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Ms Jane Fitzgerald
Assistant Secretary
Classification Branch
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

Dear Ms Fitzgerald

Review of the National Classification Scheme Terms of Reference

Free TV Australia represents all of Australia's commercial free-to-air television broadcasters. In 2011 commercial free-to-air television is the most popular source of entertainment and information for Australians, with our members providing nine channels of content across a broad range of genres, as well as rich online and mobile offerings, all at no cost to the public.

The Review Environment

While Free TV appreciates the opportunity to comment on the terms of reference for the proposed Australian Law Reform Commission (ALRC) *Review of the National Classification Scheme* we note that the government is currently conducting a number of overlapping reviews of media sector regulation. As well as the major Convergence Review and the Legal and Constitutional Affairs (LACA) Committee's own review of the classification system (mentioned in the terms of reference), government consultations are also currently underway on the Children's Television Standards, the Defamation Act, the Digital Dividend Bill and Screen Australia's television funding scheme.

This level of regulatory review across a broad range of overlapping policy areas places a substantial burden on the sector, and makes it far more difficult for individual organisations to provide comprehensive and informed submissions. Furthermore, while the proposed terms of reference acknowledge the potential overlap and make specific provision for matters to be referred between the various review committees as appropriate, it is possible that different reviews will arrive at different outcomes on the same issue. This is highly undesirable as it would create uncertainty and additional complexity in an already heavily regulated sector.

Free TV members do acknowledge that, in light of increasing convergence across media platforms, it is important to ensure that all Australians can make informed choices about media content, no matter the platform from which it is delivered or the device on which it is accessed. A comprehensive review is certainly more likely to achieve this outcome than the issue specific review currently being undertaken by the Senate LACA Committee. However, we anticipate that this comprehensive consideration of the classification system will also be undertaken by the Convergence Review.

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Comments on the Terms of Reference

Consistency across platforms

Free TV endorses the recognition in the terms of reference of technological change and the evolving technological environment, and agrees that changes brought about by the convergence of media platforms should be forefront in the ALRC's consideration.

However, in light of this converged environment, Free TV proposes that an additional consideration be added to the list of matters to which the ALRC is to have regard – the importance of ensuring that the national classification standards are consistent and balanced across different media types and platforms.

In 2011 a wide range of entertainment sources and electronic devices compete for people's attention. As well as the traditional platforms of free-to-air television, radio, newspapers, magazines, books, cinema, DVDs and CDs, consumers now have access to the internet, pay TV, IPTV, computer games, digital media players, mobile phones, smartphones and content on tablet devices. Young consumers in particular increasingly avail themselves of a wide range of content sources, often at the same time, many of which are completely unregulated.

Importantly, the divides between different media platforms are becoming less apparent to the consumer. People seamlessly access internet content on their televisions and broadcast content on their computers and smartphones, and move between free-to-air television, pay television and IPTV via a single electronic program guide. These viewers are unlikely to be aware of the vast difference in regulation, including classification, that applies based on the content's origin and how it is delivered, and have a right to expect the same acceptable community standards with respect to any material they access. In this converged media environment, content regulations which apply inconsistently across platforms are anachronistic, and serve to create discrepancies and undermine the overall integrity of the classification system.

Free TV would be particularly concerned with any outcomes of the review that called for increased regulation of commercial free-to-air television without applying similar requirements to other equivalent platforms.

Free TV therefore supports equal classification standards for all media participants and submits that the Terms of Reference should specifically recognise this goal and direct the ALRC to provide advice on achieving consistency across platforms.

Acknowledgment of emerging platforms

As an additional comment, Free TV notes that while television, music, advertising, film and games are all specifically mentioned in the Terms of Reference, the internet and mobile/smartphone content are conspicuously absent. It would be disappointing and inequitable if the review were to focus exclusively on 'traditional' platforms, which are already subject to substantial regulation. It would also be out of line with the earlier references in the terms to 'technological change in media' and the 'evolving technological environment,' and

would seem inappropriate in light of the focus on convergence and consistency in the regulatory environment in general. We therefore propose that the internet and mobile technologies be specifically included alongside other media platforms in the terms of reference.

Thank you again for the opportunity to comment on the proposed terms of reference. Please contact me if you would like any further input or require clarification.

Yours sincerely



Jessica Coates
Manager, Copyright Law and Media Policy

for

Julie Flynn
CEO