



FreeTV
Australia

**Submission by
Free TV Australia Limited**

Submission to OFLC Review of Determined
Markings

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1 Executive Summary

- The use of classification symbols, descriptions and consumer advice on commercial free-to-air television is not regulated by the Determined Markings. However, as significant users of the classification symbols, Free TV Australia has a close interest in the outcome of this review. It would be a disappointing outcome for consumers if the OFLC were to change the classification markings in a manner that would make the film and computer game symbols inappropriate for use in the television environment.
- Free TV Australia does not believe that a case has been made to warrant the consideration of any significant changes to the Determined Markings. Research has consistently demonstrated a high degree of consumer awareness and understanding of the classification symbols. Free TV is concerned that changing the classification symbols will cause unnecessary confusion for viewers and cost to industry.
- Commercial free-to-air broadcasters use classification symbols in a variety of different situations, ranging from full screen classification billboards, to small symbols displayed briefly following commercial breaks. Although the use of classification symbols by television broadcasters is not covered by the Determined Markings, we would ask that the OFLC consider these various usages in their review of the classification markings.
- Free TV Australia is concerned that the information in Part 6 of the Discussion Paper does not accurately describe the existing regulatory environment in which free to air television operates and creates the impression that television's treatment of classification information is adhoc and confusing. In fact, the use of classification symbols, texts and voice overs is highly regulated under the Commercial Television Industry Code of Practice.
- Free TV Australia is concerned that the Discussion Paper has presented the options for the MA classification description in a manner that will distort responses. In particular, Free TV believes that the pairing of short and long form options will skew responses away from the short form wording preferred by Free TV Australia.
- In relation to the classification description for MA, Free TV Australia supports a combination of options c(i) and b(ii) and c(ii):
 - Short form: Suitable only for audiences aged 15 years and over.
 - Long form: Suitable only for audiences aged 15 years and over. A parent or adult guardian must accompany people under 15.
- Free TV Australia is concerned that the Classification Markings proposed in the Discussion Paper are confusing and are inappropriate for use in a variety of environment.

2 Background

Free TV Australia is the industry association of commercial television stations licensed to broadcast throughout Australia under the Broadcasting Services Act 1992 (BSA). All 48 commercial stations are members of Free TV. Free TV is the successor to the Federation of Australian Commercial Television Stations (**FACTS**) and Commercial Television Australia (**CTVA**).

Free TV Australia welcomes the opportunity to respond to the Discussion Paper titled "Review of the Classification Marking for Films and Computer Games August 2004" (**Discussion Paper**) which was released by the Office of Film & Literature Classification (**OFLC**).

The OFLC is conducting a review of the classification markings for films and computer games (called the "determined markings"). The determined markings specify the placement and design of the classification symbols, the wording and placement of the classification description which accompanies the symbol and the placement of consumer advice.

The classification types (for example PG – Parental Guidance) are determined by the *Classification (Publication, Films and Computer Games) Act 1995* (the Act), and are not being considered as part of this review.

The determined markings regulate the placement and appearance of classification markings in a range of circumstances, including film and computer game packaging and advertising.

The use of classification symbols, descriptions and consumer advice on commercial free-to-air television is not regulated by the determined markings, but is set out in the Commercial Television Industry Code of Practice. However, as significant users of the classification symbols, Free TV Australia has a close interest in the outcome of this review. Free TV Australia's submission to the Discussion Paper is structured as follows:

- Section 3 outlines the classification system for television under the Commercial Television Code of Practice, and the use of classification symbols in the television environment.
- Section 4 discusses viewer awareness and satisfaction with the existing markings.
- Section 5 contains specific comments on relevant questions in the Discussion Paper.

3 The existing classification system

3.1 The Commercial Television Code of Practice Classification System

The commercial television industry is regulated under the Commercial Television Industry Code of Practice (the **Code**), as required by the *Broadcasting Services Act 1992*. The Code is endorsed by Free TV Australia and is registered by the Australian Broadcasting Authority. Following extensive consultation with Government advisory bodies, community interest groups and the public generally, the Australian Broadcasting Authority (ABA) registered a revised Code on 1 July 2004.

The Code operates alongside the requirements of the Broadcasting Services Act and ABA Standards which regulate the content of children's programs and advertisements directed to children and the Australian content of programs and advertisements.

The Code covers the classification of program material and the provision of consumer advice in the commercial television environment. Under the Code all material for broadcast (with the exception of news, current affairs and sport) is required to be classified. Each broadcast day has been divided into a series of classification time zones which determine when material of a particular classification can be shown. The classification time zones were developed based on the majority audience normally viewing at particular times of day, with an emphasis on protecting children from inappropriate content. Programs with higher classifications are also required to carry Consumer Advice, which informs viewers of the type of content that can be expected in the program.

