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GOVERNMENT NOTICE

No. 341**23 April 2012****FILM AND PUBLICATIONS BOARD****GUIDELINES TO BE USED IN THE CLASSIFICATION OF FILMS, INTERACTIVE COMPUTER GAMES AND CERTAIN PUBLICATIONS**

Council of the Films and Publications Board, (herein after referred to as "FPB") hereby gives notice in terms of section 31(3)(b) and 4A(1)(g) of the Film and Publications Act, Act No 65 of 1996, as amended, (herein after referred to as "the Act") of its intention to prescribe guidelines to be used in the classification of films, games and certain publications.

A copy of the proposed guidelines is available on the FPB's website at <http://www.fpb.gov.za> and at the FPB offices at 87 Central Street Houghton, between 09h30 and 16h00, Monday to Friday until the 14th February. Thereafter at Eco Glade 2 420 Witch Hazel Street Centurion.

Interested persons are invited to submit written representations, on these draft Classification Guidelines within 30 working days from the date of publication by post, hand delivery, facsimile transmission, or electronically (in Microsoft Word) for the attention of:

Project Leader
FPB
Private Bag X2205
Houghton
2041

or

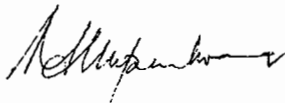
Project Leader
FPB
87 Central Street
Houghton
2041

Fax: 011 483 1084
Telephone: 011 483 0971
E-mail : guidelines@fpb.gov.za

All written representations submitted to the FPB pursuant to this notice will be made available for inspection by interested persons at the FPB offices and copies of such representations will be obtainable on payment of the prescribed fee.

Public hearings may be conducted in this process. Please indicate in writing if you would like to make a verbal presentation.

The final guidelines will be published in the government gazette.



**MRS T.N.F. MPULWANA
COUNCIL CHAIRPERSON**

GUIDELINES TO BE USED IN THE CLASSIFICATION OF FILMS, GAMES AND CERTAIN PUBLICATIONS

1. INTRODUCTION AND APPLICATION OF GUIDELINES

The Film and Publications Act, Act No 65 of 1996, as amended, requires all films, games, and publications to be classified by the Film and Publications Board ("FPB"), before they may be distributed (including to sell, hire out or offer or keep for sale or hire. It includes to hand or exhibit such material to a person under the age of 18 years in certain circumstances, and includes the failure to take reasonable steps to regulate access to films, games or publications) or possessed (including keeping or storing in or on a computer or computer system or computer data storage medium and also having custody, control or supervision on behalf of another person).

The purpose of classification is to:

- (a) provide consumer advice to enable individuals to make informed viewing, reading and gaming choices for themselves as well as for children in their care; and
- (b) protect children from exposure to disturbing and harmful materials and from premature exposure to adult experiences.

All material that meets the criteria of a film and game as defined in the Act, falls within the jurisdiction of the FPB. This includes films exhibited at cinema's, DVD's, Blu Rays, video on demand, mobile content and the internet.

All publications that are not bona fide newspapers published by a member of a body, recognised by the Press Ombudsman and which subscribes and adheres to a code of conduct, enforced by that body, falls within the jurisdiction of the FPB.

2. DEFINITIONS

In these Guidelines, unless the context indicates otherwise a word or expression to which a meaning has been assigned in the Act has the meaning so assigned. A number of relevant definitions contained in the Act may be repeated in these Guidelines for ease of reference. Where necessary, additional definitions were introduced:

"actual" means a real act that not merely potentially exists;

"affection" means kissing or hugging in non-sexual contexts;

“blasphemy” means the insensitive, offensive, demeaning, derogatory, disrespectful or irreverent expressions about any religion but does not amount to the advocacy of harm inciting hatred;

“briefing” means the provision of preparatory material;

“child pornography” includes any image, however created, or any description of a person real or simulated, who is, or who is depicted, made to appear, look like, represented or described as being under the age of 18 years –

- (a) Engaged in sexual conduct;
- (b) Participating in, or assisting another person to participate in, sexual conduct; or
- (c) Showing or describing the body, or parts of the body, of such a person in a manner or in circumstances which, within context amounts to sexual exploitation, or in such a manner that it is capable of being used for the purposes of sexual exploitation;

“competitive intensity” means the degree to which a player gets personally involved and the level of excitement created by the rivalry to obtain rewards;

“context” means the circumstances or background of material and should be viewed as a whole to understand the full meaning, in specific incidents, it is the circumstances or background which come before and after a particular incident that contributes to understanding its full meaning;

“debriefing” means a formal systematic questioning or examination process;

“degrade” means advocate a particular form of hatred which is based on gender;

“domestic violence” means depictions or descriptions of –

- (a) Physical abuse;
- (b) Sexual abuse; or
- (c) Emotional, verbal and psychological abuse;

“educational” means the act or process of imparting or acquiring general knowledge, developing the powers of reasoning and judgment, and generally of preparing intellectually for mature life;

“ethical harm” means desensitising to the effects of violence, degrading empathy, encouraging a dehumanised view of others, suppressing pro-social attitudes, encouraging

anti-social attitudes, reinforcing unhealthy fantasies, or eroding a sense of moral responsibility, retarding social and moral development in children, distorting a child's sense of right and wrong and limiting a child's capacity for compassion;

"explicit" means fully and clearly expressed or demonstrated, leaving nothing merely implied and in realistic detail;

"explicit sexual conduct" means graphic and detailed visual presentations or descriptions of any conduct contemplated in the definition of "sexual conduct";

"exploitative" means making use of someone or something for selfish or improper reasons;

"extreme violence" means exceptionally intense, graphic or prolonged scenes of violence;

"first person gameplay" means the player is the main character, and viewing is through the player's eyes, it may mean the player is not seen in action but can view surroundings as in real life, and will be regarded as such even if views from other perspectives are also possible;

"gratuitous" means unwarranted, or uncalled for and included without the justification of a defensible story-line or artistic merit;

"harmful paraphilia" is a condition in which a person's sexual arousal and gratification depend on fantasizing about and engaging in sexual behavior that is atypical and extreme. It may cause distress or serious problems for the paraphiliac or persons associated with him or her;

"horror" means the use of frightening elements to scare or unsettle the audience;

"identifiable group characteristic" means a characteristic that identifies an individual as a member of a group identified by race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience belief, culture, language, birth and nationality;

"impact" means the potential effect on the target market of a single classifiable element or the cumulative effect of a number of classifiable elements;

"implied" means to involve or indicate by inference, association, or necessary consequence rather than by direct statement;

"intensity" means the strength of the treatment or subject matter or the strength of engagement or involvement;

“interactivity” means the ability of a user to participate and control user action, data input and commands so as to influence outcomes that may affect what options are available for subsequent interaction;

“mature” means relatively advanced mentally and emotionally;

“matters of public interest” means discussions, debates or opinions on matters pertaining to the common well-being or general welfare of the public or serving the interests of the public and includes discussions, debates and opinions on matters pertaining to religion, belief or conscience;

“menace” means an intention to inflict harm, a source of danger or threat and the act of threatening and arousing fear, menacing has the same meaning;

“nudity” means an unclothed (naked) or partially clothed person, wherein partially clothed means the frontal exposure of female breasts or buttocks and includes natural non-sexual contexts of exposure such as breast-feeding and bona fide cultural traditions;

“parental guidance” means the material may contain classifiable elements that may be disturbing or harmful for sensitive young viewers and that parents and care-givers are in the best position to decide whether or not a child in their care may access material classified as “PG”

“prejudice” means a pre-conceived judgment or an adverse opinion or leaning formed without just grounds or before sufficient knowledge or based on group stereotypes;

“sexual activity” includes consensual kissing, caressing, embracing, physical intimacy between two people but does not amount to sexual conduct;

“sexual conduct” includes –

- (i) Male genitals in a state of arousal or stimulation;
- (ii) The undue display of genitals or of the anal region;
- (iii) Masturbation;
- (iv) Bestiality;
- (v) Sexual intercourse, whether real or simulated, including anal sexual intercourse;
- (vi) Sexual contact involving the direct or indirect fondling or touching of the intimate parts of a body, including the breasts, with or without any object;
- (vii) The penetration of a vagina or anus with any object;
- (viii) Oral genital contact; or
- (ix) Oral anal contact;

“sexual violence” means conduct or acts contemplated in the definitions of “sexual activity”, “sexual conduct” and “explicit sexual conduct” that are accompanied either by force or coercion, actual or threatened, or that induces fear or psychological trauma in a victim;

“stereotype” means a set of inaccurate, simplistic generalizations about a group that allows others to categorize them and treat them accordingly;

“strong language” means swear words, threats, abuse, profanity or language that amount to prejudice;

“stylised” means using artistic forms and conventions to create effects that are not natural or spontaneous;

“substance” means chemical, psychoactive substances that are prone to be abused, including tobacco, alcohol, over the counter drugs, prescription drugs and substances defined in the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992), or prescribed by the Minister of Health after consultation with the Medicines Control Council.

“substance abuse” means the sustained or sporadic excessive use of substances and includes any use of illicit substances and the unlawful use of substances;

“theme” means the subject matter that indicates what material is all about (such as crime, suicide, substance abuse, death, serious illness, racism, medical, legal or scientific, fantasy, drama, war/conflict etc.);

“third person gameplay” means the player is seen as a visible character on the screen, and the surrounding environment can be viewed, however will only be regarded as such if there is no option for first person gameplay;

“threat” means an indication of impending danger or harm;

“visual presentation” means -

- (a) A drawing, picture, illustration, painting, photograph or image; or
- (b) A drawing, picture, illustration, painting, photograph or image or any combination thereof, produced through or by means of computer software on a screen or a computer printout;

“violence” means any physical, psychological and verbal abuse whether self directed, interpersonal or collective

3. PURPOSE OF GUIDELINES

- (1) To provide guidelines that allows for the examining of a film, game or publication against the following rights:-
 - (a) Right to freedom of expression within the law;
 - (b) Right of access to information within the law;
 - (c) Protection of children from materials that pose a risk of harm;
 - (d) Right to freedom of security which include to be protected from unsolicited exposure to materials which some may find offensive;
 - (e) Right of equality;
 - (f) Right of human dignity;

- (2) To recognize that no right is absolute and that it may be limited when it is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom taking relevant factors including the nature of the right, the importance of the purpose of the limitation, the nature and extent of the limitation, the relation between the limitation and its purpose and any other less restrictive means to achieve the purpose into account.

- (3) To provide general guidelines to all classifiers to ensure:
 - (a) the consistent classification of material;
 - (b) no illegal or unconstitutional content is classified;
 - (c) content created through the commission of a criminal offence is appropriately classified;
 - (d) classification of material reflect public opinion;
 - (e) material does not cause any ethical harm at the category in which it was classified.

PART A – FILMS AND TRAILERS**4. GUIDING PRINCIPLES**

- (1) All classification decisions must consider the context, impact and the release format of material.

- (2) The context in which a classifiable element is presented determines the acceptability thereof within the relevant category. When considering context the following factors may be taken into account:
 - (a) The expectations of the public in general and the target market of the material;
 - (b) The theme of the material;
 - (c) The manner in which an issue is presented;
 - (d) The literary, artistic or educational merit of the film;
 - (e) The apparent intention of the film maker, as reflected in its effect.

- (3) The impact of a classifiable element determines the level at which it is categorised as follows:
 - (a) No - There is no classifiable elements present in the film
 - (b) low - no noteworthy single or cumulative occurrences of classifiable elements accordingly classifiable elements occur in passing or briefly;
 - occurrences of classifiable elements are not realistic;
 - no details, close-ups or slow motion of violence and sexual activity or sexual conduct;
 - no accentuation techniques such as lighting, perspective and resolution; and
 - theme of material is not threatening and cause no ethical harm;
 - No verbal reference or visual representation of certain classifiable elements such as sexual activity or conduct and sexual violence;
 - Classifiable elements form part of a bona fide story line.
 - (c) mild - only single occurrences of classifiable elements;
 - occurrences of classifiable elements are not realistic;
 - no details, close-ups or slow motion of violence and sexual activity or sexual conduct;
 - no accentuation techniques such as lighting, perspective and resolution; and
 - theme of material is not threatening and cause no ethical harm;
 - No verbal reference or visual representation of certain classifiable elements such as sexual activity or conduct and sexual violence;

- Classifiable elements form part of a bona fide story line.
- (d) moderate: - single or cumulative occurrences of classifiable elements and incidental depiction of a classifiable element;
- occurrences of classifiable elements are not realistic;
 - no details, close-ups or slow motion of violence and sexual activity or sexual conduct;
 - Verbal reference rather than visual representation of certain classifiable elements such as sexual activity or conduct, sexual violence and violence with no noticeable effect;
 - no accentuation techniques such as lighting, perspective and resolution;
 - Theme of material may be threatening but cause no ethical harm;
 - Verbal reference rather than visual representation of certain classifiable elements such as sexual activity or conduct and sexual violence with no noticeable effect;
 - Classifiable elements form part of a bona fide story line.
- (e) Strong:- single or cumulative occurrences of classifiable elements;
- Occurrences of classifiable elements may be realistic;
 - No details, close-ups or slow motion of sexual conduct or extreme violence;
 - No accentuation techniques such as lighting perspective and resolution of sexual conduct or extreme violence;
 - Theme of material may be threatening but cause no ethical harm;
 - Verbal reference rather than visual representation of certain classifiable elements such as sexual activity or conduct and sexual violence which may have a noticeable effect;
 - Classifiable elements form part of a bona fide story line.
- (f) Very strong :
- single or cumulative occurrences of classifiable elements;
 - Occurrences of classifiable elements may be realistic;
 - May contain details, close-ups or slow motion of classifiable elements;
 - May use accentuation techniques such as lighting perspective and resolution; and
 - Theme of material may be threatening but cause no ethical harm;

- Verbal reference and/or visual representation of certain classifiable elements such as sexual activity or conduct, and violence but not sexual violence;
 - Classifiable elements do not necessarily form part of a bona fide story line.
- (g) Extreme - Single or cumulative occurrences of classifiable elements;
- Occurrences of classifiable elements may be realistic;
 - May contain details, close-ups or slow motion;
 - May use accentuation techniques such as lighting perspective and resolution; and
 - Theme of material may be threatening and may cause ethical harm;
 - Verbal reference and/or visual representation of certain classifiable elements such as sexual activity or conduct, sexual violence and violence;
 - Classifiable elements do not necessarily form part of a bona fide story line.

(4) The release format of the material must be considered based on:

- (a) The ability to replay scenes;
- (b) The ability to view certain scenes out of context;
- (c) The clarity of images; and
- (d) The impact of technology such as 3D.

4. CLASSIFIABLE ELEMENTS

- (1) A classification decision may include consumer advice about the content of a film, game or publication. Classifiable elements are indicated by alphabetic symbols or words and alert the public to particular elements which are noteworthy and may be potentially disturbing, harmful or inappropriate for children below a specified age or certain sensitive consumers.
- (2) Consumer advice should be indicated together with classification information on the outside of all material as applicable:
- a) **“B”** warning to consumers that are religiously sensitive.
 - (i) Blasphemy is not treated as a classifiable element determining age restrictions but as a matter of appropriate consumer information if it has a moderate, strong, very strong and extreme impact. Within the context, the taking of God’s name in vain, in any religion, may amount

to blasphemy. The sensitivities of certain religions, especially with regard to precepts and practices which may be unique to certain religions, should be noted appropriately.

- (ii) An expression which does not amount to blasphemy but which may constitute religious prejudice is a classifiable element and must be considered in the allocation of an appropriate age-restriction.
 - (iii) Any advocacy of hatred and constituting incitement to cause harm towards any recognized religion is not regarded as blasphemy but prejudice, it is a classifiable element and must be regarded in as having a very strong impact and may be subject to a distribution restriction or be regarded as refused material.
- b) **“D”** alerts to scenes of substance (Drugs and Alcohol) abuse.
- (i) Any scenes of substance abuse are classifiable elements and must be considered in the allocation of an appropriate age-restriction.
 - (ii) Regardless of the level of age-restriction, the public must be alerted to the occurrence of substance abuse of a moderate, strong or very strong impact where applicable.
- c) **“H”** alerts that there are scenes of horror;
- (i) Any scenes of horror of a moderate, very strong and extreme nature are classifiable elements and must be considered in the allocation of an appropriate age-restriction.
- d) **“L”** alerts that there is use of strong language;
- (i) The use of strong language is a classifiable element and must be considered in the allocation of an appropriate age-restriction.
 - (ii) Regardless of the level of age-restriction, the public must be alerted of the occurrence of strong language of a moderate, strong or very strong impact where applicable;
- e) **“N”** warns that there are scenes of nudity;
- (i) Regardless of the level of age-restriction, the public must be alerted to the occurrence of nudity of a mild, moderate, strong or very strong nature where applicable;
 - (ii) Nudity in natural non sexual contexts, such as breast-feeding and bona fide cultural traditions are not considered in the allocation of age-restrictions but must be advised if it is of a mild, moderate, strong or very strong impact;
 - (iii) The deliberate flaunting of a person’s sexuality or the undue exposure of intimate parts is a classifiable element and must be considered in the allocation of an appropriate age-restriction based on the impact.

