



# Safer viewing online for children and young people

SUBMISSION FROM THE OFFICE OF THE CHILDREN'S COMMISSIONER ABOUT COMMERCIAL ON-DEMAND ONLINE VIDEO CLASSIFICATION

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MANAAKITIA A TĀTOU TAMARIKI

**Children's  
Commissioner**

# Safer viewing online for children and young people

Children, young people and their families should feel safe viewing film and video content, regardless of its source. Having a consistent and appropriate classification system across all media would enable families to make informed choices about their viewing and keep children safe from unintended harm.

## WE SUPPORT A BETTER CLASSIFICATION SYSTEM AS IT ENHANCES CHILDREN'S SAFETY

All children in Aotearoa New Zealand have a right to be protected from harm. This is one of the rights we promised when New Zealand ratified the UN Convention on the Rights of the Child (Children's Convention). The Office of the Children's Commissioner (OCC) advocates for these rights of children including:

- > The right to have a say and be listened to
- > The right to be protected from harm
- > The right to information in all its forms to make informed decisions.

The OCC supports the intention of improving the classification system for commercial on-line video content or video on-demand (CVoD) in line with films and broadcast television. This is because it would improve the safety of children and provide more and better-quality information for young people to make decisions.

We have considered the three options in the consultation document from the child's perspective. We believe that option 1 is the optimal choice to protect children.

Option 1 ensures all commercial video content is subject to the same high standard of film classification processes as films released in New Zealand. This provides up-front classification labels, independently verified by the regulatory authority to a consistent and high-quality standard.

Option 2 recognises there may be up-front costs on the producers for submitting for classification, and for small producers this may be a prohibitive barrier. We believe producer costs should be a secondary consideration to child protection. We could support option 2 if it could be regulated in a manner that would provide adequate supports for children and young people.

Option 3 is inadequate for reasons we explain below, due to likely harm to children.

We urge the Government to consider the needs and rights of children first and foremost when making decisions on the correct option for classifying online video content.

The [child-impact assessment tool](#)<sup>1</sup> is a good way for the Government to reach conclusions about policy and legislation that are in the best interests of children.

**Rec 1:** We recommend that the Government use its child impact assessment process to make child-centred decisions about legislation and policy that are in the best interests of children.

<sup>1</sup> <https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/resources/child-impact-assessment.html>

We provide quality, independent advice to our stakeholders and report on matters relating to rights and wellbeing of children.

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## HOW DO WE PROTECT CHILDREN IN BROADCASTING AND ONLINE VIDEO?

Children can be harmed by exposure to material that they do not have the maturity to critically analyse. Currently television and film content is classified according to a system of age-restrictions and parental supervision recommendations (such as G, PG, M, RP13, R13, R18 etc) to reflect this. In addition, classification of films includes content descriptions, such as violence, offensive language, and sexual content so parents and young people know what to expect and can make informed decisions about viewing. The way this information is provided to parents and young people is standardised and well understood by them and they depend on it to make informed decisions as to how to protect themselves and their children from viewing harmful content.

Television also has time-bands (the watershed) before which adult content cannot be broadcast. This provides a safety mechanism for families to allow children to watch television, knowing that what is broadcast is suitable for children. Recent research<sup>2</sup> has shown that the watershed and information for parents are key mechanisms for protecting children from harmful content.

Given the main reason for the classification system is to protect children and young people, it makes sense for child protection to be a major reason for including CVoD in the film classification system. One of the legislative options is necessary to ensure those protections are upheld in a mandatory way, in the best interests of children.

### WE PREFER OPTION 1

We think that the classification system should be mandatory because of the increasing risks to children of seeing unsuitable online content. This option puts child safety as the priority.

Legislative options (options 1 or 2) that ensure all material is classified prior to release may require up-front costs of time, effort and fees to the businesses producing the material, but it enables people to make informed decisions. Option 1 – that requires content to be

submitted for independent scrutiny is in the best interests of children, because it ensures no content can be mis-classified by those with nefarious intent or those who are not competent to classify appropriately.

Option 1 also benefits from not being dependent on the consumers' ability to object in order to 'call in' a CVoD for classification or re-classification. Therefore, the information needed to ensure safe viewing by children is always ensured.

