

ANNUAL REPORT

**STANDING COMMITTEE OF
ATTORNEYS-GENERAL**

CENSORSHIP

2004 – 2005

Introduction

This report contains significant decisions made by the Standing Committee of Attorneys-General (SCAG) Censorship during the 2004-2005 reporting period. It is presented in accordance with the reporting requirements under the Procedures for SCAG which reflect the Broad Protocols for the Operation of Ministerial Councils. Under the Broad Protocols, all meetings of SCAG are confidential unless otherwise agreed by Ministers. Commonwealth, State and Territory Ministers with censorship responsibilities have approved this report for public release.

National classification scheme

The national classification scheme is a cooperative arrangement between the Commonwealth, States and Territories. The scheme assists Australians to make informed choices by classifying some entertainment products. The scheme was established by the Commonwealth *Classification (Publications, Films and Computer Games) Act 1995*. This Act provides that the Commonwealth Classification Board classifies films, computer games and certain publications. The States and Territories enforce classification decisions under their respective classification enforcement legislation.

SCAG (Censorship)

The censorship component of SCAG oversees the national classification scheme.

Under paragraph 7 of the *Intergovernmental Agreement on Censorship (1995)*:

- (a) any decision to be made by the Ministers in relation to the scheme; or
- (b) the consideration by the Ministers of other matters related to the administration of the scheme

is to be effected through SCAG (Censorship) in accordance with its procedures.

The Commonwealth *Classification (Publications, Films and Computer Games) Act 1995* confers on Commonwealth, State and Territory Censorship Ministers a collective responsibility to agree to amendments to the National Classification Code (section 6) and determine guidelines (or amendments to such guidelines) to assist in the application of the criteria in the Code (section 12). Ministers deal with these matters at SCAG (Censorship) meetings and ex-agenda through correspondence.

Under section 90 of the *Classification (Publications, Films and Computer Games) Act 1995*, Ministers may enter into an agreement regarding payments in respect of the administration by the State or Territory of the national classification scheme. This is met through the Intergovernmental Agreement on Censorship.

The Act requires consultation with participating Ministers about principles for serial publications (section 13(4)); principles for fee waiver (section 91(1A)); and appointments to the Classification Board (section 48(3)) and Classification Review

Board (section 74(3)). This consultation generally occurs outside SCAG (Censorship) meetings.

The censorship component of SCAG does not exercise any statutory decision making functions under the Trans-Tasman Mutual Recognition Arrangement as the products classified under the *Classification (Publications, Films and Computer Games) Act 1995* are exempt from the arrangement under the *Trans-Tasman Mutual Recognition Act 1997*.

Members 2004 – 2005

SCAG (Censorship) meetings involve Commonwealth, State and Territory Ministers with censorship responsibilities.

At the end of 2004 – 2005, the Ministers responsible for censorship were all Attorneys-General, with the exception of the Queensland Minister (Minister for Tourism, Fair Trading and Wine Industry) and the Western Australian Minister (Minister for Justice and Small Business).

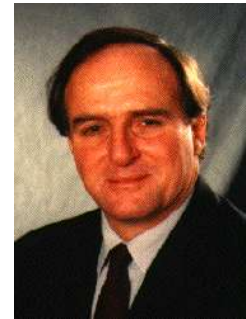
The Hon Philip Ruddock MP
(Commonwealth)
Commonwealth Attorney General



The Hon Jon Stanhope MLA
(ACT)
Chief Minister, Attorney-General,
Minister for Arts, Heritage and
Indigenous Affairs, Minister for
the Environment



The Hon Bob Debus MP
(NSW)
Attorney-General, Minister for the
Environment



The Hon Dr Peter Toyne MLA
(NT)
Attorney-General, Minister for
Justice



The Hon Margaret Keech MLA
(Qld)
Minister for Tourism, Fair
Trading and Wine Industry



The Hon Michael Atkinson MP
(SA)
Attorney-General, Minister for
Justice, Minister for Multicultural
Affairs



The Hon Judy Jackson MHA
(Tas)
Attorney General, Minister for
Justice and Industrial Relations,
Minister for Environment and
Planning, Minister for Parks and
Heritage



The Hon Rob Hulls MP
(Vic)
Minister for Industrial Relations,
Minister for Planning



The Hon John D'Orazio MLA
(WA) since 10 March 2005
Minister for Justice, Small Business



*The Hon Michelle Roberts (WA) was Minister
until 10 March 2005.*

Meetings

SCAG (Censorship) met twice during the reporting period to discuss censorship matters. These meetings took place on 29-30 July 2004 in South Australia and 21 March 2005 in Queensland.