- f) **“P”** warns of scenes or language that is biased or prejudiced with regard to race, ethnicity, gender, religion, sexual orientation or other group-identifiable characteristics;
- (i) Any scenes or language of prejudice are classifiable elements and must be considered in the allocation of an appropriate age-restriction;
 - (ii) Any advocacy of hatred and constituting incitement to cause harm based on prejudice, must be regarded as refused material.
- g) **“S”** indicates scenes involving sexual conduct;
- (i) Any mild, moderate, strong, very strong or extreme impact scenes of sexual activity or consensual sexual conduct are classifiable elements and must be considered in the allocation of an appropriate age-restriction or be subjected to a distribution restriction;
 - (ii) Any scenes of consensual explicit sexual conduct must be regarded as having a very strong or extreme impact and classified appropriately;
 - (iii) Any scenes of non-consensual sexual conduct must be subject to restricted distribution (extreme impact) or regarded as refused material.
- (h) **“SV”** indicates scenes involving sexual violence;
- (i) Any scenes of sexual violence are classifiable elements and must be considered in the allocation of an appropriate age-restriction
 - (ii) Any scenes involving implied sexual violence must be regarded as having a moderate, strong or very strong impact where applicable and must be classified appropriately;
 - (iii) Any scenes involving actual sexual violence must be subject to restricted distribution (extreme impact) or be regarded as refused material.
- (i) **“V”** warns of violent scenes;
- (i) Regardless of the level of age-restriction, the public must be alerted to the occurrence of violence of a moderate, strong or very strong impact;
 - (j) Any scenes of extreme violence must be regarded as having a moderate, strong or very strong impact where applicable and must be classified appropriately;
- (j) **“Photo or pattern sensitivity, motion sickness and reactions to low frequency sound”**
- (i) It is recognised that the exact nature of the stimulus or stimuli that triggers seizures of flicker vertigo for photo or pattern sensitivity varies from one person to another, as does the nature of the effect, therefore it is not treated as a classifiable element determining age restrictions

but as a matter for appropriate consumer information provided on a voluntary basis.

- (ii) As a general guide, the patterns are usually very high in luminance contrast (bright flashes of light alternating with darkness, or white bars against a black background) and flash more than 3 times in any 1 second.
 - (iii) Motion sickness occurs when motion is detected by the visual system and hence the motion is seen, but no motion or little motion is sensed by the vestibular system (i.e. bouncing-camera movies). Similar to motion sickness is simulation sickness, or simulator sickness but is caused by playing computer/simulation/video games (i.e. first-person-perspective games and virtual reality setups). It is recognized that it may be identified subjectively and is not treated as a classifiable element determining age restrictions but as a matter for appropriate consumer information provided on a voluntary basis.
 - (iv) Low frequency noise (LFN) is generally taken to mean noise below a frequency of about 100 to 150 hertz. It is recognized that a low-frequency signal can go from being barely audible to annoying with a relatively small change in pressure level and that it may be identified subjectively and is not treated as a classifiable element determining age restrictions but as a matter for appropriate consumer information provided on a voluntary basis;
 - (v) Photo or pattern sensitivity, motion sickness and reactions to low frequency sound may be indicated voluntarily and is not mandatory advice.
- (k) **“Imitable Acts and Techniques”**
- (i) Imitable acts and techniques may be treated as a classifiable element to determine age restrictions where there is a reasonable likelihood that such acts or techniques may be copied or imitated, especially by children;
 - (ii) Imitable acts and techniques may be voluntarily indicated and is not mandatory advice.
- (l) **“Criminal Techniques”**
- (i) Criminal techniques and instructional details of illegal or dangerous acts must be treated as a classifiable element to determine age restrictions and may require very high age restrictions depending on the context.

- (3) Consumer advice may be combined with age restriction categorization of material in order to inform the public regarding the content of material.

5. DISTRIBUTION CATEGORIES

- (1) Films are classified as unrestricted distribution, restricted distribution and refused categories.
- (2) Unrestricted distribution material may be distributed or exhibited by registered distributors and exhibitors in accordance with any age-restriction or condition which may be imposed by the FPB.
- (3) Restricted distribution material is indicated by the letter "X" in the classification system and may either be distributed and exhibited by licensed entities or not be distributed or exhibited in public at all.
- (4) Refused categories contain illegal or unconstitutional material.

6. CLASSIFICATION CATEGORIES OF FILMS

- (1) Films and games are classified into categories on the basis of:
 - (i) context,
 - (ii) impact of the classifiable elements and
 - (iii) release format.
- (2) The following classification categories are used for unrestricted films and games, intended for exhibition in public or for home-entertainment:
 - (ii) "A" means an all-ages category and means it is suitable for all;
 - (iii) "PG" means an all ages category but cautions sensitive viewers and indicates that parents and care-givers are in the best position to decide whether or not a child in their care may view the film, DVD or Blu Ray for home entertainment purposes;
 - (iv) "10" means that children under the age of 10 may not access the material although parents and care-givers are in the best position to decide whether or not a child in their care may view the films, DVD or Blu Ray for home entertainment purposes;
 - (v) "13PG" means an all-ages category but cautions sensitive viewers and indicates that parents and care-givers are in the best position to decide whether or not a child in their care that is under the age of 13 may view the films, DVD or Blu Ray for home entertainment purposes;
 - (vi) "13" means that children under the age of 13 may not access the material
 - (vii) "16" means that the material is suited for persons of 16 years and older.

- (viii) **"18"** means adults only and the material is suited for persons of 18 years and older.
- (3) The following classification categories for restricted distribution of films exist:
- (a) **"X18"** means only a holder of a licence to conduct the business of adult premises, as set out in section 24 of the Act, may distribute or exhibit such content. Guidelines for the restricted category are set out in Schedules 1 and 2, read with Schedule 5, Schedules 6 and 7 read with Schedule 9, and Schedule 10 of the Act.
- (b) **"XX"** means the material may not be distributed or exhibited in public by anyone.

7. ILLEGAL AND UNCONSTITUTIONAL CONTENT

- (1) Any material that contains propaganda for war or incitement of imminent violence or advocates hatred based on any identifiable group characteristic and that constitutes incitement to cause harm must be refused and reported to the chief executive officer for publication in the Government Gazette, unless judged within context the publication is a bona fide documentary or is a publication of scientific, literary or artistic merit or is on a matter of public interest which must be restricted accordingly.
- (2) Any material that constitutes child pornography must be reported to the chief executive officer and be reported to the South African Police Service immediately.

8. RESTRICTED DISTRIBUTION MATERIAL - XX

- (1) Films must be classified as **"XX"** if it depicts the following as set out in section 18 of the Act:
- (i) Explicit sexual conduct which violates or shows disrespect for the right to human dignity of any person;
- (ii) Bestiality, incest, rape (sexual violence); conduct or an act which is degrading of human beings;
- (iii) Conduct or an act which constitutes incitement of, encourages or promotes harmful behaviour;
- (iv) Explicit infliction of sexual or domestic violence or
- (v) Explicit visual presentations of extreme violence
- unless judged within context the film is, a bona fide documentary or is of scientific, dramatic or artistic merit, in which even the material shall be classified **"X18"** or classified with reference to the relevant guidelines relating to the protection of children from exposure to disturbing harmful or age inappropriate materials.

- (2) The interpretation of (1)(i) – (v) above include instances of:
- (i) Detailed instruction or promotion in matters of crime or violence;
 - (ii) Gratuitous, exploitative or offensive depictions of sexual conduct as well as harmful paraphilia's;
 - (iii) Any material including scenes or dialogue likely to encourage an interest in harmful paraphilia's and sexual violence;
 - (iv) Gratuitous, exploitative or offensive depictions of violence with a extreme impact or which are excessively frequent prolonged or detailed and cruelty or real violence which are very detailed and which have a extreme impact;
 - (v) Detailed instruction in the use of proscribed drugs and material promoting or encouraging proscribed drug use;
 - (vi) Instances where no apparent consent could be given due to the appearance of any party participating in sexual activity, sexual conduct or explicit sexual conduct to be non compos mentis (not of sound mind i.e. in a drug or alcohol induced state or mentally ill etc.).
- (3) Any material that has been classified as XX must be reported to the chief executive officer to be published by notice in the Gazette, together with the reasons for the decision.

9. RESTRICTED DISTRIBUTION MATERIAL – X18

- (1) Any material listed in regulation 8, but that judged within context is a bona fide documentary or is of scientific, dramatic or artistic merit may be classified as X18.
- (2) Any material that contains explicit sexual conduct between consenting adults must be classified as X18 unless if it is judged within context a bona fide documentary or is of scientific, dramatic or artistic merit, in which case it must be classified with reference to the relevant guidelines relating to the protection of children from exposure to disturbing harmful or age inappropriate materials.
- (3) Any material that contains any classifiable element that has an extreme impact must be classified as either X18 or XX as appropriate.
- (4) Any material that is classified as X18 must be notified to the chief executive officer to be published by notice in the Gazette together with the reasons for the decision.

10. UNRESTRICTED DISTRIBUTION – “A” All Ages - CONSUMER ADVICE

- (1) The context of the material does not contain any themes that may be disturbing, harmful, upsetting or inappropriate for sensitive viewers or any children although the content may not be interesting to children, and the content has no sense of threat or menace.
- (2) The material contains no classifiable elements.
- (3) An “A” classification is applicable to all release formats.

11. UNRESTRICTED DISTRIBUTION – “PG” Parental Guidance – CONSUMER ADVICE

- (1) The context of the material does not contain any themes that may be disturbing, harmful, upsetting or inappropriate for any children although the content may not be interesting to children, and has low impact classifiable elements and a very low sense of threat or menace.
- (2) The material either contains classifiable elements that have a low impact.
 - (a) Blasphemy “B” – material may contain instances of blasphemy that does not amount to prejudice. Instances of blasphemy should be indicated as a matter of appropriate consumer information.
 - (b) Substance abuse “D” – material may not contain any scenes of substance abuse and any substance abuse could only be implied discreetly.
 - (c) Horror “H” – material only contains low impact instances or scenes of horror.
 - (d) Language “L” – material may only contain instances of low impact strong language justified by the context.
 - (e) Nudity “N” – material may only contain instances of low impact nudity in non sexual contexts and should be justified by the context.
 - (f) Prejudice “P” – material may not contain any scenes or language of prejudice unless clearly disapproved of in the context.
 - (g) Sexual conduct “S” – material may not contain any scenes of actual or implied sexual conduct or sexual activity, but may contain scenes of affection.
 - (h) Sexual violence “SV” – material may not contain any scenes of actual or implied sexual violence.
 - (i) Violence “V” – material may contain only low impact violence justified by the context.
 - (j) “Photo or pattern sensitivity, motion sickness and reactions to low frequency sound” – material likely to cause these effects may be indicated as a matter for appropriate consumer information.

- (k) **“Imitable Acts and Techniques”** – material may contain instances of low impact imitable acts and techniques.
- (l) **“Criminal Techniques”** – material may not contain any instances of criminal techniques.

(3) A “PG” classification is applicable to all release formats.

12. UNRESTRICTED DISTRIBUTION – “10” CONSUMER ADVICE

- (1) Children under the age of 10 are not allowed to access material classified as “10”.
- (2) The context of the material may not contain themes that may be harmful, or inappropriate for any children although the content may be complex and children under the age of 10 may find it confusing, distressing or upsetting.
- (3) The material contains classifiable elements that have a low or mild impact.
 - (a) **Blasphemy “B”** – material may contain instances of blasphemy that does not amount to prejudice. Instances of blasphemy should be indicated as a matter of appropriate consumer information.
 - (b) **Substance abuse “D”** – material may only contain innocuous scenes of substance abuse if it is justified by the context or carry a suitable anti-substance abuse message and is of a low or mild impact.
 - (c) **Horror “H”** – any scenes of low or mild impact horror must be justified by the context. Fantasy settings may when appropriate be regarded as reducing the impact.
 - (d) **Language “L”** – material may only contain instances of low or mild impact strong language justified by the context.
 - (e) **Nudity “N”** – material may only contain instances of low impact nudity in non sexual contexts and should be justified by the context.
 - (f) **Prejudice “P”** – material may not contain any scenes or language of prejudice unless clearly disapproved of or if it is used in an educational or historical context.
 - (g) **Sexual conduct “S”** – material may not contain any scenes of actual or implied sexual conduct or sexual activity, but may contain scenes of affection.
 - (h) **Sexual violence “SV”** – material may not contain any scenes of actual or implied sexual violence.
 - (i) **Violence “V”** – material may contain only low or mild impact violence justified by the context, any domestic violence must have a strong message against domestic violence.

- (j) **“Photo or pattern sensitivity, motion sickness and reactions to low frequency sound”** – material likely to cause these effects may be indicated as a matter for appropriate consumer information.
- (k) **“Imitable Acts and Techniques”** – material may contain instances of low impact imitable acts and techniques.
- (l) **“Criminal Techniques”** – material may not contain any instances of criminal techniques.

(4) A classification of 10 must be viewed in the context of release format and rated accordingly, different age restrictions may apply to different release formats as appropriate.

13. UNRESTRICTED DISTRIBUTION – “13 PG” AGE RESTRICTION

- (1) The material may be accessed by children over the age of 13 or if a parent or care giver decides it is appropriate for the child in their care that is of a younger age, in particular if it is of entertainment or educational value for such younger children.
- (2) The context of the material may not contain themes that may be harmful for any children although the content may be complex and mature and children under the age of 13 may find it confusing, distressing or upsetting.
- (3) The material contains no classifiable elements or has a low and mild impact with some elements having a moderate impact.
 - (a) Blasphemy **“B”** – material may contain instances of blasphemy that does not amount to prejudice. Instances of blasphemy should be indicated as a matter of appropriate consumer information.
 - (b) Substance abuse **“D”** – material may only contain low or mild impact occurrences of substance abuse if it is justified by the context. Any instances of moderate impact substance abuse must carry a suitable anti-substance abuse message.
 - (c) Horror **“H”** – any scenes of moderate impact horror must be justified by the context.
 - (d) Language **“L”** – material may only contain instances of moderate impact strong language justified by the context.
 - (e) Nudity **“N”** – material may only contain instances of low impact nudity and should be justified by the context.
 - (f) Prejudice **“P”** – material may only contain scenes or language of prejudice of low impact and if clearly disapproved and justified within the context or if it is used in an educational or historical context.

- (g) Sexual conduct **"S"** – material may not contain any occurrences of actual or implied sexual conduct but may contain low impact sexual activity.
 - (h) Sexual violence **"SV"** – material may not contain any scenes of actual or implied sexual violence.
 - (i) Violence **"V"** – material may contain moderate impact violence justified by the context, any domestic violence must have a strong message against domestic violence.
 - (j) **"Photo or pattern sensitivity, motion sickness and reactions to low frequency sound"** – material likely to cause these effects may be indicated as a matter for appropriate consumer information.
 - (k) **"Imitable Acts and Techniques"** – material may contain instances of mild impact imitable acts and techniques.
 - (l) **"Criminal Techniques"** – material may not contain any instances of criminal techniques.
- (4) A classification of 13 PG is applicable to all release formats, different age restrictions may apply to different release formats as appropriate.

14. UNRESTRICTED DISTRIBUTION – "13" AGE RESTRICTION

- (1) The material may not be accessed by children under the age of 13.
- (2) The context of the material may not contain themes that may be harmful for any children although the content may be complex and mature and children under the age of 13 may find it confusing, distressing or upsetting.
- (3) The material contains no classifiable elements or has a low and mild impact with some elements having a moderate impact.
 - (a) Blasphemy **"B"** – material may contain instances of blasphemy that does not amount to prejudice. Instances of blasphemy should be indicated as a matter of appropriate consumer information.
 - (b) Substance abuse **"D"** – material may only contain low or mild impact occurrences of substance abuse if it is justified by the context. Any instances of moderate impact substance abuse must carry a suitable anti-substance abuse message.
 - (c) Horror **"H"** – any scenes of moderate impact horror must be justified by the context.
 - (d) Language **"L"** – material may only contain instances of moderate impact strong language justified by the context.

- (e) Nudity **"N"** – material may only contain instances of low impact nudity and should be justified by the context.
 - (f) Prejudice **"P"** – material may only contain scenes or language of prejudice of low impact and if clearly disapproved and justified within the context or if it is used in an educational or historical context.
 - (g) Sexual conduct **"S"** – material may not contain any occurrences of actual or implied sexual conduct but may contain low impact sexual activity.
 - (h) Sexual violence **"SV"** – material may not contain any scenes of actual or implied sexual violence.
 - (i) Violence **"V"** – material may contain moderate impact violence justified by the context, any domestic violence must have a strong message against domestic violence.
 - (j) **"Photo or pattern sensitivity, motion sickness and reactions to low frequency sound"** – material likely to cause these effects may be indicated as a matter for appropriate consumer information.
 - (k) **"Imitable Acts and Techniques"** – material may contain instances of mild impact imitable acts and techniques.
 - (l) **"Criminal Techniques"** – material may not contain any instances of criminal techniques.
- (4) A classification of 13 is applicable to all release formats, different age restrictions may apply to different release formats, as appropriate.

15. UNRESTRICTED DISTRIBUTION – "16" AGE RESTRICTION

- (1) Children under the age of 16 are not allowed to access material classified as "16". It is an offence to allow any child below the age of 16 to access material classified as "16".
- (2) The context of the material may not contain themes that may be harmful for any children although the content may be complex and mature and children under the age of 16 may find it confusing, distressing or upsetting.
- (3) The material contains classifiable elements that have a moderate impact with some elements having a strong impact.
 - (a) Blasphemy **"B"** – material may contain instances of blasphemy that does not amount to prejudice. Instances of blasphemy should be indicated as a matter of appropriate consumer information.