During the most recent review of the Code, Free TV Australia incorporated the classification guidelines of the OFLC into the Code for films (refer Appendix 5 to the Code). The previous Code classification guidelines continue to apply to all other broadcast material (refer Appendix 4 to the Code).

The classification guidelines for television are consistent with the OFLC Guidelines but provide more detail in terms of the classification criteria and have been retained in the Code as a result of community feedback expressing concern in relation to the lack of specificity of some of OFLC criteria and in recognition that there is a much greater variety of material that needs to be classified for commercial television, including serials, talk shows and variety programs, infotainment programs, game shows and commercials.

The classification categories contained under the Code are the same as the OFLC classification types, with additional categories for Children's Programs (C), Preschool Programs (P) and Adult Violence (AV 15+), which is a subcategory of (MA 15+) containing strong violence.

The C and P classifications are a specialised form of television classification established under the Children's Television Standard (CTS). C and P programs are made specifically for children and must satisfy the criteria for a C or P program set out at CTS2 and be classified by the ABA before they can be broadcast.

The CTS contains requirements on the numbers of hours of children's programs to be broadcast and the timezones in which those programs must be broadcast. Programs classified C or P must comply with the restrictions in the CTS in relation to, for example, content and numbers of advertisements and competitions.

3.2 Display of Classification Information

Commercial free to air broadcasters display classification information in a large variety of different circumstances. Although the use of classification symbols by television broadcasters is not covered by the Determined Markings, we would ask that the OFLC consider these usages in the review of the classification markings.

Currently, commercial free to air broadcasters use the same symbol as the OFLC for the categories G, PG, M and MA15+. Unique television symbols are used for the 'television only' categories C, P and AV15+. However these symbols follow the same basic premise as the OFLC symbols – being a letter enclosed within a shape.

It would be a disappointing outcome for consumers if the OFLC were to change the classification markings in a manner that would make the film and computer game symbols inappropriate for use in the television environment.

Contrary to the OFLC's description in section 6 of the Discussion Paper, the provision of classification information in the television sectors is in fact highly regulated.

Section 2 of the Code contains detailed requirements for the display of classification symbols, provides wording for classification text and also sets out requirements for consumer advice. All commercial television broadcasters comply with these requirements and take seriously the obligation to provide viewers with the information necessary to make informed decisions about their viewing choices.

The Code requires classification symbols to be displayed in the following situations:

Program commencement – A classification symbol of at least 32 television lines in height must be displayed in a readily legible typeface for at least 3 seconds as close as practicable to the program's start;

Following commercial breaks – A classification symbol of at least 32 television lines in height must be displayed in a readily legible typeface for at least 3 seconds as soon as practicable after each break;

Program promotions – A classification symbol of at least 32 television lines in height must be displayed in a readily legible typeface for at least 3 seconds during any promotion for a program (except voice-over promotions);

Press Advertising – Clearly visible classification symbols must accompany all press advertising for television programs; and

Program listings – Clearly visible classification symbols must accompany all program listings in program guides produced by the television network.

Consumer advice is mandatory for certain programs; for example all MA and AV programs, all M feature films and one-off programs, all PG films, and PG programs broadcast between certain times and other program which contain material of a strength or intensity which the station reasonably believes viewers may not expect. The Code sets out detailed lists of consumer advice classification elements which may be included as consumer advice.

Where consumer advice is given, the relevant program will be preceded by a classification billboard, which will contain the classification symbol, a written description of the classification and a list of the consumer advice elements for that program in addition to a prescribed voice-over.

The Code specifies the following classification text to accompany the classification symbols:

- PG – Parental guidance is recommended for young viewers
- M – Recommended for mature audiences
- MA15+ – Suitable only for persons aged 15 years and over (or such other text as agreed between the OFLC and Free TV)
- AV15+ – Suitable only for persons aged 15 years and over (or such other text as agreed between the OFLC and Free TV)

The Code also contains prescribed classification and consumer advice voice-overs as follows:

- For required PG programs “The following program [or film or movie] is classified PG. It contains [consumer advice corresponding to the graphic]. [This channel] recommends parental guidance for young viewers”
- For required M programs “The following program [or film or movie] is classified M. It contains [consumer advice corresponding to the graphic]. [This channel] recommends viewing by mature audiences”
- For all MA and AV programs “The following program [or film or movie] is classified [insert classification]. It contains [consumer advice corresponding to the graphic]. [This channel] advises that it is suitable only for persons aged 15 years and over” or such other text as agreed between the OFLC and Free TV Australia.