SCAG (Censorship) was also scheduled to meet in November 2004. However, this meeting was cancelled due to caretaker conventions pertaining to the Federal election period.

Censorship Officials met three times during the reporting period to develop issues for the consideration of Ministers prior to the Ministerial meetings. These meetings occurred on 21 September 2004, 17 February 2005 and 9 June 2005 in Sydney.

Decisions

The significant decisions of Censorship Ministers included:

Community Assessment Panels

Ministers agreed to release the CAPs research findings which indicated decisions made by the Classification Board generally reflect current Australian community standards towards films and computer games.

Report on the Review of the Operation of the 2003 Guidelines for the Classification of Films and Computer Games

Ministers received the report which recommended that amendments to the 2003 Guidelines are not required as no change in standards has been observed and that

mechanism to improve the public's understanding of the 2003 Guidelines be developed, to ensure all sectors of the community have confidence in the classification system.

Amendment of the Classification Act

Ministers noted the *Classification (Publications, Films and Computer Games) Amendment Bill 2004* which received Royal Assent on 26 May 2004. Ministers also noted progress of complementary amendments to State and Territory classification enforcement legislation, namely:

- *Classification (Publications, Films and Computer Games) (Enforcement) Amendment Bill 2004* (ACT)
- *Classification (Publications, Films and Computer Games) Enforcement Amendment (Uniform Classification) Act 2004* (NSW)
- *Classification of Publications, Films and Computer Games Amendment Act 2005* (NT)
- *Tourism, Fair Trading and Wine Industry Development Legislation Amendment Bill 2005* (QLD)
- *Classification (Publications, Films and Computer Games) (Types of Classifications) Amendment Bill 2004* (SA)
- *Justice and Related Legislation (Miscellaneous Amendments) Bill 2005* (Tas)
- *Classification (Publications, Films and Computer Games) (Enforcement) (Amendment) Bill 2005* (Vic)
- *Censorship Amendment Bill 2005* (WA)

Amendment Act No 2 (2004)

Ministers noted the *Classification (Publications, Films and Computer Games) Amendment Act (No 2) 2004* which introduced minor technical amendments designed to ensure that prosecutions for child pornography and related offences do not fail for technical reasons related to applications for classification. The Act received Royal Assent and commenced on 14 December 2004.

National Classification Code

Ministers amended the Code to give effect to Australia's international obligations regarding the elimination of child pornography under the International Labour Organisation Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO 182).

Ministers also agreed to amendments to the Code necessary to incorporate the new common classification types introduced by the *Classification (Publications, Films and Computer Games) Amendment Act 2004*. Specifically, the references in the Code to the current classification types were replaced with references to the new classification types. These amendments were solely consequential to the Amendment Act and do not affect the types of material permitted within each classification.

Guidelines for the Classification of Films and Computer Games

Ministers agreed to amendments to the *Guidelines for the Classification of Films and Computer Games (2003)* to ensure consistency with the Code in relation to ILO 182 and implement the new common classification types introduced by the Amendment Act. The amendments were solely consequential to the Amendment Act and ILO 182 provisions and do not affect the type of material permitted within each classification.

Guidelines for the Classification of Publications

Ministers agreed to consequential amendments to the *Guidelines for the Classification of Publications* (September 1999) to ensure consistency with the Code in relation to ILO 182.

Ministers also agreed to an additional minor amendment to the publications guidelines to correct an incorrect reference to the jurisdictions which participate in the national classification scheme for publications.

New and Emerging Technology

Ministers noted the report of the OLFC consultancy arrangement with the Convergent Communications Research Group (CCRG) of the University of Adelaide to report on emerging and complementary media. Ministers also received a presentation relating to new and emerging technology.

Recorded Music Labelling Code of Practice Annual Report

Ministers noted the Annual Report on the operation of the *Recorded Music Labelling Code of Practice* for the period 1 April 2003 to 31 March 2004.

SCAG (Censorship) Annual Report

Ministers agreed to the public release of the SCAG (Censorship) Annual Report for 2003-04.

Communiqués

Ministers also agreed to the release of one communiqué during the reporting period. This communiqué was:

- Report shows Classification Board in line with Australian standards (21 March 2005) (Attachment A)

Secretariat

The Office of Film and Literature Classification provides secretariat and policy support for SCAG (Censorship) Ministers.

The secretariat can be contacted at:

SCAG (Censorship Secretariat)
Office of Film and Literature Classification
Locked Bag 3
HAYMARKET NSW 1240

Telephone: (02) 9289 7100
Facsimile: (02) 9289 7101
Email: oflcswitch@oflc.gov.au