- (b) Substance abuse **“D”** – material may only contain moderate instances of substance abuse if it is justified by the context. Any instances of strong impact substance abuse must carry a suitable anti-substance abuse message.
 - (c) Horror **“H”** – any scenes of strong impact horror must be justified by the context.
 - (d) Language **“L”** – material may only contain instances of strong impact strong language justified by the context.
 - (e) Nudity **“N”** – material may only contain instances of moderate impact nudity and should be justified by the context.
 - (f) Prejudice **“P”** – material may only contain scenes or language of prejudice of moderate impact and if clearly disapproved and justified within the context or if it is used in an educational or historical context.
 - (g) Sexual conduct **“S”** – material may contain occurrences of implied sexual conduct and moderate impact sexual activity.
 - (h) Sexual violence **“SV”** – material may not contain any scenes of actual sexual violence, but sexual violence may be implied, if justified by the context.
 - (i) Violence **“V”** – material may contain strong impact violence justified by the context.
 - (j) **“Photo or pattern sensitivity, motion sickness and reactions to low frequency sound”** – material likely to cause these effects may be indicated as a matter for appropriate consumer information.
 - (k) **“Imitable Acts and Techniques”** – material may contain instances of moderate impact imitable acts and techniques.
 - (l) **“Criminal Techniques”** – material may contain instances of low impact criminal techniques.
- (5) A classification of 16 is applicable to all release formats accordingly no child under 16 may enter a cinema or buy or rent a DVD, or game, however classification of 16 must be viewed in the context of release format and rated accordingly, different age restrictions may apply to different release formats as appropriate.

16. UNRESTRICTED DISTRIBUTION – “18” CONSUMER ADVICE

- (1) Children under the age of 18 are not allowed to access material classified as **“18”**. It is an offence to allow any child below the age of 18 to access material classified as **“18”**.
- (2) The material contains classifiable elements that have a moderate impact with some elements having a strong or very strong impact.

- (a) Blasphemy **"B"** – material may contain instances of blasphemy that does not amount to prejudice. Instances of blasphemy should be indicated as a matter of appropriate consumer information.
 - (b) Substance abuse **"D"** – material may only contain strong impact instances of substance abuse if it is justified by the context.
 - (c) Horror **"H"** – any scenes of very strong impact horror must be justified by the context.
 - (d) Language **"L"** – material may only contain instances of very strong impact strong language justified by the context.
 - (e) Nudity **"N"** – material may only contain instances of strong impact nudity if justified by the context.
 - (f) Prejudice **"P"** – material may contain scenes or language of prejudice of strong impact if clearly disapproved and justified within the context or if it is used in an educational or historical context.
 - (g) Sexual conduct **"S"** – material may contain occurrences of moderate impact implied sexual conduct and strong impact sexual activity.
 - (h) Sexual violence **"SV"** – material may not contain occurrences of actual sexual violence but may contain occurrences of moderate impact implied sexual violence, if justified by the context.
 - (i) Violence **"V"** – material may contain strong impact violence justified by the context.
 - (j) **"Photo or pattern sensitivity, motion sickness and reactions to low frequency sound"** – material likely to cause these effects may be indicated as a matter for appropriate consumer information.
 - (k) **"Imitable Acts and Techniques"** – material may contain instances of strong impact imitable acts and techniques.
 - (l) **"Criminal Techniques"** – material may contain instances of mild impact criminal techniques.
- (3) A classification of 18 is applicable to all release formats accordingly no child under 18 may enter a cinema or buy or rent a DVD, or game, however classification of 18 must be viewed in the context of release format and rated accordingly, different age restrictions may apply to different release formats as appropriate.

17. GENERAL CONSIDERATIONS FOR THE CLASSIFICATION OF TRAILERS

- (1) Similar to the classification of films, trailers must be classified, and must be classified based on the same requirements of context and impact, however release format need not be considered.

- (2) The classification of trailers must be equal or lower than the films they precede regardless of release format.
- (3) In an instance where the entire context is not provided or too brief to establish conclusively, the impact should be determined based on theme, face value and other relevant factors.

18. GENERAL CONSIDERATIONS FOR FILMS OF EDUCATIONAL VALUE

- (1) Any film which may contain content that is determined to be of educational value may be so indicated by the classifier by using the symbol "ED".
- (2) Upon application by a school or further education and training institution as defined in the South African Schools Act, 1996 (Act 84 of 1996), and Further Education and Training Act 1998 (Act 98 of 1998) to the FPB, the age restriction category may be reduced by the FPB and certain viewing conditions may be imposed. Viewing conditions must be determined by the FPB and may include but are not restricted to:
 - (i) A minimum of number of suitably qualified educators to supervise the exhibition;
 - (ii) A mandatory briefing prior to the exhibition of the film to prepare the learners what to expect and provide an opportunity for sensitive learners to leave and not to view the material; and
 - (iii) A mandatory debriefing after the exhibition of the film by the suitably qualified educators to provide further context for the material and allowing learners to ask questions and share experiences of the material.

PART B - GAMES**19. GUIDING PRINCIPLES GAMES**

- (1) All classification decisions must consider the context, impact and the release format of material.
- (2) The context in which a classifiable element is presented determines the acceptability thereof within the relevant category. When considering context the following factors may be taken into account:
 - (a) The expectations of the public in general and the target market of the material;
 - (b) The theme of the material;
 - (c) The manner in which an issue is presented;
 - (d) The literary, artistic or educational merit of the game;
 - (e) The apparent intention of the game creator, as reflected in its effect.
- (3) The impact of a classifiable element determines the level at which it is categorised and is influenced by the degree of interactivity of the game such as first-person as opposed to third-person gameplay, the use of incentives and rewards, technical features and competitive intensity, as follows:
 - (a) No - contains no classifiable elements
 - (b) low - no noteworthy single or cumulative occurrences of classifiable elements;
 - no use of incentives or rewards for classifiable elements;
 - no details, close-ups or slow motion of violence and sexual activity or sexual conduct;
 - no accentuation techniques such as lighting, perspective and resolution; and
 - theme of material is not threatening and cause no ethical harm;
 - limited occurrences of competitive intensity involving violence and violence occur in third person gameplay;
 - occurrences of classifiable elements may be very strongly stylised and not realistic;
 - No verbal reference or visual representation of certain classifiable elements such as sexual activity or conduct, sexual violence and violence.
 - (c) mild - only single occurrences of classifiable elements;
 - occurrences of classifiable elements are not realistic;

- no details, close-ups or slow motion of violence and sexual activity or sexual conduct;
- no accentuation techniques such as lighting, perspective and resolution; and
- theme of material is not threatening and cause no ethical harm;
- no use of incentives or rewards for classifiable elements;
- Occurrences of competitive intensity do not involve realistic and extreme violence and is infrequent or in third person gameplay;
- No verbal reference or visual representation of certain classifiable elements such as sexual activity or conduct, sexual violence and violence.

(d) moderate: - single or cumulative occurrences of classifiable elements;

- Verbal reference rather than visual representation of certain classifiable elements with no noticeable effect;
- Incidental depiction of a classifiable element;
- Occurrences of classifiable elements are not realistic;
- no details, close-ups or slow motion of nudity, violence and sexual activity or sexual conduct;
- no accentuation techniques such as lighting, perspective and resolution;
- Theme of material may be threatening but cause no ethical harm;
- some use of incentives or rewards for classifiable elements but not for nudity and sexual conduct or activity;
- Occurrences of competitive intensity do not involve realistic and extreme violence and is infrequent and may be in first person gameplay.

(e) Strong:- single or cumulative occurrences of classifiable elements;

- Occurrences of classifiable elements may be realistic;
- No details, close-ups or slow motion of nudity violence and sexual activity or sexual conduct;
- No accentuation techniques such as lighting perspective and resolution of nudity, sexual conduct or extreme violence;
- Theme of material may be threatening but cause no ethical harm;
- some use of incentives or rewards for classifiable elements but not for nudity and sexual conduct or activity;

- Occurrences of competitive intensity may involve realistic but not extreme violence and may be in first person gameplay.

(f) Very Strong:

- single or cumulative occurrences of classifiable elements;
- Occurrences of classifiable elements may be realistic;
- May contain details, close-ups or slow motion;
- May use accentuation techniques such as lighting perspective and resolution; and
- some use of incentives or rewards for classifiable elements;
- Theme of material may be threatening but cause no ethical harm;
- Occurrences of competitive intensity may involve realistic and extreme violence and may be in first person gameplay.

(g) Extreme:- Single or cumulative occurrences of classifiable elements;

- Occurrences of classifiable elements may be realistic;
- May contain details, close-ups or slow motion;
- May use accentuation techniques such as lighting perspective and resolution;
- use of incentives or rewards for classifiable elements; and
- Theme of material may be threatening and may cause ethical harm;
- Occurrences of competitive intensity may involve realistic and extreme violence and may be in first person gameplay.

(4) The release format of the material must be considered based on:

- (a) The ability to replay scenes;
- (b) The ability to view certain scenes out of context;
- (c) The clarity of images; and
- (d) The impact of technology.

20. CLASSIFIABLE ELEMENTS

- (1) A classification decision may include consumer advice about the content of a game. Classifiable elements are indicated by alphabetic symbols or words and alert the public to particular elements which may be potentially disturbing, harmful or inappropriate for children below a specified age or certain sensitive consumers.
- (2) Consumer advice should be indicated together with classification information on the outside of all material as applicable:

- (a) **"B"** warning to consumers that are religiously sensitive.
 - (i) Blasphemy is not treated as a classifiable element determining age restrictions but as a matter for appropriate consumer information. Within the context, the taking of God's name in vain, in any religion, may amount to blasphemy. The sensitivities of certain religions, especially with regard to precepts and practices which may be unique to certain religions, should be noted appropriately.
 - (ii) An expression which does not amount to blasphemy but which may constitute religious prejudice is a classifiable element and must be considered in the allocation of an appropriate age-restriction.
 - (iii) Any advocacy of hatred and constituting incitement to cause harm towards any recognized religion is not regarded as blasphemy but prejudice, it is a classifiable element and must be regarded in as having a extreme impact and may be subject to a distribution restriction or be a refused classification.
- b) **"D"** alerts to scenes of substance (Drugs and Alcohol) abuse.
 - (i) Any scenes of substance abuse are classifiable elements and must be considered in the allocation of an appropriate age-restriction.
 - (ii) Regardless of the level of age-restriction, the public must be alerted of the occurrence of substance abuse of a moderate, strong or very strong impact as applicable.
- c) **"L"** alerts that there is use of strong language;
 - (i) The use of strong language is a classifiable element and must be considered in the allocation of an appropriate age-restriction.
 - (ii) Regardless of the level of age-restriction, the public must be alerted of the occurrence of strong language of a moderate, strong or very strong impact as applicable;
- d) **"N"** warns that there are scenes of nudity;
 - (i) Regardless of the level of age-restriction, the public must be alerted to the occurrence of nudity of a mild, moderate, strong or very strong nature as applicable;
 - (ii) Nudity in natural non sexual contexts, such as breast-feeding and bona fide cultural traditions are not considered in the allocation of age-restrictions but must be advised if it is of a mild, moderate, strong or very strong nature as applicable;

- (iii) The deliberate flaunting of a person's sexuality or the undue exposure of intimate parts is a classifiable element and must be considered in the allocation of an appropriate age-restriction based on the impact.
- e) **"P"** warns of scenes or language that is biased or prejudiced with regard to race, ethnicity, gender, religion or other group-identifiable characteristics;
 - (i) Any scenes or language of prejudice are classifiable elements and must be considered in the allocation of an appropriate age-restriction;
 - (ii) Any advocacy of hatred and constituting incitement to cause harm based on prejudice, must be regarded as having an extreme impact and may be subject to a distribution restriction or be a refused classification.
- f) **"S"** indicates scenes involving sexual conduct;
 - (i) Any mild, moderate, strong or very strong impact scenes of sexual activity or consensual sexual conduct are classifiable elements and must be considered in the allocation of an appropriate age-restriction or distribution restriction;
 - (ii) Any scenes of consensual explicit sexual conduct must be regarded as having a very strong or extreme impact and classified appropriately;
- (g) **"SV"** indicates scenes involving sexual violence;
 - (i) Any scenes of sexual violence are classifiable elements and must be considered in the allocation of an appropriate age-restriction
 - (ii) Any scenes involving sexual violence actual or implied must be regarded as having a moderate, strong or very strong impact and must be classified appropriately;
- (h) **"V"** warns of violent scenes;
 - (i) Regardless of the level of age-restriction, the public must be alerted to the occurrence of violence of a moderate, strong or very strong impact;
 - (ii) Any scenes of extreme violence must be regarded as having a moderate strong or very strong impact and must be classified appropriately;
- (i) **"Photo or pattern sensitivity, motion sickness and reactions to low frequency sound"**
 - (i) It is recognised that the exact nature of the stimulus or stimuli that triggers seizures of flicker vertigo for photo or pattern sensitivity varies from one person to another, as does the nature of the effect, therefore it is not treated as a classifiable element determining age restrictions

but as a matter for appropriate consumer information provided on a voluntary basis.

- (ii) As a general guide, the patterns are usually very high in luminance contrast (bright flashes of light alternating with darkness, or white bars against a black background) and flash more than 3 times in any 1 second.
- (iii) Motion sickness occurs when motion is detected by the visual system and hence the motion is seen, but no motion or little motion is sensed by the vestibular system (i.e. bouncing-camera movies). Similar to motion sickness is simulation sickness, or simulator sickness but is caused by playing computer/simulation/video games (i.e. first-person-perspective games and virtual reality setups). It is recognized that it may be identified subjectively and is not treated as a classifiable element determining age restrictions but as a matter for appropriate consumer information provided on a voluntary basis.
- (iv) Low frequency noise (LFN) is generally taken to mean noise below a frequency of about 100 to 150 hertz. It is recognized that a low-frequency signal can go from being barely audible to annoying with a relatively small change in pressure level and that it may be identified subjectively and is not treated as a classifiable element determining age restrictions but as a matter for appropriate consumer information.
- (v) Photo or pattern sensitivity, motion sickness and reactions to low frequency sound may be indicated voluntarily and is not mandatory advice.
- (j) **“Imitable Acts and Techniques”**
 - (i) Imitable acts and techniques may be treated as a classifiable element to determine age restrictions where there is a reasonable likelihood that such acts or techniques may be copied or imitated, especially by children.
- (k) **“Criminal Techniques”**
 - (i) Criminal techniques and instructional details of illegal or dangerous acts must be treated as a classifiable element to determine age restrictions and may require very high age restrictions or be subject to restricted distribution.
- (l) **“Competitive Intensity”**
 - (i) The level of competitive intensity in a game to the extent that it is linked to violence must be treated as a classifiable element to determine age restrictions when appropriate.

- (ii) Higher levels of competitiveness of games involving violence may result in very high aggression levels than less competitive games involving violence and is therefore a factor that must be considered in the determination of an age restriction.
 - (iii) Competitive intensity is heightened by the degree of interactivity of a game.
- (3) Consumer advice may be combined with age restriction categorization of material in order to inform the public regarding the content of material.

21. DISTRIBUTION CATEGORIES

- (1) Games are classified unrestricted distribution, restricted distribution and refused categories.
- (2) Unrestricted distribution may be distributed or exhibited by registered distributors and exhibitors in accordance with any age-restriction or condition which may be imposed by the FPB.
- (3) Restricted distribution is indicated by the letter "X" in the classification system.
- (4) Refused categories contain illegal or unconstitutional material.

22. CLASSIFICATION CATEGORIES OF GAMES

- (1) Films and games are classified into categories on the basis of context, impact of the classifiable elements and release format.
- (2) The following classification categories are used for unrestricted films and games, intended for exhibition in public or for home-entertainment:
 - (i) **"PG"** means an all ages category but cautions sensitive viewers and indicates that parents and care-givers are in the best position to decide whether or not a child in their care may access the game;
 - (ix) **"10"** means that children under the age of 10 may not access the material although parents and care-givers are in the best position to decide whether or not a child in their care may view the films, DVD/Blu Ray for home entertainment purposes;
 - (ii) **"13PG"** means an all-ages category but cautions sensitive viewers and indicates that parents and care-givers are in the best position to device whether or not a child in their care that is under the age of 13 may access the material;

- (iii) **"13"** means that the game is restricted to persons over the age of 13;
- (iv) **"16"** means that the material is suited for persons of 16 years and older;
- (v) **"18"** means adults only and the material is suited for persons of 18 years and older.

(3) The following classification categories for restricted films and games exist:

- (i) **"X18"** means only a holder of a licence to conduct the business of adult premises, as set out in section 24 of the Act, may distribute or exhibit such content. Guidelines for the restricted category are set out in Schedules 1 and 2, read with Schedule 5, Schedules 6 and 7 read with Schedule 9, and Schedule 10 of the Act.
- (ii) **"XX"** means the material may not be distributed or exhibited in public.

23. ILLEGAL AND UNCONSTITUTIONAL CONTENT

- (1) Any material that contains propaganda for war or incitement of imminent violence or advocates hatred based on any identifiable group characteristic and that constitutes incitement to cause harm must be refused and reported to the chief executive officer for publication in the Government Gazette, unless judged within context the publication is a bona fide documentary or is a publication of scientific, literary or artistic merit or is on a matter of public interest which must be restricted accordingly.
- (2) Any material that constitutes child pornography must be reported to the chief executive officer and be reported to the South African Police Service immediately.