Consumer advice is also required as soon as practicable after the resumption of the program at each break. A lower frame graphic must show (in addition to any station/network logo) the title of the program plus the classification symbol and the consumer advice in abbreviated letter form beside the symbol (e.g. v for violence; s for sexual references/sex scenes). Consumer advice is also required in all press advertising of television programs that are a quarter page or larger, and in program guides produced by the television network.

Free TV Australia is concerned that the information in Part Six of the Discussion Paper does not accurately describe the existing regulatory environment in which free to air television operates and creates the impression that television’s treatment of classification symbols, descriptions and consumer advice is adhoc and confusing. All commercial television broadcasters comply with the Code’s detailed requirements. The ABC and SBS specify similar requirements in each of their Codes of Practice.

In addition, Free TV Australia does not agree that slight differences in the treatment of classification information in the television environment have resulted in consumer confusion. Indeed, as set out below, we believe that research has consistently demonstrated a high degree of consumer awareness and understanding of the classification symbols.

4 Viewer satisfaction

Free TV Australia does not believe that any case has been made to warrant the consideration of any significant changes to the Determined Markings.

The ABA’s study (conducted by ACNielsen) released in May 2003 on community attitudes towards violence on free-to-air television found that there is a high awareness of classification symbols (98%), consumer advice (94%) and warnings (93%) in the Code of Practice.¹ The ABA approved of the current arrangements, indicating its satisfaction that the Code meets community standards and expectations in relation to the display of classification information.

Very high recognition of the classification symbols for film was also indicated by the OFLC’s own research. Indeed recognition of the symbols, G, PG and M was 93% and recognition of the MA symbol was 88%.

The only area in which the OFLC research demonstrated any sign of consumer confusion was in relation to the failure of respondents to demonstrate a precise understanding of the restrictions that apply to the MA15+ category. However, respondents did clearly demonstrate an understanding that MA15+ was material that

¹ *Community Attitudes to Violence on Free-to-Air Television*, ABA, May 2003, available on www.aba.gov.au

was suitable for older audiences. To the extent that there is any real confusion between the M and MA categories, it is our view that this was rectified by the Classification (Publications, Film and Computer Games) Amendments Bill recently passed by parliament. The legislative amendment to the M and MA symbols (so that only the MA symbol is followed by the age restriction 15+) will more clearly demonstrate to audiences that MA15+ has legal restrictions which apply to those 15 years and under. We believe that this change, in conjunction with an education campaign, is sufficient to clarify any bona fide audience confusion.

We note that while the Discussion Paper focuses on Industry Consideration (Part: Four) it does not deal with or discuss viewer considerations. It is Free TV Australia's view that as existing research (both the ABA's and OFLC's research) indicate a high awareness and understanding of the existing classification system, the potential for creating consumer confusion by changing the classification system in the absence of a compelling case for such change is very high.

In terms of industry considerations we understand that film distributors are concerned that additional regulation will impose a financial burden and as such should be subject to a regulatory impact statement. Free TV Australia support the film distributors in their concern and share their view that a regulatory impact statement be required before any change to the determined markings system is implemented.

5 Free TV Australia's response to Part 4: Issues for Consideration

5.1 General Appearance and Components of Markings

[Questions 1.1 – 1.6] The OFLC and ABA research discussed above both indicate a high level of consumer awareness and usage of the current classification symbols. Free TV has not seen any evidence to suggest that viewers are dissatisfied with current arrangements. In Free TV Australia's view a wholesale change to the symbols (shape and colour) is not warranted and may indeed create unnecessary consumer confusion.

Given that research has consistently shown consumers to be highly aware of the classification hierarchy we believe that the impact of colour would be negligible. Colour coding would not improve consumer understanding of the meaning of the symbols, because consumers already have a good understanding of what the symbols mean. In addition, colour coding the symbols would not be able to be applied in all media – for example newspaper advertisements and program or film listings are generally only printed in black & white. Therefore, any theoretical benefit that colour coding might have would be marginal at best in practice.

Television broadcasters typically employ their corporate colours in the display of classification billboards. The use of corporate colours in classification billboards, program listings and other aspects of Network presentation are an important part of branding and identity. Broadcasters would be unlikely to change this practice to correlate with colour coded Determined Markings.

In addition, where classification information on television is only small in size, such as the classification symbols that are displayed following commercial breaks, we believe that colour coding would significantly impede the legibility of the symbol for viewers.

Due to the high impact and recognition of the existing symbols it is our view that they should remain unchanged in the Determined Markings.

Rather than pursuing wholesale changes to the current system, it would be more effective to concentrate on improving consumer awareness of the existing classification arrangements.

[Questions 1.7 – 1.8] The Discussion Paper asks for input in relation to the wording of the classification descriptions outlined in the questionnaire.

