	MATURE	15	N/A	N/A
Samurai Shodown Sen	17/12/2009	MA15+	MATURE	N/A	N/A	N/A
Aliens vs. Predator (review)	18/12/2009	MA15+	MATURE	18	16	R18
Perfect Dark	21/12/2009	MA15+	MATURE	N/A	N/A	N/A
Tom Clancy's Splinter Cell Conviction	21/12/2009	MA15+	MATURE	15	18	N/A
TOTAL:		91	84	59	72	63

Ratings Key

CB RATINGS:

MA 15+ = Not suitable for people under 15
 RC = Refused Classification (not able to be sold or advertised)

ESRB RATINGS:

TEEN = Suitable for 13yrs and older
 MATURE = Suitable for 17yrs and older

BBFC RATINGS:

15 = Restricted to 15yrs and older (proof of age required)
 18 = Restricted to 18yrs and older (proof of age required)

PEGI RATINGS: (recommendation only, legal restrictions defer to BBFC)

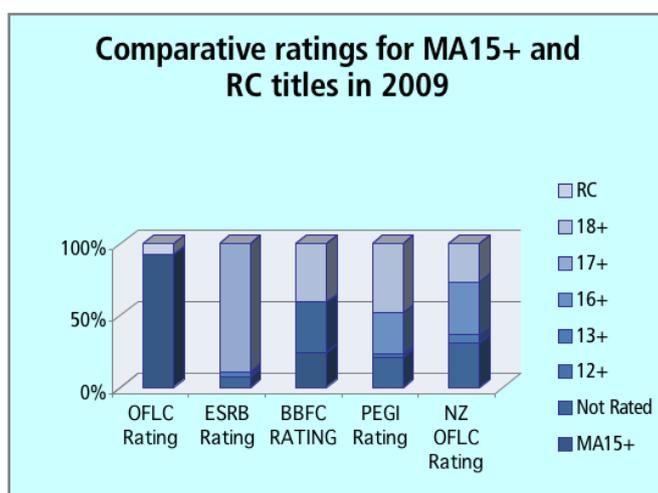
16 = Recommended for 16yrs and older
 18 = Recommended for 18yrs and older

NZ OFLC RATINGS:

R13 = Restricted to persons 13 years of age and over
 R16 = Restricted to persons 16 years of age and over
 R18 = Restricted to persons 18 years of age and over
 N/A = Not released, unclassified, or unable to find title in this territory
 edited = Game modified for Australian release, not comparable
 grey highlight = Game globally considered as being unsuitable for minors (see analysis)

Analysis Method

- Since not all titles have ratings available in all regions, only games with ratings from all five agencies will be used in this analysis (47 titles)
- To allow for reasonable comparison to the Australian classification age groups, the following method will be used to identify 'intent' within the ratings from the ESRB, BBFC, PEGI and the New Zealand OFLC:
- "MATURE" ratings from the ESRB will count as 18+ if both EU agencies and NZ OFLC decided on an 18+ rating
- "MATURE" ratings from the ESRB will count as 15+ if one or both EU agency classified the title as 15+ or 16+ (reflecting mature content but suitable for younger audiences)



Analysis

There were ninety-one titles which the Australian Classification Board rated MA15+ or RC in 2009. Of those, forty-seven games were also rated by the ESRB, PEGI, BBFC and New Zealand OFLC.

Disparity of Australian Classification Board ratings versus Global consensus

When looking at the classifications in comparison to the US, UK and European ratings, more than 50 per cent (24 titles) were globally considered as being unsuitable for minors, recommended or restricted to 18 years and over.

Even when comparing Australia's ratings to our closest cultural neighbour, New Zealand, we can see that 40 per cent (18 titles) of our MA15+ games are considered suitable only for adults 18+.

R18+ classification implications for RC games

Three games were refused classification in 2009 and were not subsequently edited and resubmitted, or were unsuccessful in their appeal: CrimeCraft, NecroVisioN, and Risen. Of these three, NecroVisioN has been given an R18+ equivalent rating in the US, UK and Europe, while Risen has been labelled suitable for 16 year olds in New Zealand and Europe, and recommended for 17 year olds in the

US. (CrimeCraft is an online-only game and has limited ratings information. It has been given a non-legally enforceable Mature (17+) rating in the US, but is freely available in other territories.)

Underlying theme

Of the seventy-three titles, forty-six were rated 18+ by at least one agency (ESRB not included), although this includes titles with incomplete datasets. Anecdotally, this suggests up to 60 per cent of computer games released under the MA15+ rating feature content unsuitable for minors.