24. RESTRICTED DISTRIBUTION MATERIAL - XX

- (1) Games must be classified as **"XX"** if it depicts the following as set out in section 18 of the Act:
 - (i) Explicit sexual conduct which violates or shows disrespect for the right to human dignity of any person;
 - (ii) Bestiality, incest, rape (sexual violence); conduct or an act which is degrading of human beings;
 - (iii) Conduct or an act which constitutes incitement of, encourages or promotes harmful behaviour;
 - (iv) Explicit infliction of sexual or domestic violence; or
 - (v) Explicit visual presentations of extreme violence.
- (2) The interpretation of (1)(i) – (v) above include instances of extreme impact and:
 - (i) Detailed instruction or promotion in matters of crime or violence;

- (ii) Gratuitous, exploitative or offensive depictions of sexual conduct as well as harmful paraphilia's;
 - (iii) Any material including scenes or dialogue likely to encourage an interest in harmful paraphilia's and sexual violence;
 - (iv) Any sexual violence or sexual conduct related to incentives or rewards;
 - (v) Gratuitous, exploitative or offensive depictions of violence with a extreme impact or which are excessively frequent prolonged or detailed and cruelty or real violence which are very detailed and which have a extreme impact;
 - (vi) Detailed instruction in the use of proscribed drugs and material promoting or encouraging proscribed drug use or substance abuse related to incentives or rewards;
 - (vii) Instances where no apparent consent could be given due to the appearance of any party participating in sexual activity, sexual conduct or explicit sexual conduct to be non compos mentis (not of sound mind i.e. in a drug or alcohol induced state or mentally ill etc.).
- (3) Any material that has been classified as XX must be reported to the chief executive officer to be published by notice in the Gazette, together with the reasons for the decision.

25. RESTRICTED DISTRIBUTION MATERIAL – X18

- (1) Any material that contains explicit sexual conduct between consenting adults must be classified as X18.
- (2) Any material that contains any classifiable element that has a extreme impact must be classified as X18 as well as:
- (i) very strong competitive intensity in games combined with very strong or extreme levels of first and third person gameplay violence;
 - (ii) Any nudity or sexual activity related to incentives or rewards;
 - (iii) Extreme impact third person gameplay violence and very strong impact first person gameplay;
 - (iv) Any mild impact criminal techniques; and
 - (v) Any strong impact imitable behaviour (where appropriate).
- (3) Any material that is classified as X18 must be notified to the chief executive officer to be published by notice in the Gazette together with the reasons for the decision.

26. UNRESTRICTED DISTRIBUTION – “PG” Parental Guidance – CONSUMER ADVICE

- (1) The context of the material does not contain any themes that may be disturbing, harmful, upsetting or inappropriate for any children although the content may not be of interest to children and has a very low sense of threat or menace.

- (2) The material contains no classifiable elements or has a low impact.
 - (a) Blasphemy “**B**” – material may contain instances of blasphemy that does not amount to prejudice. Instances of blasphemy should be indicated as a matter of appropriate consumer information.
 - (b) Substance abuse “**D**” – material may not contain any scenes of substance abuse in any context.
 - (c) Horror “**H**” – material only contains low impact instances or scenes of horror.
 - (d) Language “**L**” – material may not contain instances of strong language in any context.
 - (e) Nudity “**N**” – material may not contain instances of nudity in any context.
 - (f) Prejudice “**P**” – material may not contain any occurrences or language of prejudice in any context.
 - (g) Sexual conduct “**S**” – material may not contain any occurrences of actual or implied sexual conduct or sexual activity, but may contain occurrences of affection.
 - (h) Sexual violence “**SV**” – material may not contain any scenes of actual or implied sexual violence.
 - (i) Violence “**V**” – material may contain no or low impact stylised violence.
 - (j) “**Photo or pattern sensitivity, motion sickness and reactions to low frequency sound**” – material likely to cause these effects may be indicated as a matter for appropriate consumer information.
 - (k) “**Imitable Acts and Techniques**” – material may contain instances of low impact imitable acts and techniques.
 - (l) “**Criminal Techniques**” – material may not contain any instances of criminal techniques.
 - (m) “**Competitive Intensity**” – competitive intensity may have a mild impact provided there is no or low impact violence in third person gameplay and first person gameplay;

- (3) A “PG” classification is applicable to all release formats.

27. UNRESTRICTED DISTRIBUTION – “10” CONSUMER ADVICE

- (1) Children under the age of 10 are not allowed to access material classified as “10” unless accompanied by an adult. It is an offence to allow any child below the age of 10 to access material classified as “10” although parents and care-givers are in the best position to decide whether or not a child in their care may view the films, DVD or Blu Ray for home entertainment purposes.
- (2) The context of the material may not contain themes that may be harmful, or inappropriate for any children although the content may be complex and children under the age of 10 may find it confusing, distressing or upsetting.
- (3) The material contains no classifiable elements or has a low or mild impact.
 - (a) Blasphemy “**B**” – material may contain instances of blasphemy that does not amount to prejudice. Instances of blasphemy should be indicated as a matter of appropriate consumer information.
 - (b) Substance abuse “**D**” – material may not contain occurrences of substance abuse in any context.
 - (c) Horror “**H**” – any scenes of low or mild impact horror must be justified by the context. Fantasy settings may when appropriate be regarded as reducing the impact.
 - (d) Language “**L**” – material may only contain instances of low or mild impact strong language.
 - (e) Nudity “**N**” – material may not contain any occurrences of nudity.
 - (f) Prejudice “**P**” – material may not contain any occurrences or language of prejudice.
 - (g) Sexual conduct “**S**” – material may not contain any occurrences of actual or implied sexual conduct or sexual activity, but may contain occurrences of affection.
 - (h) Sexual violence “**SV**” – material may not contain any occurrences of actual or implied sexual violence.
 - (i) Violence “**V**” – material may contain only low impact violence in first person gameplay or mild impact violence in third person gameplay and no occurrences of domestic violence.
 - (j) “**Photo or pattern sensitivity, motion sickness and reactions to low frequency sound**” – material likely to cause these effects may be indicated as a matter for appropriate consumer information.
 - (k) “**Imitable Acts and Techniques**” – material may contain instances of low impact imitable acts and techniques.

- (l) **“Criminal Techniques”** – material may not contain any instances of criminal techniques.
- (m) **“Competitive Intensity”** – competitive intensity may have a mild impact provided there is low impact first person gameplay violence and/or mild impact third person gameplay violence.

(4) A classification of 10 must be viewed in the context of release format and rated accordingly, different age restrictions may apply to different release formats as appropriate.

28. UNRESTRICTED DISTRIBUTION – “13PG” AGE RESTRICTION

- (1) The material may be accessed by children over the age of 13 or if a parent or care giver decides it is appropriate for the child in their care that is of a younger age, in particular if it is of entertainment or educational value for such younger children.
- (2) The context of the material may not contain themes that may be harmful for any children although the content may be complex and mature and children under the age of 13 may find it confusing, distressing or upsetting.
- (3) The material contains no classifiable elements or has a low and mild impact with some elements having a moderate impact.
- (4) The material contains no classifiable elements or has a low and mild impact with some elements having a moderate impact.
 - (a) **Blasphemy “B”** – material may contain instances of blasphemy that does not amount to prejudice. Instances of blasphemy should be indicated as a matter of appropriate consumer information.
 - (b) **Substance abuse “D”** – material may not contain any occurrences of substance abuse.
 - (c) **Horror “H”** – may contain occurrences of low, mild or moderate impact horror. Fantasy settings may when appropriate be regarded as reducing the impact.
 - (d) **Language “L”** – material may contain instances of low, mild or moderate impact strong language.
 - (e) **Nudity “N”** – material may not contain any instances of nudity.
 - (f) **Prejudice “P”** – material may not contain any occurrences or language of prejudice.

- (g) Sexual conduct **"S"** – material may not contain any occurrences of actual or implied sexual conduct or sexual activity, but may contain occurrences of affection.
 - (h) Sexual violence **"SV"** – material may not contain any occurrences of actual or implied sexual violence.
 - (i) Violence **"V"** – material may contain low, mild or moderate impact violence in third person gameplay, low or mild impact violence in first person gameplay and no domestic violence.
 - (j) **"Photo or pattern sensitivity, motion sickness and reactions to low frequency sound"** – material likely to cause these effects may be indicated as a matter for appropriate consumer information.
 - (k) **"Imitable Acts and Techniques"** – material may contain instances of mild impact imitable acts and techniques.
 - (l) **"Criminal Techniques"** – material may not contain any instances of criminal techniques.
 - (m) **"Competitive Intensity"** – competitive intensity may have a moderate impact in moderate impact third person gameplay violence and mild impact first person gameplay violence.
- (5) A classification of 13PG must be viewed in the context of release format and rated accordingly, different age restrictions may apply to different release formats as appropriate.

29. UNRESTRICTED DISTRIBUTION – "13" AGE RESTRICTION

- (1) The material may be accessed by children over the age of 13.
- (2) The context of the material may not contain themes that may be harmful for any children although the content may be complex and mature and children under the age of 13 may find it confusing, distressing or upsetting.
- (3) The material contains no classifiable elements or has a low and mild impact with some elements having a moderate impact.
- (4) The material contains no classifiable elements or has a low and mild impact with some elements having a moderate impact.
 - (a) Blasphemy **"B"** – material may contain instances of blasphemy that does not amount to prejudice. Instances of blasphemy should be indicated as a matter of appropriate consumer information.

- (b) Substance abuse **“D”** – material may not contain any occurrences of substance abuse.
 - (c) Horror **“H”** – may contain occurrences of low, mild or moderate impact horror. Fantasy settings may when appropriate be regarded as reducing the impact.
 - (d) Language **“L”** – material may contain instances of low, mild or moderate impact strong language.
 - (e) Nudity **“N”** – material may not contain any instances of nudity.
 - (f) Prejudice **“P”** – material may not contain any occurrences or language of prejudice.
 - (g) Sexual conduct **“S”** – material may not contain any occurrences of actual or implied sexual conduct or sexual activity, but may contain occurrences of affection.
 - (h) Sexual violence **“SV”** – material may not contain any occurrences of actual or implied sexual violence.
 - (i) Violence **“V”** – material may contain low, mild or moderate impact violence in third person gameplay, low or mild impact violence in first person gameplay and no domestic violence.
 - (j) **“Photo or pattern sensitivity, motion sickness and reactions to low frequency sound”** – material likely to cause these effects may be indicated as a matter for appropriate consumer information.
 - (k) **“Imitable Acts and Techniques”** – material may contain instances of mild impact imitable acts and techniques.
 - (l) **“Criminal Techniques”** – material may not contain any instances of criminal techniques.
 - (m) **“Competitive Intensity”** – competitive intensity may have a moderate impact in moderate impact third person gameplay violence and mild impact first person gameplay violence.
- (5) A classification of 13 must be viewed in the context of release format and rated accordingly, different age restrictions may apply to different release formats as appropriate.

30. UNRESTRICTED DISTRIBUTION – “16” AGE RESTRICTION

- (1) Children under the age of 16 are not allowed to access material classified as “16”. It is an offence to allow any child below the age of 16 to access material classified as “16”.

- (2) The context of the material may not contain themes that may be harmful for any children although the content may be complex and mature and children under the age of 16 may find it confusing, distressing or upsetting.
- (3) The material contains classifiable elements that have a mild or moderate impact with some elements having a strong impact.
- (a) Blasphemy **"B"** – material may contain instances of blasphemy that does not amount to prejudice. Instances of blasphemy should be indicated as a matter of appropriate consumer information.
 - (b) Substance abuse **"D"** – material may not contain any occurrences of substance abuse.
 - (c) Horror **"H"** – may contain occurrences of strong impact horror. Fantasy settings may when appropriate be regarded as reducing the impact.
 - (d) Language **"L"** – material may contain instances of strong impact strong language.
 - (e) Nudity **"N"** – material may contain instances of low impact nudity.
 - (f) Prejudice **"P"** – material may not contain any occurrences or language of prejudice.
 - (g) Sexual conduct **"S"** – material may contain mild occurrences of implied sexual conduct or sexual activity but no actual sexual conduct and may contain occurrences of affection.
 - (h) Sexual violence **"SV"** – material may not contain any occurrences of actual or implied sexual violence.
 - (i) Violence **"V"** – material may contain strong impact violence in third person gameplay, moderate impact violence in first person gameplay and no domestic violence.
 - (j) **"Photo or pattern sensitivity, motion sickness and reactions to low frequency sound"** – material likely to cause these effects may be indicated as a matter for appropriate consumer information.
 - (k) **"Imitable Acts and Techniques"** – material may contain instances of moderate impact imitable acts and techniques.
 - (l) **"Criminal Techniques"** – material may not contain any instances of criminal techniques.
 - (m) **"Competitive Intensity"** – competitive intensity may have a moderate impact in strong impact third person gameplay violence and moderate impact first person gameplay violence.

- (4) A classification of 16 must be viewed in the context of release format and rated accordingly, different age restrictions may apply to different release formats as appropriate.

31. UNRESTRICTED DISTRIBUTION – “18” CONSUMER ADVICE

- (1) Children under the age of 18 are not allowed to access material classified as “18”. It is an offence to allow any child below the age of 18 to access material classified as “18”.
- (2) The material contains classifiable elements that have a moderate impact with some elements having a strong or very strong impact.
- (a) **Blasphemy “B”** – material may contain instances of blasphemy that does not amount to prejudice. Instances of blasphemy should be indicated as a matter of appropriate consumer information.
 - (b) **Substance abuse “D”** – material may contain mild occurrences of substance abuse.
 - (c) **Horror “H”** – may contain occurrences of very strong impact horror. Fantasy settings may when appropriate be regarded as reducing the impact.
 - (d) **Language “L”** – material may contain instances of very strong impact strong language.
 - (e) **Nudity “N”** – material may contain moderate instances of nudity provided it is not related to incentives or rewards.
 - (f) **Prejudice “P”** – material may not contain any occurrences or language of prejudice.
 - (g) **Sexual conduct “S”** – material may contain occurrences of moderate impact actual or implied sexual conduct or sexual activity, but not related to incentives or rewards.
 - (h) **Sexual violence “SV”** – material may not contain any occurrences of actual or implied sexual violence.
 - (i) **Violence “V”** – material may contain very strong impact violence in third person gameplay and a strong impact in first person gameplay but no domestic violence.
 - (j) **“Photo or pattern sensitivity, motion sickness and reactions to low frequency sound”** – material likely to cause these effects may be indicated as a matter for appropriate consumer information.
 - (k) **“Imitable Acts and Techniques”** – material may contain instances of moderate impact imitable acts and techniques.
 - (l) **“Criminal Techniques”** – material may not contain any instances of criminal techniques.
 - (m) **“Competitive Intensity”** – competitive intensity may have a strong impact in very strong impact third person gameplay violence and strong impact first person gameplay violence.

- (3) A classification of 18 must be viewed in the context of release format and rated accordingly, different age restrictions may apply to different release formats as appropriate.

PART C – PUBLICATIONS

32. GUIDING PRINCIPLES

- (1) The Act recognises 2 categories for publications:
- (a) Those mentioned in section 16 of the Act; and
 - (b) Compulsory submittable publications.
- (2) The classification of publications other than those referred to in sub-regulation (3) is voluntary but any publication must be classified upon request by any interested person.
- (3) All publications that that contains the following must be submitted for examination to the FPB prior to such publication being distributed, exhibited or offered or advertised for distribution or exhibition:
- (i) Contains sexual conduct which violates or shows disrespect for the right to human dignity of any person; degrades a person or constitutes incitement to cause harm;
 - (ii) Advocates propaganda for war;
 - (iii) Incites violence; or
 - (iv) Advocates hatred based on any identifiable group characteristic and that constitutes incitement to cause harm.
- (4) Compliance to the classification guidelines is mandatory for all publications.
- (5) All classification decisions must consider the context and impact of material.
- (6) The context in which a classifiable element is presented determines the acceptability thereof within the relevant category. When considering context the following factors may be taken into account:
- (a) The expectations of the public in general and the target market of the material;
 - (b) The theme of the material;
 - (c) The manner in which an issue is presented;
 - (d) The literary, artistic or educational merit of the publication;
 - (e) The apparent intention of the creator, producer or publisher of a publication as reflected in its effect.

(7) The impact of a classifiable element determines the level at which it is categorised as follows:

- (a) low – no noteworthy single or cumulative occurrences of classifiable elements;
- No verbal reference or visual representation of certain classifiable elements such as nudity, sexual activity or conduct, sexual violence and violence including details or close-ups of violence, sexual activity or sexual conduct;
 - themes of an adult nature should be treated discreetly and not be exploitative and cause no ethical harm; and
 - Classifiable elements are not gratuitous and exploitative.
- (b) moderate: - single or cumulative occurrences of classifiable elements and incidental depiction of a classifiable element;
- Verbal reference rather than visual representation of certain classifiable elements such as sexual activity or conduct and violence;
 - Any verbal reference to sexual violence must be handled discreetly and may not contain any visual representation of sexual violence;
 - No details or close-ups of nudity, sexual activity and violence;
 - No visual representations of sexual conduct;
 - Themes of an adult nature should be treated discreetly and not exploitative and cause no ethical harm; and
 - Classifiable elements are not gratuitous and exploitative.
- (c) Strong:- single or cumulative occurrences of classifiable elements;
- No details or close-ups of nudity, sexual conduct or extreme violence;
 - Themes of an adult nature should not be exploitative and cause no ethical harm;
 - May have verbal reference and visual representation of certain classifiable elements such as nudity, sexual activity or conduct and violence;
 - Any verbal reference to sexual violence must be handled discreetly and may not contain any visual representation of sexual violence;
 - Classifiable elements are not exploitative and gratuitous.
- (d) Very Strong: - single or cumulative occurrences of classifiable elements;

- May contain details and close-ups of classifiable elements;
 - Themes of an adult nature should not be exploitative and cause no ethical harm;
 - Verbal reference and/or visual representation of certain classifiable elements such as sexual activity or conduct, and violence;
 - Any verbal reference to sexual violence must be handled discreetly and may not contain any visual representation of sexual violence;
 - Classifiable elements are not exploitative and gratuitous.
- (e) Extreme: Contains elements listed under either XX or X18 as set out in regulations 36 and 37.