Free TV Australia has some high level concerns with the use of the Questionnaire to obtain consumer feedback. The Questionnaire lacks sufficient background or context information to assist viewers in understanding the current classification system or to enable them to assess if change is required.

For the **G** classification type, Free TV Australia supports options a) General and b) General Audience. Free TV Australia does not support option c) Suitable for all ages as we believe it may be taken to indicate that the material is of interest to children. In many G rated programs, for example, sport, this is not the case.

Free TV Australia supports all options for the **PG** classification type.

- a) Parental guidance
- b) Parental guidance recommended
- c) Parental guidance recommended for young audience.

Free TV Australia supports all options for the **M** classification type.

- a) Mature
- b) Recommended for mature audiences

Free TV is concerned that the questionnaire does not adequately explain the context for the short and long form of wording at MA15+, as the introduction states only that the short form of wording will apply where the long form is 'unworkable'. It would be more accurate to state that the short form of wording could be applied in situations where the accompanied aspect of MA15+ is not applicable, or where there is limited space for text.

Free TV is also concerned that the design of questionnaire for the MA15+ questions may inadvertently skew the results. In particular, we believe that the pairing of long and short-form wording will preclude respondents from choosing option c(i) for the short form wording because the long form wording in c(ii) does not adequately convey the nature of the legal restriction.

Free TV Australia believes that the MA15+ descriptor should be expressed in positive terms, rather than negative wording such as "unsuitable", "not suitable" or "not recommended". This is consistent with the descriptors for all other classification categories, which are in a positive form, for example, "recommended for ...".

Free TV Australia supports a combination of options c(i) and b(ii) and c(ii). The wording Free TV Australia supports for the reasons above is:

- (i) Short form: Suitable only for audiences aged 15 years and over.
- (ii) Long form: Suitable only for audiences aged 15 years and over. A parent or adult guardian must accompany people under 15.

Free TV Australia also has a particular concern in relation to question 10 where respondents are asked whether there should be a requirement to feature classification information in televised interviews with cast/crew members who are promoting a film or computer game. Free TV Australia opposes such a requirement as there is no clear mandate for such additional regulation on broadcasters. The recent review of the Commercial Television Code of Practice for example did not highlight a need among viewers for this type of information. As described above the Code sets out very

specific situations in which classification information must be provided. To require classification information to be provided in televised interviews is an additional and unnecessary requirement which clearly cuts across the recently registered Code of Practice (which was registered on the basis that it provides appropriate community safeguards).

5.2 Displaying Markings

[Questions 2.1 – 2.7] As discussed in section 3, the Code requires all programs broadcast on television to display an appropriate classification symbol of at least 32 television lines in height, in a readily legible typeface for at least 3 seconds as close as practicable to the program's start, as soon as practicable after each break and in any promotion for the program. Classification symbols must also accompany all press advertising for programs and in all program listing in program guides produced by the television stations.

If consumer advice is required by the Code then the classification information (classification symbol and description and the consumer advice) is also shown in a billboard at the commencement of the program with an accompanying voice over. The title of the program, the classification symbol and the consumer advice (in abbreviated letter form) are also displayed in the bottom left of the screen at the commencement of the program and after each commercial break. Free TV Australia is concerned that the Classification Markings proposed in the Discussion Paper are inappropriate for use in a variety of environment, including television.

The value of the current classification symbols specified in the Determined Markings is that they can be readily used by a variety of media in different circumstances. The new symbols proposed by the OFLC (the 'Tab', 'Bar' and 'Scale' designs) do not provide the same flexibility.

While the Determined Markings do not apply to broadcasting services, we are concerned that switching to more complex symbols and designs could make classification information more confusing to the public, and make it harder to display the relevant information in some mediums.

5.3 Applying Components of Markings

[Questions 3.4 – 3.5] Free TV Australia does not agree with the ordering proposed in Section 3 – Applying Components of Markings. Our research has shown that television viewers have a very high awareness of consumer advice and find it very useful as additional guidance of the suitability of a television program particularly for family viewing.

To the extent that research has demonstrated parents to be unaware of the presence of consumer advice in certain situations, such as film & video game packaging, we believe that this could be adequately addressed by far less radical means, such as by increasing the font size or making the text bold or conducting an education campaign. In our view classification information should be ordered from the broad to the specific; classification symbol, classification description and consumer advice. Providing the information in this order in no way diminishes the effectiveness of any of the elements and in our experience enables viewers to make informed decisions about their viewing choices.

5.4 Exception from Marking Requirements

Free TV Australia does not have any comments on Section 4 of Part Four – Exceptions from Marking Requirements.

Free TV appreciates the OFLC's consideration appreciation of this submission.

Free TV Australia
28 October 2004