We recognise that some industry producers do not have the prior commercial success and may see the cost of option 1 as a barrier to market entry. We also recognise that children and young people have the right to access CVoD that is harmless and provides information they seek, including science documentaries, and arts programmes that may be less commercially successful. The goal is to provide information that can help people make decisions that restrict children from viewing harmful material.

The government needs to balance the safety of children and the costs to the industry. It is our view that the right of children to be safe from harm should be the primary consideration. This makes option 1 our preferred option.

Option 2 is lower in up-front compliance costs, but doesn't have the 'official label' classifications like option 1 does. However, it still enables CVoDs to be 'called in' for classification if someone makes an objection to the self-classification rating.

Option 2 requires CVoD providers to create classification and content information at a quality that complies with our classification standards, but they can do it themselves. We note that a parallel classification trial in Australia has demonstrated that the tool used by Netflix provides adequately conservative classifications, and their self-classification system has been made permanent.

Legislation is important to ensure all CVoD providers are required to comply, rather than enabling providers to opt out. The information that parents and young people depend on for safe viewing must be mandatory.

The harm caused to children from online content should not be underestimated. Any concern around costs to business should not

<sup>2</sup>[https://www.bsa.govt.nz/assets/Uploads/0e2ee9ffe1/2017\\_BSA\\_Understanding\\_timebands\\_within\\_vulnerable\\_communities\\_study.pdf](https://www.bsa.govt.nz/assets/Uploads/0e2ee9ffe1/2017_BSA_Understanding_timebands_within_vulnerable_communities_study.pdf)

undermine the goal to protect children from harmful content. Only legislation can ensure the quality standards of classification, and adequate enforcement mechanisms that incentivise all CVoD providers to comply.

We could support option 2 if it could be regulated in a manner that would provide adequate supports for children and young people. The monitoring and assurance would move costs from the producer of content to the government regulator.

We do not support option 3. From a child's safety perspective, a voluntary system is not adequate, even if responsible media providers comply well. With option 3, by definition, someone needs to have been harmed for the Chief Censor to 'call in' the film for classification. If someone sees material that they deem harmful to children or otherwise offensive, then by the time they make a complaint to the OFLC, then harm will have already occurred to someone. In contrast, the legislative options would provide a strong incentive to comply that do not exist in the 'enhancements to existing regulatory mechanisms' that are non-legislative.

**Rec 2. We strongly recommend the Government implement option 1, or with adequate monitoring and assurances, then option 2. We are opposed to option 3 because it is inadequate for child safety.**

Child safety is everyone's responsibility and decisions about the classification system should be made in the best interests of children.

We asked young people: "What is the one thing you want to tell the Prime Minister that children and young people need to have good lives, now and in their future?" One answer was:

**"To make sure kids are safe online." \***

\* Quote from 12 year-old Māori girl from a rural town, in "What makes a good life" survey conducted for the Prime Minister's Child and Youth Wellbeing Strategy, 2018.

## **NON-COMMERCIAL MATERIAL IS OUT OF SCOPE**

We understand that non-commercial material cannot be brought into the purview of the current proposal for technical reasons. We recognise that such material is largely generated by the broader population and shared on social media sites. These exist under a 'social licence' whereby there are mechanisms to weed out harmful or offensive material, that depend on user-reporting (for example reporting videos on YouTube, Facebook, or Google). While these sites offer a broad range of free content from videos to games to news and articles, and there is a lot of useful, interesting material, we are concerned that there is also a range of unchecked harmful material being circulated online. The world is grappling with how to manage the balance between freedom of use and expression with online content, and protection from harm due to viewing online content.

We support education and advice to people, such as the advice provided by NetSafe aimed at parents, young people, and those who work with them, so people can make sound judgements about what they allow their children to watch, or what they choose to watch themselves, as well as how young people can learn to engage responsibly in an online environment.

## **CONCLUSION**

The Office of the Children's Commissioner reiterates that the Government should use its child impact assessment process to make child-centred decisions about legislation and policies that are in the best interests of children. In this case, we strongly recommend the Government implement option 1, or with adequate monitoring and assurances, then option 2. We are opposed to option 3 because it is inadequate for child safety.