33. CLASSIFIABLE ELEMENTS

- (1) In the context of publications, classifiable elements are used to assist in the determination of the impact of the material and therefore the allocation of an appropriate age restriction but are not included as consumer advice.
- (2) The classifiable elements considered in the allocation of an appropriate age restriction based on impact are:
- (a) strong language;
 - (i) The use of strong language is a classifiable element and must be considered in the allocation of an appropriate age-restriction.
 - (b) nudity;
 - (i) The occurrence of nudity of a moderate, strong or very strong nature must be considered in the allocation of age restrictions;
 - (ii) Nudity in natural non sexual contexts, such as breast-feeding and bona fide cultural traditions are not considered in the allocation of age-restrictions;
 - (c) Language that is biased or prejudiced with regard to race, ethnicity, gender, religion or other group-identifiable characteristics;
 - (i) Any language of prejudice is a classifiable element and must be considered in the allocation of an appropriate age-restriction;
 - (ii) Any advocacy of hatred and constituting incitement to cause harm based on prejudice, must be regarded as refused material.
 - (d) sexual conduct or activity;
 - (i) Any moderate, strong or very strong impact depictions or language of sexual activity or consensual sexual conduct are classifiable elements and must be considered in the allocation of an appropriate age-restriction or be subjected to a distribution restriction;

- (ii) Any depictions of consensual explicit sexual conduct must be regarded as having a very strong or extreme impact and classified appropriately;
 - (iii) Any language or depictions of gratuitous, exploitative or offensive non-consensual sexual conduct must be subject to restricted distribution (extreme impact) or regarded as refused material.
- (e) sexual violence;
- (i) Any language or depictions of sexual violence are classifiable elements and must be considered in the allocation of an appropriate age-restriction
 - (ii) Any depictions of sexual violence must be subject to restricted distribution (extreme impact) or be regarded as refused material.
- (f) violent language or depictions of violence;
- (i) Any language or depictions of violence and extreme violence must be considered in the allocation of an appropriate age-restriction, restricted distribution or refused categories;
- (g) criminal techniques
- (i) Criminal techniques and instructional details of illegal or dangerous acts must be treated as a classifiable element to determine age restrictions, restricted distribution or refused categories.

34. CLASSIFICATION CATEGORIES OF PUBLICATIONS

(1) Publications are classified into categories on the basis of:

- (i) context,
- (ii) impact of the classifiable elements.

(2) The following classification categories are used for unrestricted publications, intended for availability to the public:

- (i) **"13"** means that children under the age of 13 may not access the material;
- (ii) **"16"** means that the material is suited for persons of 16 years and older;
- (iii) **"18"** means adults only and the material is suited for persons of 18 years and older.

(3) The following classification categories for restricted distribution of publications exist:

- (c) **"X18"** means only a holder of a licence to conduct the business of adult premises, as set out in section 24 of the Act, may make such publications available. Guidelines for the restricted category are set out in Schedules 1 and 2, read with Schedule 5, Schedules 6 and 7 read with Schedule 9, and Schedule 10 of the Act.

(d) **“XX”** means the material may not be made available by anyone.

35. ILLEGAL AND UNCONSTITUTIONAL CONTENT

- (1) Any publication that contains propaganda for war or incitement of imminent violence or advocates hatred based on any identifiable group characteristic and that constitutes incitement to cause harm must be refused and reported to the chief executive officer for publication in the Government Gazette, unless judged within context the publication is a bona fide documentary or is a publication of scientific, literary or artistic merit or is on a matter of public interest which must be restricted accordingly.
- (2) Any material that constitutes child pornography must be reported to the chief executive officer and be reported to the South African Police Service immediately.

36. RESTRICTED DISTRIBUTION MATERIAL - XX

- (1) Publications must be classified as **“XX”** if it depicts the following as set out in section 16 of the Act:
 - (i) Explicit sexual conduct which violates or shows disrespect for the right to human dignity of any person;
 - (ii) Bestiality, incest, rape (sexual violence); conduct or an act which is degrading of human beings;
 - (iii) Conduct or an act which constitutes incitement of, encourages or promotes harmful behaviour;
 - (iv) Explicit infliction of sexual or domestic violence or
 - (v) Explicit visual presentations of extreme violenceunless judged within context the publication is, a bona fide documentary or is of scientific, dramatic or artistic merit, in which even the material shall be classified **“X18”** or classified with reference to the relevant guidelines relating to the protection of children from exposure to disturbing harmful or age inappropriate materials.
- (2) The interpretation of (1)(i) – (v) above include instances of:
 - (i) Detailed instruction or promotion in matters of crime or violence;
 - (ii) Gratuitous, exploitative or offensive depictions of sexual conduct as well as harmful paraphilia's;
 - (iii) Any material including depictions or dialogue likely to encourage an interest in harmful paraphilia's and sexual violence;

- (iv) Gratuitous, exploitative or offensive depictions of violence with a extreme impact or which are excessively frequent or detailed and cruelty or real violence which are very detailed and which have a extreme impact;
 - (v) Detailed instruction in the use of proscribed drugs and material promoting or encouraging proscribed drug use;
 - (vi) Instances where no apparent consent could be given due to the appearance of any party participating in sexual activity, sexual conduct or explicit sexual conduct to be non compos mentis (not of sound mind i.e. in a drug or alcohol induced state or mentally ill etc.).
- (3) Any material that has been classified as XX must be reported to the chief executive officer to be published by notice in the Gazette, together with the reasons for the decision.

37. RESTRICTED DISTRIBUTION MATERIAL – X18

- (1) Any material listed in regulation 8, but that judged within context is a bona fide documentary or is of scientific, dramatic or artistic merit may be classified as X18.
- (2) Publications classified as X18 contains different classifiable elements of strong or very strong impact.
- (3) Any material that contains explicit sexual conduct between consenting adults must be classified as X18 unless if it is judged within context a bona fide documentary or is of scientific, dramatic or artistic merit, in which case it must be classified with reference to the relevant guidelines relating to the protection of children from exposure to disturbing harmful or age inappropriate materials.
- (4) Publications of X18 classification may contain prejudiced language of strong impact provided it is clearly disapproved of.
- (5) Publications of X18 may contain language of Extreme impact, provided it is not related to sexual violence or harmful paraphilias.
- (6) Publications of X18 may contain nudity, sexual activity and sexual conduct and violence of a very strong impact.
- (7) Any material that is classified as X18 must be notified to the chief executive officer to be published by notice in the Gazette together with the reasons for the decision.

38. UNRESTRICTED DISTRIBUTION – “13”

- (1) The context of the material does not contain any adult themes or themes that may cause ethical harm, although the content may not be interesting to children.
- (2) The material may not be accessed by children under the age of 13.
- (3) The material contains no classifiable elements or it has a mild impact.
 - (a) Language – material may only contain instances of low impact strong language justified by the context.
 - (b) Nudity – material may only contain instances of low impact nudity in non sexual contexts and should be justified by the context.
 - (c) Language that is prejudiced – material may not contain any language of prejudice unless clearly disapproved of in the context.
 - (d) Prejudice – material may only contain language of prejudice of low impact if clearly disapproved and justified within the context or if it is used in an educational or historical context.
 - (e) Sexual conduct – material may not contain any depictions or language of actual or implied sexual conduct or sexual activity, but may contain depictions of affection.
 - (f) Sexual violence – material may not contain any depictions or language of actual or implied sexual violence unless it is of educational value and clearly disapproved of.
 - (g) Violence – material may contain language or depiction of low impact violence justified by the context.
 - (h) Criminal Techniques – material may not contain any depictions or explanation of criminal techniques.

39. UNRESTRICTED DISTRIBUTION – “16” AGE RESTRICTION

- (1) Children under the age of 16 are not allowed to access material classified as “16”. It is an offence to allow any child below the age of 16 to access material classified as “16”.
- (2) Publications with an age restriction of 16 must be distributed in a sealed wrapper and covers must be suitable for public display.

- (3) The context of the material may be mature and adult themes should be treated discreetly. The content may be complex and children under the age of 16 may find it confusing, distressing or upsetting.
- (4) The material contains classifiable elements that have a moderate impact with some elements having a strong impact.
 - (a) Language – material may only contain instances of moderate impact strong language justified by the context.
 - (b) Nudity– material may only contain instances of moderate impact nudity.
 - (c) Prejudice – material may only contain language of prejudice of moderate impact if clearly disapproved and justified within the context or if it is used in an educational or historical context.
 - (d) Sexual conduct – material may contain language of implied sexual conduct but no depictions of sexual conduct and may contain language and depictions of moderate impact sexual activity.
 - (e) Sexual violence – material may not contain any depictions or language of actual or implied sexual violence unless it is of educational value and clearly disapproved of.
 - (f) Violence – material may contain moderate impact depictions and strong impact language of violence if justified by the context.
 - (g) Criminal Techniques –material may not contain any depictions or explanations of criminal techniques.

40. UNRESTRICTED DISTRIBUTION – “18” AGE RESTRICTION

- (1) Children under the age of 18 are not allowed to access material classified as “18”. It is an offence to allow any child below the age of 18 to access material classified as “18”.
- (2) Publications with an age restriction of 18 must be distributed in an opaque wrapper, and clearly indicate the age restriction on the wrapper.
- (3) The material contains classifiable elements that have a moderate impact with some elements having a strong or very strong impact.
 - (a) Language – material may only contain instances of very strong impact strong language justified by the context.
 - (b) Nudity – material may contain instances of strong impact nudity.
 - (c) Prejudice – material may only contain language of prejudice of moderate impact if clearly disapproved off and justified within the context or if it is used in an educational or historical context.

- (d) Sexual conduct – material may contain language of sexual conduct but no depictions of sexual conduct and may contain language and depictions of strong impact sexual activity.
- (h) Sexual violence – material may not contain any depictions or language of actual or implied sexual violence unless it is of educational value and clearly disapproved of.
- (e) Violence – material may contain strong impact depictions and strong impact language of violence if justified by the context.
- (f) Criminal Techniques – material may not contain any depictions or explanations of criminal techniques.

41. EFFECTIVE DATE

These Guidelines shall become effective upon the date of publication.

42. OFFENCES AND PENALTIES

Any person who contravenes or fails to comply with the provisions of these Guidelines, is guilty of an offence. Upon conviction such person is liable to a fine in terms of section 24A and 24B of the Films and Publications Act.

43. REPEALED GUIDELINES

The Guidelines published in terms of the Films and Publications Act, published as the “Guidelines to be used in the classification of Films, Interactive Computer Games and Certain Publications” dated 1 September 2009 in Gazette Notice 32542 are hereby repealed.

CLASSIFICATION GUIDELINES - EXPLANATORY NOTE

EXECUTIVE SUMMARY

The draft guidelines reflect work conducted by the Films and Publications Board wherein the jurisprudence in South Africa was considered, a benchmark study was conducted and quantitative and qualitative research was undertaken.

The most noteworthy changes resulting from this process, in the classification approach are:

- The introduction of voluntary classifiable elements which means that these elements are not considered as part of an age restriction decision but rather to advise consumers –the voluntary classifiable elements include:
 - Photo or pattern sensitivity, motion sickness and low frequency sound; and
 - Imitable behaviour
- The introduction of additional mandatory classifiable elements which means that these elements must be considered as part of an age restriction decision – the additional mandatory classifiable elements include
 - Criminal techniques
 - Sexual violence
 - Horror (broader concept than just a genre)
 - Competitive Intensity (applicable to games only)
- A slight change in the age restriction categories with the removal of all instances of (M) – mature accompaniment and an alignment between the age categories between films and games:
 - A; PG; 10; 13PG; 13; 16; 18
- It should be noted that 13PG for cinema replaces the 'M' category and to the extent that 13PG is applicable to cinemas it means that children must be accompanied by adults.
- The consideration of specific types of content in the classification of adult material was clarified with the specific inclusion of “harmful paraphilia’s” as a factor to be taken into account when classification decisions are made.
- The requirement to take the educational merit of certain content into account in age restriction decisions was recognised, and a section providing for certain exceptions was included into the guidelines.

- Clarification is provided regarding the classification of trailers.
- The guidelines lastly paid specific attention to publications, which were not dealt with to the extent required in the previous guidelines.

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EXPLANATORY NOTE

1. INTRODUCTION

The Films and Publications Board ("FPB") was created to implement the objectives of the Films and Publications Act, as amended (Act No. 65 of 1996) ("the Act") and to regulate the distribution of films, games and certain publications. In the main this is done by means of classification of the material, the imposition of age restrictions and providing consumer advice. The FPB is a statutory institution of the Department of Home Affairs whose primary mandate is to contribute to the transformation of South African society. This is achieved by acting with due respect for the Constitutional rights and freedoms and in particular with regard to the protection of children from exposure to potentially disturbing, harmful, inappropriate content and from sexual exploitation in publications and audio visual content of any nature. The FPB, guided by the Act, prescribed Guidelines and classification guidelines, requires that all films, games and some publications be classified prior to either being distributed for sale, hire or exhibition in South Africa or being determined to be refused classifications.

In the preparation of the classification guidelines, the Films and Publications Board ("FPB") was tasked with the important and complex responsibility of balancing the Constitution of South Africa, legal developments within South Africa, technological developments and international best practice against the views of citizens. The outcome of this balancing act was used to prepare these classification guidelines for films, games and publications.

The fundamental purpose of classification is to protect children from 'indecent' exposure to disturbing and harmful material and from premature exposure to adult experiences. These classification guidelines allow adult South African citizens to make informed viewing, gaming, and reading decisions, both for themselves and for children in their care.

The objective of the explanatory note is not to discuss each and every issue addressed in the guidelines, but rather to provide further information on matters that may require additional explanation or that are newly introduced and require justification.

2. GUIDING PRINCIPLES

The FPB seeks to achieve high objectivity in its classification guidelines and inclusive consideration of the changes in South African society as reflected in the prevalent norms and values of its citizens and developments in South African legislation. It therefore attempted to reflect considerations of relevant legislation, citizen research and the accumulated experience of the FPB over many years in the guidelines.

As set out in the guidelines, the general underlying grounds on which the FPB exercises the broad discretion conferred on it are that:

- Works should be allowed to reach the widest audience that is appropriate;
- Adults should, as far as possible, be free to choose what they see, provided that it remains within the law and is not potentially harmful; and
- No illegal or unconstitutional content will be classified.

In the preparation of the draft guidelines the FPB followed the following processes:

- Review of South African Legislation;
- Benchmark study;
- Desktop research; and
- National Research: Qualitative and Quantitative

3. REVIEW OF SOUTH AFRICAN LEGISLATION

As a first step in the process the FPB considered how the legislature reflects society's norms and values in a list of relevant legislation. Due to the nature of the legislative process, which according to the fair administration of justice process requires a public comment process and often public hearings, it provided a good indication of the views of citizens. The reason that this review of the legal approach was conducted at the outset of the process was that it provided the FPB with a well-reasoned framework within which the views of citizens which were subsequently obtained were considered. The Acts taken into account were:

- Constitution of South Africa 1996,
- Children's Act, 2005,
- Commission of Gender Equality Act, 1996;
- Animals Protection Act, 1962;
- Animals Matters Amendment Act 1993;
- The Performing Animals Protection Act, 1935;
- Promotion of Equality and Prevention of Unfair Discrimination Act, 2000;
- Consumer Protection Act, 2008;
- Criminal Law (Sexual Offences and Related Matters) Amendment Act 2007;
- Electronic Communications Act, 2005
- Electronic Communications and Transactions Act, 2002

- Prevention and Treatment of Substance Abuse Act, 2008
- Civil Union Act, 2006,
- Films and Publications Act, 1996 and the Films and Publications Amendment Act 1999,
- Films and Publications Amendment Act, 2004 and Films and Publications Amendment Act 2009

In the consideration of the list of legislation, some common threads were identified as indicative of the current social norms and values. These include in particular a more consumer focussed approach. Part and parcel of such an approach are a few core principles in line with the Constitution:

- Access to information as it relates to various areas ranging from business to health decisions as well as important decisions regarding how children should be raised. These views were reflected in the following Acts:
 - Consumer Protection Act
 - Electronic Communications Act
 - Electronic Communications and Transactions Act
 - Prevention and Treatment of Substance Abuse Act
- Freedom of expression is an important consideration for this project. In fact it is quite explicitly recognized in the Films and Publications Act, in terms of its classification approach. It is also reflected in the following legislation:
 - Civil Union Act
 - Electronic Communications Act
 - Consumer Protection Act
- The Right to Privacy is a core issue that is becoming more and more critical in the information age. The following legislation is particularly focused on the right to privacy:
 - Electronic Communications and Transactions Act
 - Consumer Protection Act
 - Electronic Communications Act
 - Promotion of Equality and Prevention of Unfair Discrimination Act
 - Civil Union Act

- Prevention and Treatment of Substance Abuse Act
- The protection of children which is also one of the main focus areas for the FPB is an area of growing concern and is seen as a critical issue in the following legislation:
 - Children's Act
 - Films and Publications Act (as amended)
 - Prevention and Treatment of Substance Abuse Act
 - Electronic Communications and Transactions Act
 - Consumer Protection Act
- Freedom and Security of Person:
 - Criminal Law (Sexual Offences and Related Matters) Amendment Act
 - Films and Publications Act
 - Prevention and Treatment of Substance Abuse Act
 - Children's Act
 - Animal Matters Amendment Act
- Freedom of Association is an area in the Constitution that took some time to be recognized and developed in South African legislation. This is illustrated by the Civil Union Act as an example the Act recognizes same sex marriages but only came into effect in 2006.
- Equality is a critical provision in the Constitution, a right that many people had to wait a lifetime for. People with disabilities and in particular people with mental disabilities, are increasingly being recognized as vulnerable. From the legislation equality now appears to be one of the most recognized and valued rights:
 - Criminal law (Sexual Offences and Related Matters) Amendment Act
 - Children's Act
 - Promotion of Equality and Prevention of Unfair Discrimination Act
 - Civil Union Act
 - Electronic Communications Act
 - Electronic Communications and Transactions Act
 - Prevention and Treatment of substance Abuse Act

Section 36 of the Constitution tends to be overlooked despite it being critical to the protection of citizens. It provides for the limitation of rights where appropriate, and guided the drafting of the classification guidelines, particularly as it relates to material subject to restricted distribution or refused classifications.

Society's values are however not limited to the treatment of human beings as enshrined in the Constitution but extend to the protection of animals. The Animals Protection Act, the Animals Matters Amendment Act, and; the Performing Animals Protection Act, were therefore taken into account although not explicitly mentioned.

The legislation considered in this review raised a number of pertinent issues that show a definitive shift in society's views over the last few years. Society has become more tolerant and open to individuals that choose to live their lives in a manner that is not necessarily in line with tradition as reflected by the recognition of same gender marriage set out in the Civil Union Act.

There is also a growing consciousness of the realities of our times to the extent that substance abuse and child pornography are critical issues of concern in modern society. These are not South African specific concerns and globally countries are grappling with these problems. The Prevention and Treatment of Substance Abuse Act is a confirmation of South Africa's commitment to the battle against drugs. In particular, since substance abusers are getting younger and younger, with reports of primary school addicts, the legislation makes specific provision on how to deal with children that abuse substances.

Child pornography, which falls within the category of child abuse is another area of concern reflected in the legislation. The Children's Act which has come into effect as recently as 6 years ago only, has explicit provisions to protect children with measures such as the creation of the National Child Protection Register. Legislation such as the Electronic Communications and Transactions Act, as an example also recognize that the fight against child pornography should be fought at various levels. For that reason certain requirements are placed on internet service providers to report instances of child pornography on the services that they host.

Some of these observations were taken into consideration in the preparation of the guidelines and are set out below.

3.1 Children's Act

The definition of a child as contained in the Children's Act is as follows:

"child means a person under the age of 18 years"

Upon the reading the Children's Act, it appears that society recognizes that children's views and their right to make their own decisions should be respected. This is reflected in the fact that any child above the age of 10 is required to consent to an adoption. From the age of 12, children can make serious health related decisions such as giving or withholding consent to HIV tests and acquiring condoms and contraceptives and children from the age of 16 years of age can give or withhold consent for virginity testing and male circumcision.

On the other hand, the child's right to be protected and cared for is explicitly provided for, not just at a physical level but also at an emotional one. Accordingly, there is a duty placed on parents and care givers to avoid physical, emotional and moral harm to a child. As per the Children's Act's definition, "abuse" includes subjecting the child to behaviour that may harm the child physically or emotionally.

The Children's Act also recognizes the realities of our times by making mention of the fact that begging and drug abuse are indicators of a child's need for care. Another serious and topical concern raised is the awareness of human trafficking and South Africa's commitment in terms of the UN Protocol to Prevent Trafficking in Persons. The serious light in which human trafficking is viewed is reflected in the provisions that clearly prohibits the provision of any assistance facilitating these acts, including through publication, print, media and the internet, amongst others. The Children's Act also recognizes the use of technology in facilitating child abuse, in the form of human trafficking. In section 285 (2) of the Children's Act, it requires that every Internet Service Provider operating in the Republic must report to the South African Police Service any site on its server that contains information in contravention of the human trafficking provisions.

3.2 Gender Equality Act and Framework on Gender Equality

In terms of the Gender Equality Act and the Framework on Gender Equality it is clear that society upholds the right of women to form part of South Africa's democracy and to actively participate in its development. The primary indicators include:

- A woman's earning power and involvement in the economy.
- Reduction of women's vulnerability to social injustice such as poverty, HIV/AIDS and violence.
- Extent to which women participate in political decision making.
- Women's professional opportunities.
- A change in attitude to women and enhanced recognition of the value they add to society.

3.3 Animal Protection Act, Performing Animals Protection Act and Animal Matters Act

The Act shows that South African society is highly sensitive towards the handling of animals and (i) how individuals in custody of or in control of animals treat the animals, (ii) how negligent animal handling that leads to injuries or death, are treated. The Acts emphasise the non-abusive treatment of animals which indicates that society norms and values are generally opposed to animal abuse.

The Animal Protection Act, like the Animal Matters Amendment Act, is a reflection of society's concern for the welfare of animals. It further shows that society is intolerant of individuals who, in any way, abuse animals or mistreat and use animals for self-gain or enjoyment, whilst harming the animal physically and/or mentally. Using the conventional definition of animal rights, the Animal Protection Act can also be seen as society's way of protecting the rights of animals in the wild, with no direct interaction with people – thus showing that society values the diversity of the animals in the Republic of South Africa.

3.4 Promotion of Equality and Prevention of Unfair Discrimination Act

The Act represents South Africa's views as a nation that highly favours equality and the prevention of unfair discrimination. Additionally, the Act clearly addresses discrimination against women and people with disabilities, citing that such discrimination should not be tolerated at all. This shows that our modern society has come to recognize the value of women in the society as equals and has, in like manner, become aware of the importance of the treating people with disabilities, which would include any mental disabilities without discrimination.

3.5 Consumer Protection Act

The Consumer Protection Act came into effect on the 1st of April 2011, and introduces a single, comprehensive legal framework for consumer protection which outlines the entitlements of consumers and the responsibilities of suppliers.

It is clear from the Consumer Protection Act that society is becoming more and more aware of their rights. Accordingly, the culture of access to sufficient information in plain understandable language requires any person that interacts with consumers to meet such requirements. Hand in hand with access to information is empowering the consumer's right to choice. The consumer rights listed in the legislation relates closely to the Bill of Rights in the Constitution. However, access to information (section 32 of the Constitution) and freedom of expression (section 16) specifically as it relates to the right to receive and impart with information, seem to be the most prominent Constitutional considerations in the Act.

3.6 Criminal Law (Sexual Offences and Related Matters) Amendment Act

The Sexual Offences Amendment Act was revised to give an all-encompassing protective framework in sexual offences as outlined in the South African Constitution. The Act was also created to set out a framework relating to the protection of victims of sexual offences, which ensures the provision of adequate and effective protection to victims of sexual offences.

A pertinent and significant development in the Sexual Offences Act is the inclusion and provision for same-sex sexual offences. The Amendment Act provides special protection measures for children and people with mental disabilities. The purpose of this Act is to ensure that law enforcers render a professional service to victims in respect of the investigation of offences of this nature and to assist victims in this regard. It also makes a new expansion of the scope of statutory offence of rape, to all forms of sexual penetration with or without consent, irrespective of gender.

The legislation makes specific reference to sexual offences that are not morally sound. These offences include; Incest, Bestiality and Sexual acts with a corpse, respectively. Such sexual acts are punishable by law and are in breach of morality in a civil society. In particular it also sets the boundaries for any form of child exploitation, this includes; being involved in the sexual exploitation of a child, furthering the sexual exploitation of a child, benefiting from the sexual exploitation of a child, and living from the earning of sexual exploitation of a child. Furthermore, the Amendment Act also protects against the sexual grooming of children. It speaks to any form of sexual grooming that may result in facilitating, promoting, persuading, or coercion of a child to perform a sexual act. To this end the Amendment Act further adds, performing any act in the presence of a child with the intention to encourage, reduce or diminish any unwillingness to perform a sexual act with either the primary offender or a third party.

The legislation also protects the innocence of a child which could be violated by exposing or displaying child pornography or pornography to a child and protects against causing or compelling children to witness sexual offences, sexual acts, or self-masturbation. It clearly makes, 'flashing', exposure or displaying of genital organs, anus, or female breasts, to children punishable by law.

The same applies to persons with mental disabilities. Accordingly, the legislation protects against any form of sexual exploitation of persons with mental disabilities. This protects against those who may have mentally impaired judgement from being sexually exploited by engaging in a sexual act, committing an unlawful sexual act, or being unwillingly and unknowingly offered to engage in a sexual act with a third party.

It speaks to the responsibilities of the care giver, guardian, parent, or teacher with regards to intentionally and knowingly allowing the commission of a sexual act by a third party with a mentally disabled person. The Amendment Act also protects against the sexual grooming of a third person with the intention to encourage the person to partake in a sexual act with a mentally disabled person. Similarly, a person who exposes a mentally disabled person to child pornography or pornography, or a publication or film is guilty of sexually grooming a mentally disabled person.

3.7 Electronic Communications Act

The Electronic Communications Act, became effective in 2006, and introduced the concept of technological neutrality. It created a converged environment wherein different service providers were no longer restricted to provide a specific type of service. Accordingly, the focus of this approach was to stimulate competition and create lower prices and better service quality to consumers. The licensing regime still differentiates between broadcasting and electronic communication services (at the services level), however at the network level there are no limitations. It should be noted that no person may provide an electronic communications service, unless it has a licence, or has been explicitly exempted by the Independent Communications Authority of South Africa (ICASA). The legislation is much more consumer focussed and in the Guidelines issued in terms of the ECA, there are very strict provisions to ensure good quality services to consumers and access to sufficient information, in order for them to make an informed choice.

In the context of the guidelines, it is important to note that the ECA provides a clear indication that broadcasting services do not fall within the FPB's mandate and is to be regulated by ICASA.

3.8 Electronic Communications and Transactions Act

The overall objective of the Act is to enable and facilitate electronic transactions by creating legal certainty around transactions and communications conducted electronically¹. In a society that relies more and more on electronic communications, this Act is of great importance to all. There is a clear focus on access to information, and the protection of personal information. Due to the convenience that e-commerce offers, as well as the economic importance for the country to participate in that space, the Act encourages a shift by protecting consumers to the largest extent possible. Security is of great significance in the e-commerce space and the creation of cyber inspectors reflects the serious light in which government views security. Lastly, although there is no general obligation created in

¹ <http://www.intercomm.co.za/articles/ECAAct.htm>

the ECT Act for service providers to monitor the data it transmits or stores or to actively seek facts or circumstances indicating an unlawful activity, the ECT Act creates a system for service providers such as Internet Service Providers (“ISPs”) and cellphone operators to inform competent public authorities of alleged illegal activities (such as child pornography).

3.9 Prevention and Treatment of Substance Abuse Act and the Drugs Master Plan

The Prevention and Treatment of Substance Abuse Act, was enacted to provide for a comprehensive national response for the combating of substance abuse. It provides for mechanisms aimed at demand and harm reduction in relation to substance abuse through prevention, early intervention, treatment and re-integration programmes.

Upon reading the Act, there are several chapters that reflect on society, with regards to citizens’ rights in society and aims at ensuring the protection of all, including children, who are seen as the most vulnerable to substance abuse. There is a focus on awareness of the dangers of substance abuse and the effect of substance abuse on society. Accordingly, the manufacturing of illicit drugs is also considered and addressed.

3.10 Civil Union Act

Upon reading the Civil Union Act it is evident that the Act allows for the creation of a voluntary union of two persons who are both 18 years or older of age, which is solemnised and registered by way of either a marriage or a civil partnership. The legislation can be recognised as a progressive step forward for South Africa, in its move to distance itself from its Apartheid past. South Africa was therefore the first country in Africa to allow same sex marriages.

The Act has enacted requirements in the Constitution which states that, there is a need to create a new order in which all South Africans will be entitled to a common South African citizenship in a sovereign and democratic constitutional state in which there is equality between men and women and all people of all races, so that all citizens shall be able to enjoy and exercise their fundamental rights and freedom.

4. BENCHMARK STUDY

In order to obtain an objective view of the performance of South Africa’s classification system, the FPB conducted a benchmark study with a wide range of countries. The countries considered were:

- United Kingdom
- Tanzania
- China

- Nigeria
- India
- Kenya
- Germany

The first parameter included in each country assessment was a broad country overview. This provided context for the other three parameters which were:

- An overview of classification legislation;
- An overview of classification authority; and
- A consideration of their classification approach.

In this benchmark study it was found that China, Tanzania and Kenya impose strict censorship and do not have a comparable classification system to that of South Africa in place. Nigeria and India take a more moderate approach although their respective classification systems also use a censorship approach. India is in the process of amending its censorship approach and it remains to be seen if the new system will qualify as a classification rather than a censorship system. The United Kingdom (UK) and Germany have classification systems in place which are more similar than the rest of the benchmark countries to that of South Africa.

The South African classification system and approach compares exceptionally well with those of the UK and Germany. In terms of implementation, similar overarching factors, including context, tone and impact and medium of release are considered. In terms of categorization, similar consideration is given to issues such as drugs, discrimination (prejudice), violence, nudity, sex and language whilst all countries have some additional considerations. In South Africa blasphemy is an additional classification element and in the UK photo or pattern sensitivity, motion sickness and reactions to low frequency sound may be considered during the classification process (although it is primarily the responsibility of the producer of the film).

Another noteworthy distinction is that "Titles" of a specific nature may be changed by the classification authority in the UK under certain circumstances, i.e. if it may cause offence. The UK also considers "Horror" as a factor in their classification process, which takes the impact that horrific occurrences or incidents may have on children. It is stated that the use of frightening elements which might scare or unsettle an audience is part of a long tradition of story telling and film making. Many children enjoy the excitement of scary sequences, but, where films are targeted at a younger audience, classification decisions should take into

account such factors as the frequency length and detail of scary scenes as well as horror effects, including music sound and whether there is a swift and reassuring outcome. The FPB considered this to be a useful approach to be considered in the new guidelines.

Lastly, the UK uses 12 , 15 and 18 as age restriction categories similar to Ireland, Japan, Maldives, Nigeria and Poland amongst others. This is also partially similar to the Australian approach that also uses 15. There are a few countries with a 13 and 16 age restriction similar to South Africa, such as Argentina. However a large number of countries either use 12 and 16 as age restrictions such as France, Hungary and Latvia or 13 and 15 as age restrictions, such as Thailand.

The German approach is slightly more conservative on certain issues, presumably due to its history. Accordingly, some films may be indexed (restricted) based on certain levels of incitement of racial discrimination, and violence.

In terms of age categorisation, it was noted that Germany has an additional age group of 6 years which is quite unique in terms of approach although it was not included into the South African approach. Another observation of the German approach is that for games, consideration is given to first or third person violence in the classification approach. The FPB considered this a beneficial factor in the classification of games.

The FPB conducted further research following the benchmark study and also considered the approach taken in Australia. Some of the noteworthy findings from this research was their approach towards determining the impact of classifiable elements (very mild, mild, moderate, strong high and very high), which is used both for games and films as well as their consideration of classifiable elements based on impact. The FPB also took into account their consideration of the use of incentives or reward in the classification of games, as it applies to classifiable elements. Lastly, the Australian approach as it relates to the determination of the impact of interactivity with computer games was considered. In the guidelines this is reflected as "competitive impact".

5. CONSUMER RESEARCH: QUALITATIVE AND QUANTITATIVE RESEARCH

One of the guiding principles of the FPB is to seek to achieve high level objectivity in its classification guidelines and inclusive consideration of the changes in South African society as reflected in the prevalent norms and values of its citizens and developments in South African legislation. In addition to an analysis of the relevant legislation, international benchmarking and accumulated experience of the FPB: qualitative research was undertaken

among key stakeholders of the FPB and quantitative research among a nationally representative sample of citizens.

The findings from the research conducted among the stakeholders are dealt with below.

5.1 Qualitative Research Findings

The FPB interacts with a number of organisations in the execution of its duties. These organisations include:

- Government Departments,
- Organisations that are concerned about the freedom of expression,
- Religious groups
- NGOs that are focused on morals, family values and the protection of children.
- Distributors and broadcasters that are directly involved in the implementation of the classifications that the FPB gives to movies, games and publications.

All these organisations have an interest in the activities and actions of the FPB. In some cases they are involved in joint presentations/road shows.

All the above organisations would be actively involved in reviewing the revised classification guidelines once they are published. It was therefore thought that it would be the correct approach to garner their opinions at the development stage of the project and to incorporate their suggestions into the classification guidelines where relevant.

The research approach selected was in-depth interviews with the COO or a person having direct interaction with FPB for each stakeholder. This was considered to be sufficiently flexible to illicit information that might be proffered. In addition the number of interviews conducted was relatively small and the profile of respondents quite varied which meant quantitative measures could not be generated. The FPB interviewed 22 key stakeholders as part of the qualitative research.

A structured questionnaire was used as a framework for the interview. The research indicated that role of the FPB is clearly understood by the respondents. The respondents were unanimous in believing that the role of the FPB was relevant particularly in today's society.

In terms of societal changes that the FPB should be incorporating into their classification system, the respondents indicated that technological developments such as social media should in particular be considered. One of the questions asked to respondents was if the

FPB adapted to changes in society? It was stated that while the FPB has been sensitive to child pornography, some felt it was a bit conservative.

“Tend to be a bit conservative when it comes to some content FPB does not balance right of freedom of expression.”

The research furthermore indicated that most respondents dealing with classifications understood how the rating system works, and that it was also used by broadcasters when complaints were received against them.

Although the response was overwhelmingly positive when respondents were asked if the classification system provides sufficient information, a particular concern was raised regarding sexual violence. The research indicated that objections to FPB ratings were minimal although some broadcasters raised concerns about the handling of nudity and sexual nudity, and indicated that a more consistent approach is required.

During this research, respondents were reminded that the Classification Guidelines were possibly being revised and were asked for their suggestions in this regard.

A number of suggestions were made

“Note that L does not give a sufficient indication of the problem with language. In addition SV (sexual violence) may be required”

“The rating system should be more sensitive to societal changes and the changes in child development. They should also provide more information, perhaps an educational road show to inform parents about the importance of ratings.”

“There should be regular reviews of the classification system as well as on-going research and analysis. This is necessary to ensure that the approach is relevant and ties in within the broader legislative requirements on child protection in SA.”

The findings that emerged from the qualitative research that were incorporated into the guidelines are:

- The introduction of a system to ensure a more consistent classification approach; The introduction of more classifiable elements (i.e. sexual violence – “sv”)
- The introduction of a system to measure the impact (low, mild, moderate, strong, very strong and extreme).

5.2 Quantitative Research Findings

The FPB Fieldwork for the quantitative study was undertaken between October and November 2011. A semi-structured questionnaire was used which covered the objective of the research, whilst the interviews were conducted at the respondents' homes.

Pilot interviews were conducted to check that the questions were understood and the flow of the questionnaire. Standard check-back procedures were conducted on the work of each interviewer to ensure the quality of the research conducted. It should be noted that there was a bias towards metropolitan areas.

5.2.1 Sample Structure for the quantitative research

		TOTAL	E Cape	Free State	Gauteng	KZN	Limpopo	Mpumalanga	N West	N Cape	W Cape
	CITIZEN SAMPLE	1000	139	65	202	210	110	69	80	21	104
RACE	Black	751	117	55	142	168	107	62	72	9	19
	Coloured	87	11	1	7	2	0	0	0	9	57
	Indian	27	0	0	4	22	0	0	0	0	1
	White	135	11	9	49	18	4	7	7	3	27
GENDER	Female	526	76	34	102	113	62	36	39	11	54
	Male	474	63	31	100	97	49	33	40	10	50
COMMUNITY	Metro, 250,000 plus	416	64	17	143	125	0	0	0	0	74
	Cities, large towns (40,000 up to 250,000)	224	23	20	36	24	0	0	0	0	67
	Small towns (500 to 40,000)	260	38	21	3	39	24	29	47	6	14

	Rural	100	14	7	20	21	75	33	25	13	13
AGE	15 – 24 years	295	46	18	48	69	39	22	22	6	26
	25 – 34 years	228	28	14	53	48	23	16	18	5	23
	35 – 49 years	252	30	17	58	48	24	17	22	6	29
	50+	225	35	15	42	45	25	14	18	5	26
	FOCUSSED SAMPLE	350	32	23	141	63	4	9	15	4	60

A total of 1350 interviews were conducted, of this a sample of 1000 was structured to broadly reflect the profile of the South African households. The research was stratified to include a rural sample. A further sample of 350 was conducted at households in Major Metro/Cities with children aged 6 to 18 years in the home. This stratified sample also has access to television (TV) and the internet. The racial profile within each province was structured to correctly reflect that of the province and the profile of the country as a whole. The age profile was as follows²:

AGE GROUPS	TOTAL %	African %	Coloured %	Indian %	White %
15-24	8	10	3	5	7
25-34	33	33	34	33	35
35-49	35	35	38	31	30
50+	24	22	25	31	28

The sample considered education, languages spoken³, dwelling type, employment, literacy and income.

The findings made in terms of the quantitative research are an important element of the project conducted in order to review the FPB's Classification Guidelines. They are particularly important in identifying the "on the ground" perspectives and in assisting the FPB to determine the prevailing norms and values in South Africa, across provinces, age groups, and racial groups, amongst others.

² The sample is biased towards the 25-49 age group reflecting the inclusion of households with children 6 to 18 years

³ Xhosa and Zulu are the two most widely spoken home languages spoken by the sample interviewed. While only 15% of the sample spoke English as a home language, 75% indicated that they could speak it increasing its penetration to 90%. Afrikaans was second on 44% followed by Zulu on 38%.

The main findings of the research considered for the drafting of the classification guidelines can be divided into 6 sections which are:

- (1) Findings relating to the issues that are of concern to South African families,
- (2) TV viewing habits of South Africans.
- (3) Findings related to South African's habits with respect to cinema, DVD's/Blu Ray, internet and personal computers regarding film and games.
- (4) Details of the controls applied by parents, which are an additional measure to classification – a complementary approach to ensuring children's safety.
- (5) Awareness of the FPB classifications.
- (6) Lastly, children and pornography were considered – a key issue which drives the FPB in pursuing its mandate.

To start off with, the research gauged what issues South Africans and South African Parents bringing up their children in South Africa have to grapple with. It transpired that crime is the biggest issue facing South Africans followed by poverty. These concerns were mentioned spontaneously by respondents. Drugs were on the other hand spontaneously mentioned as the biggest concern for parents bringing up children followed by crime (which was the biggest concern overall).

Based on a list of 11 factors, mentioned first and in total (first three mentions) the research showed that the biggest issue facing South Africans was unemployment, followed by crimes against women/children, and sexual abuse / harassment which were on a similar level. Child pornography was in 4th spot, having been mentioned spontaneously by only 1% of respondents, just ahead of corruption. However, sexual abuse and child pornography emerged with the highest level of concern at the aided level.

From the questions aimed at obtaining a view of respondents on the current classification criteria, which focussed specifically on Sex (S), Violence (V), Bad Language (L) and Nudity (N), sex was considered as being the most harmful to children. This was followed a long way back by violence and then nudity. The responses received indicated that bad language was not regarded as a serious matter in comparison with sex and violence.

It was important for the FPB to obtain an understanding of how material is accessed, and it was found that 25% of the respondents have hired a DVD/Blu Ray in the last month. The incidence of hiring was equally likely to happen in all community sizes. With regards to access via personal computers, the research indicated that 25% of family members use a PC at the home. Usage varies by community size and race. Time spent on the computer on average per day did not vary significantly by age. It varied from an average of 1.5 hours among 8 year-olds to 1.9 hours for 17 year-olds.

Television access in South Africa is much higher with virtually every household in South Africa having a television set. Only 38% of people indicated that they have been to a cinema with about 1 in 10 people indicating that they have been to the cinema during the last week. Lastly, 15% have seen an IMAX or 3D (three dimensional) movie. Not surprisingly the likelihood of having seen an Imax/3D movie is much higher in metro areas, 20% versus 7% in the rural areas.

As stated earlier in this Explanatory Note, the main issue among parents is any material with a sexual overtone, with violence coming in second. Some parents simply said that their child should only see age-appropriate material which could be referring to the FPB's age classification system. The FPB noted that some parents simply depended on time restrictions to manage what their children watched.

The main way in which parents control what their children watch is to sit/ view the programmes with them. However, the next highest level of mention by parents was to "check classifications". Sex, violence and not age appropriate content were the main restrictions applied to children in terms of what they cannot view. It was lastly found that 23% of parents select the DVD in order to control what their children view. With 8% indicating that they check the age restriction. A further 6% watch the DVD with their children.

While sex is a primary issue with regard to TV, films and DVD/Blu Ray it is not the case with games where *violence* is the main concern. It is noted that 36% of respondents indicated that their children did not play games.

It was furthermore interesting to note that 13% of parents of children, that play games, have played games with their children, as a means of monitoring what games their children played. A third of the parents of children that play games do not control the games their children play. Monitoring is the main method for controlling use of games. In total 10% of parents take cognisance of age classifications on games. A third of parents indicated that they were sensitive to the different formats that were available to play games i.e. arcade, mobile phone etc.

As with games and TV, films and DVD/Blu Ray some parents monitor their children's internet activity (15%) or use security codes to limit access (7%), whilst 9% of internet users have an electronic website control. 12% of parents do not execute any control on internet access for their children. The main concerns that parents raised were access to pornography and adult sites. To this end, issues relating to sex are regarded as being particularly harmful to children. However, in addition to pornography and adult sites, social networking sites (Chat rooms/ Facebook/Mxit/etc) were also sites that that some children are not allowed to access.

The research also tested awareness by respondents of classifiable elements as well as their usefulness. It found that the majority of respondents are aware of the 3 symbols that are used most often in the classification of films which are S (93%), L (88%) and V (92%). Awareness of N (80%) is nearly as high and is an indication of the relative frequency of its use compared to S, L and V. Awareness of B (blasphemy – 5%), D (Drugs – 6%) and P (Prejudice – 8%) in comparison were extremely low.

Expanding on classifiable elements, respondents were also asked whether “SV” (sexual violence) should be added as an additional category to warn about scenes containing sexual violence (i.e. rape scenes). This proposal was supported by 80% of respondents as an additional category. The research in addition indicated that respondents would support a special warning where applicable for the following:

- Photo/pattern sensitivity (85%)
- Motion sickness (82%) and
- Low frequency sound (82%)

In as far as age categories are concerned, it appears that age classifications are clearly understood and are correspondingly found to be extremely useful. The inclusion of M (referring to mature accompaniment) and which is an approach currently used by the FPB, was found to be confusing, and only a small proportion of respondents got it right. The current age categories used by the FPB are however understood and remains relevant according to the research.

Lastly, the views of respondents regarding publications were also considered and the research indicates that one in five people believe that there are newspapers, magazines or books that are generally available which are not appropriate for children. A specific concern was expressed about the distribution of Adult publications and some believed that it was not effectively controlled.

6. DRAFTING APPROACH



The FPB has prepared a user guide to make it easier to interpret the guidelines, which is made available with this explanatory note. However, the proposed approach in the guidelines is as follows:

Films/Games: must consider context, impact and release format in making a classification decision with context being an overarching factor; and

Publications: must consider context and impact in making a classification decision.

6.1 Factors Considered

In light of the above, the factors to consider for each of the above are clearly set out in the guidelines. For your ease of reference it is:

<p>Context:</p> <ul style="list-style-type: none"> • The expectations of the public in general and the target market of the material; • The theme of the material; • The manner in which an issue is presented; • The literary, artistic or educational merit of the film; • The apparent intention of the film maker, as reflected in its effect. 	<p>Release Format (not applicable to Publications):</p> <ul style="list-style-type: none"> • The ability to replay scenes; • The ability to view certain scenes out of context; • The clarity of images; and • The impact of technology 
<p>Impact:</p> <ul style="list-style-type: none"> • No - contains no classifiable elements • low – no noteworthy single or cumulative occurrences of classifiable elements accordingly classifiable elements occur in passing or briefly; <ul style="list-style-type: none"> - occurrences of classifiable elements are not realistic; - no details, close-ups or slow motion of violence and sexual activity or sexual conduct; - no accentuation techniques such as lighting, perspective and resolution; and - theme of material is not threatening and cause no moral harm; - No verbal reference or visual representation of certain classifiable elements such as sexual activity or conduct and sexual violence; - Classifiable elements form part of a bona fide story line. • mild - only single occurrences of classifiable elements; <ul style="list-style-type: none"> - occurrences of classifiable elements are not realistic; - no details, close-ups or slow motion of violence and sexual activity or sexual conduct; - no accentuation techniques such as lighting, perspective and resolution; and - theme of material is not threatening and cause no moral harm; - No verbal reference or visual representation of certain classifiable elements such as sexual activity or conduct and sexual violence; 	

- Classifiable elements form part of a bona fide story line.
- moderate: - single or cumulative occurrences of classifiable elements and incidental depiction of a classifiable element;
 - occurrences of classifiable elements are not realistic;
 - no details, close-ups or slow motion of violence and sexual activity or sexual conduct;
 - Verbal reference rather than visual representation of certain classifiable elements such as sexual activity or conduct, sexual violence and violence with no noticeable effect;
 - no accentuation techniques such as lighting, perspective and resolution;
 - Theme of material may be threatening but cause no moral harm;
 - Verbal reference rather than visual representation of certain classifiable elements such as sexual activity or conduct and sexual violence with no noticeable effect;
 - Classifiable elements form part of a bona fide story line.
- Strong: single or cumulative occurrences of classifiable elements;
 - Occurrences of classifiable elements may be realistic;
 - No details, close-ups or slow motion of sexual conduct or extreme violence;
 - No accentuation techniques such as lighting perspective and resolution of sexual conduct or extreme violence;
 - Theme of material may be threatening but cause no moral harm;
 - Verbal reference rather than visual representation of certain classifiable elements such as sexual activity or conduct and sexual violence which may have a noticeable effect;
 - Classifiable elements form part of a bona fide story line.
- Very Strong: - single or cumulative occurrences of classifiable elements;
 - Occurrences of classifiable elements may be realistic;
 - May contain details, close-ups or slow motion of classifiable elements;
 - May use accentuation techniques such as lighting perspective and resolution; and
 - Theme of material may be threatening but cause no moral harm;
 - Verbal reference and/or visual representation of certain classifiable elements such as sexual activity or conduct, and violence but not sexual violence;
 - Classifiable elements do not necessarily form part of a bona fide story line.
- Extreme: Meets the requirements of XX and in some instances X18 set out in the Guidelines

The above factors inform the interpretation of classifiable elements and the ultimate allocation of an age restriction.

6.2 Classifiable elements:

The FPB has decided to expand upon the current classifiable elements based on 3 considerations:

- The Legislative Review;
- The International Benchmarking; and
- Findings from the Qualitative and Quantitative research.

As explained in paragraph 2 above, there is a concrete drive to improve access to information to consumers. The trend reflected in legislation is to provide more rather than less information to consumers in order to make informed decisions regarding the content they wish to access. In addition, both the quantitative and qualitative research supported the expansion of classifiable elements.

For example if there is nudity (“N”) of a moderate impact in a film that is classified as an 18 age restriction due to strong impact substance abuse (“D”) and high impact language (“L”) the classification will indicate 18 ND L although the nudity is only applicable to a 15 age restriction.

The FPB has furthermore introduced more classifiable elements than those used in the past based upon its considerations of the international approach. These include:

- “Photo or pattern sensitivity, motion sickness and reactions to low frequency sound”
- “Imitable Acts and Techniques” and
- “Criminal Techniques”.

It should be noted that “photo or pattern sensitivity, motion sickness and reactions to low frequency sound” as well as “Imitable Acts and Techniques” are entirely voluntary indications by classifiers and was informed by the approach taken in the UK.

The understanding set out in the guidelines for photo or pattern sensitivity is based on the World Wide Web Consortium’s Web Content Accessibility Guidelines (WCAG) version 2.0 produced in 2008. It specifies that content should not flash more than 3 times in any 1 second period.⁴ It is included into the guidelines in order to raise awareness and encourage

⁴ <http://web.mit.edu/aeroastro/partner/projects/project1-qanda.html>

film and game distributors to provide necessary warnings to consumers. Accordingly, it would only be added as consumer advice by classifiers with required expertise in the matter and is not mandatory advice. This is also not a classifiable element considered in the allocation of an age restriction.

Low-frequency noise (LFN) is generally taken to mean noise below a frequency of about 100 to 150 hertz. The human ear is not very sensitive at these low frequencies. However, there may be some members in society that are troubled by LFN. This is similarly to photo or pattern sensitivity included only to raise awareness and encourage film and game distributors to provide necessary warnings to consumers. It would also only be added as consumer advice by classifiers with required expertise in the matter and is not mandatory advice and is not considered in the allocation of an age restriction.

Motion sickness is a more general concern for consumers and may be experienced to various degrees in different circumstances such as first person interactive gameplay and certain filming styles (such as that used in the Blair witch Project). This is similarly included to the elements mentioned above, only to raise awareness and encourage film and game distributors to provide necessary warnings to consumers. It is also recognised that it may only be a problem with certain release formats. It is proposed to be added as consumer advice by classifiers with required expertise or that is experiencing motion sickness during a classification and is not mandatory advice and is not considered in the allocation of an age restriction.

Imitable acts and techniques may be a concern to parents and guardians as younger children may attempt to enact some of the acts and techniques observed during a film or game, which may be dangerous. The FPB proposes that warnings of this nature be included to raise awareness, but that it should ideally be indicated by film and game distributors. It is proposed to be added as consumer advice by classifiers with required expertise although it is recognised that it may be a subjective warning. It is however not mandatory advice and is not considered in the allocation of an age restriction.

“Criminal Techniques” has become a serious concern in recent years and is considered in Australia (however results in material to be refused classifications). It is already a consideration by classifiers in South Africa, although it is not reflected in the current guidelines. The FPB accordingly proposes the inclusion thereof as a classifiable element, which must be considered in the allocation of an age restriction.

During the research phase of the project, it was indicated by stakeholders and classifiers that more clarity has to be provided regarding sexual violence. Currently, different classifiers

indicate occurrences of sexual violence as either sex “S”, violence “V” or both respectively. However, it is critical to provide accurate and clear information to consumers regarding occurrences of sexual violence. It was accordingly decided to include sexual violence as a separate classifiable element to be considered in the allocation of either age restrictions, distribution restrictions or for it to be regarded as refused material.

Lastly for film, “Horror” has been added as a classifiable element not only due to the approach followed in the UK, but also as a result of recommendations by classifiers. Horror is regarded as more than a specific genre and may occur in different genre films and games. The FPB has accordingly decided to consider the impact of occurrences of horror in the allocation of age restrictions. In light of the fact that the guidelines should be reviewed on a regular basis, horror could be excluded in future if the public does not find it to be a useful element.

For example a fantasy film such as Harry Potter contains numerous scenes of horror which may be disturbing to younger viewers, although the films as such would not be regarded as horror movies.

An additional classifiable element has also been added to the classifiable elements of games. “Competitive intensity” was recognised to some extent in the previous guidelines wherein the guidelines explained the relationship between violence in games and subsequent aggression in children. In this version of the guidelines, the FPB has attempted to make a more explicit link between competitive intensity and violence and regards it as a classifiable element that must be considered in the allocation of an age restriction. It has been found that first person views and virtual reality perspectives result in gamers having a more intense experience. Accordingly, the level of competition is linked with the impact of either first or third person gameplay violence, in order to determine the impact of competitive intensity. The approach is illustrated more clearly in the user guide for these guidelines.

6.3 Proposed Age Restrictions:

The FPB has proposed the following age restrictions:

- “A” – all ages
- “PG” – means the material may contain classifiable elements that may be disturbing or harmful for sensitive young viewers and that parents and care-givers are in the best position to decide whether or not a child in their care may access material classified as “PG”
- “10” – means that children under the age of 10 may not access the material.

- 13PG” means an all-ages category but cautions sensitive viewers and indicates that parents and care-givers are in the best position to decide whether or not a child in their care that is under the age of 13 may view the films, DVD or Blu Ray for home entertainment purposes;
- “13” means that children under the age of 13 may not access the material’

All other age restriction and restricted distribution categories remain the same (16, 18, X18 and XX).

In this project the FPB considered the developmental stages of a child from early childhood (0 – 4 years) and middle childhood (5- 10/12 years) to adolescence (10/12 – 18). In doing this, the fact that there is a wide variation in terms of the milestones was also considered due to numerous factors such as genetic, cognitive, physical, family, cultural, nutritional, educational and environmental factors.

Parental guidance (“PG”) is generally used approach as advice to parents with children. The FPB has decided to place the onus on parents and caregivers to decide if a child is ready to access material. Accordingly the general “PG” is used as well as 13PG to provide such flexibility.

As explained in paragraph 2 above, in terms of the Children’s Act, children can make serious health related decisions such as giving or withholding consent to HIV testing and acquiring condoms and contraceptives at the age of 12. The FPB has considered aligning its age restriction approach with that of the Children’s Act. However, due to our schooling system wherein the child goes to secondary school at the age of 13, it was decided to retain 13 as an age restriction. This decision was supported by the responses obtained in the quantitative research, wherein a majority supported the current age categories.

The age category of 16 was also retained. It should be noted that in terms of the National Road Traffic Act, Act 93 of 1996, a child of 16 years of age can obtain a learners drivers licence. Most of the countries considered have a similar age to South Africa to obtain a learners or drivers licences (16 or 17 years) and legally allowing children to leave school (16, 17 or 18).

The quantitative research indicated that use of M (mature accompaniment) is not an approach that is widely understood or supported by South Africans. The FPB has accordingly removed reference to 10M and 13M in the current version of the guidelines. This was done to ensure a more user friendly and understandable classification environment. It should be

noted however, that in the context of films rated 13PG, parents are required to accompany their children under the age of 13 to cinemas.

In as far as age categories are concerned, the FPB has also aligned the age restriction approach of games to that of film to the extent possible. Accordingly, the age restrictions that are proposed in these guidelines to be applicable to games are PG, 10, 13 and 13PG, 16 and 18. The latter 2 age categories remained unchanged.

Publications were not extensively considered in the previous version of the guidelines and the existing provisions do not seem to provide enough guidance. It was therefore decided to provide a clearer indication of the age categories to be applied to different types of publications. It is however important to note that in line with the Films and Publications Act, only publications containing content that could potentially fall within the restricted distribution category (X18 or XX) must be classified. All other classifications of publications are voluntary, but must be classified by the FPB upon request. Voluntary classification does however not mean voluntary compliance, regardless of whether a publication has been classified or not, it must comply with the requirements set out in the classification guidelines.

6.4 Other considerations

The FPB has taken a strict stance on a number of issues, that were not dealt with previously in great detail in the guidelines. This includes *inter alia* the explicit regulation of paraphilia's as XX classified content, with the exception of paedophilia which is illegal in South Africa. The FPB considered the DSM-IV criteria for defining a paraphilia as follows:

"Paraphilias all have in common distressing and repetitive sexual fantasies, urges or behaviors. These fantasies, urges, or behaviors must occur for a significant period of time and must interfere with either satisfactory sexual relations or everyday functioning if the diagnosis is to be made. There is also a sense of distress within these individuals. In other words, they typically recognize the symptoms as negatively impacting their life but feel as if they are unable to control them."

The FPB propose to consider any content that may encourage any paraphilia's and classify it appropriately. This accordingly resulted in the recognition of paraphilias as well as the explicit mentioning of persons that appear *non compos mentis* in any instance in either films or games that may be involved in actions that fall within classifiable elements to be classified within the XX category, where appropriate.

7. CONCLUSION

The FPB has prepared these guidelines not just with the view of ensuring a more consistent internal approach towards classification, but also to enable any interested party or stakeholder to be in a position to understand and pre-empt the FPB approach. During the process of preparing the guidelines it transpired that the South African framework compares favourably to that of the rest of the world (for comparable countries), and the objective of these guidelines is to build upon that position.

ANNEXURE A

USER GUIDE – FILMS/GAMES/PUBLICATIONS

This user guide was prepared to assist in the interpretation of the draft Guidelines. It summarises some of the provisions and provides an illustration of the interpretation of the classification considerations.

FILMS

1. Considerations:

- Draft Guidelines introduce amended age restriction categories
- There seemed to have been confusion regarding the previous system of 10/10M/10PG/PG and the guidelines attempt to clarify it.
- The new age restriction categories are A, PG, 10, 13/13PG, 16 and 18. This leaves the discretion of accompanying the child to the cinema or with the use of home entertainment to the parent or caregiver.
- Although the FPB considered changing to age categories to 12 and 15 to align with the approach in other countries (UK, Australia and US) it was decided to remain with the current system, as all consumers are familiar with it and supported the current age categories based on the quantitative research.
- More classifiable elements were introduced – “photo or pattern sensitivity, motion sickness and reactions to low frequency sound” – is voluntary consumer advice, mainly to be indicated by distributors. However, if noticed by a classifier, may be indicated.
- More classifiable elements introduced – “imitable acts and techniques” – voluntary consumer advice, only indicated by classifier if noticed.
- More classifiable elements introduced - “criminal techniques” – mandatory consumer advice.
- More classifiable elements introduced – “sexual violence” “SV” – mandatory consumer advice – it is recognised that it should be clearly distinguished from S and V i.e.
- More classifiable elements introduced – “horror” “H” – classifiers indicated that there may be a requirement to consider horror as it is not regarded as “theme” in terms of context. It is used in the UK and seems to be a useful indicator to protect children.
- Introduce a system to measure impact (hopefully more clear) – first determine what is meant by low, mild, moderate, strong, very strong and extreme and then apply to the classifiable elements (please see grid’s below).
- Please note that classifiable elements with an Extreme impact generally falls either within the X18 or XX category (Restricted Distribution).
- Includes a section on the classification of trailers.
- Includes a section on the treatment of films with an educational value.

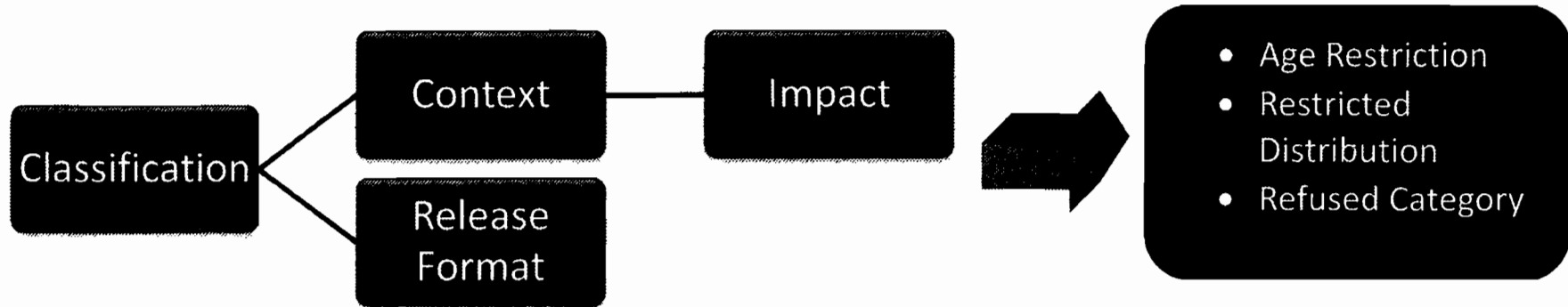
2. Process:

- Consideration of Context, Impact and Release Format is mandatory.
- The Impact must always be considered in light of the context, therefore a higher or lower rating than that indicated by the impact and classification grid if justified by the context

Considerations

=

Possible Decisions



IMPACT GRID – FILMS

No	Low *	Mild **	Moderate ***	Strong ****	Very Strong *****	Extreme *****
No classifiable elements	*no noteworthy single or cumulative occurrences of classifiable elements accordingly classifiable elements occur in passing or briefly	** only single occurrences of classifiable elements	***single or cumulative occurrences of classifiable elements and incidental depiction of a classifiable element	****single or cumulative occurrences of classifiable elements	****single or cumulative occurrences of classifiable elements	**** Single or cumulative occurrences of classifiable elements
No classifiable elements	*occurrences of classifiable elements are not realistic	*occurrences of classifiable elements are not realistic	*occurrences of classifiable elements are not realistic;	****Occurrences of classifiable elements may be realistic	****Occurrences of classifiable elements may be realistic	****Occurrences of classifiable elements may be realistic
No classifiable elements	*no details, close-ups or slow motion	*no details, close-ups or slow motion	*no details, close-ups or slow motion	****No details, close-ups or slow motion of sexual conduct or extreme violence	****May contain details, close-ups or slow motion of classifiable elements	****May contain details, close-ups or slow motion
No classifiable elements	*no accentuation techniques such as lighting, perspective and	*no accentuation techniques such as lighting, perspective and	*no accentuation techniques such as lighting, perspective and	****No accentuation techniques such as lighting perspective	*****May use accentuation techniques such as lighting perspective	*****May use accentuation techniques such as lighting

No	Low *	Mild **	Moderate ***	Strong ****	Very Strong *****	Extreme *****
	resolution	resolution	resolution	and resolution of sexual conduct or extreme violence	and resolution	perspective and resolution
No classifiable elements	*theme of material is not threatening and cause no moral harm	*theme of material is not threatening and cause no moral harm	*Theme of material may be threatening but cause no moral harm	*Theme of material may be threatening but cause no moral harm	*Theme of material may be threatening but cause no moral harm	*****Theme of material may be threatening and may cause moral harm.
No classifiable elements	*Classifiable elements form part of a bona fide story line	*Classifiable elements form part of a bona fide story line	*Classifiable elements form part of a bona fide story line	*Classifiable elements form part of a bona fide story line	*****Classifiable elements do not necessarily form part of a bona fide story line	*****Classifiable elements do not necessarily form part of a bona fide story line
No classifiable elements	*No verbal reference or visual representation of certain classifiable elements such as sexual activity or conduct and sexual violence	*No verbal reference or visual representation of certain classifiable elements such as sexual activity or conduct and sexual violence	**Verbal reference rather than visual representation of certain classifiable elements such as sexual activity or conduct and sexual violence with no noticeable effect	****Verbal reference rather than visual representation of certain classifiable elements such as sexual activity or conduct and sexual violence which may have a noticeable	*****Verbal reference and/or visual representation of certain classifiable elements such as sexual activity or conduct and sexual violence but not sexual violence	*****Verbal reference and/or visual representation of certain classifiable elements such as sexual activity or conduct, sexual violence and violence

No	Low *	Mild **	Moderate ***	Strong ****	Very Strong *****	Extreme *****
				effect		

FILMS - CLASSIFICATIONS

Classifiable Elements FILM	A	PG	10	13PG/13	16	18
"B"	Advise	Advise	Advise	Advise	Advise	Advise
"D"	NO	NO	**Low/Mild	**Low/Mild	***Moderate	****Strong
"H"	NO	*Low impact	**Low/Mild	***Moderate	****Strong	*****Very Strong
"L"	NO	*Low Impact	**Low/Mild	***Moderate	****Strong	*****Very Strong
"N"		*Low Impact non sexual	Low Non sexual	Mild Non sexual	***Moderate	****Strong
"P"	NO	NO	NO	*Low	***Moderate	****Strong
"S"	NO	NO (affection yes)	NO (affection yes)	*Low impact sexual activity	***Moderate sexual activity – No sexual conduct	***Moderate implied sexual conduct/ *****Strong sexual activity
"SV"	NO	NO	NO	NO	NO actual may be	NO actual may be

					implied	implied
"V"	NO	*Low	**Low/Mild	***Moderate	****Strong	****Strong
Photo/pattern sensitivity/Motion Sickness/ Low Frequency Sound	Voluntary Advise	Voluntary Advise	Voluntary Advise	Voluntary Advise	Voluntary Advise	Voluntary Advise
"Imitable Behavior"	Voluntary Advise	Voluntary Advise	*Voluntary Advise - low impact	**Voluntary Advise - mild	***Voluntary Advise - moderate	****Voluntary Advise - strong
"Criminal Techniques"	NO	NO	NO	NO	*Low	**Mild

Elements	X18 - just for rating purposes	XX - just for rating purposes
"S"	<p>***** Very Strong</p> <p>Explicit sexual conduct between consenting adults (no bona fide story line)</p>	<p>***** Extreme</p> <p>Explicit sexual conduct which violates or shows disrespect for the right to human dignity of any person</p> <p>Bestiality, incest rape (sexual violence)</p> <p>Conduct or act which is degrading of human beings</p> <p>Explicit infliction of sexual or domestic violence</p>

Elements	X18 - just for rating purposes	XX -- just for rating purposes
		<p>Non consensual sex and apparently non-consensual sex due to either party being non compos mentis</p> <p>Depictions and encouragement of Harmful Paraphillia's</p>
"V"	*****Very Strong	<p>*****Extreme</p> <p>Gratuitous, exploitative or offensive depictions of violence which are excessively frequent prolonged or detailed and cruelty or real violence which are very detailed</p>
"D"	*****Very Strong	<p>*****Extreme</p> <p>Conduct or act which is degrading of human beings</p>
"H"	*****Very Strong	<p>*****Extreme</p> <p>Detailed instruction or promotion in matters of crime or violence</p> <p>Conduct or act which is degrading of human beings</p>

Elements	X18 - just for rating purposes	XX – just for rating purposes
"V"	***** Very Strong	*****Extreme Explicit infliction of sexual or domestic violence Explicit visual presentations of extreme violence
"SV"	NO (unless part of bona fide story line/documentary or scientific dramatic or artistic merit))	*****Extreme Explicit infliction of sexual or domestic violence
Criminal Techniques	***** Very Strong (not detailed)	***** Extreme Detailed instruction or promotion in matters of crime or violence

GAMES

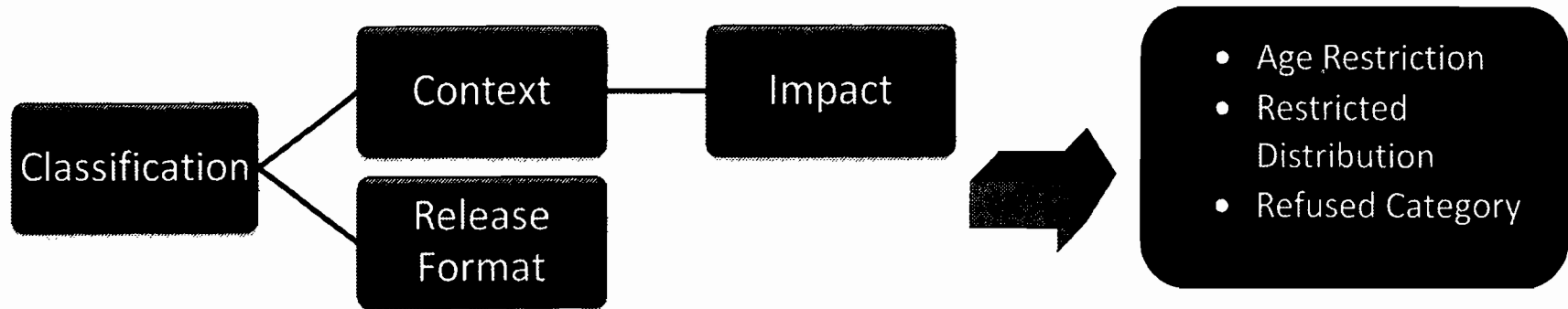
1. Considerations:

- Draft Guidelines align age restriction categories with films based on the same reasoning as that for films (above).
- Uses the same classifiable elements including the new ones.
- Introduces an additional classifiable element to that of films – “competitive intensity”.
- Competitive intensity was introduced in the previous version of the guidelines and is the link between aggression and the level of competition. Accordingly, it is a classifiable element when linked with violence in a game.
- Also introduces third and first person gameplay – as it has a direct link with the competitive intensity if a game is played in first or third person particularly as it relates to violence. This concept was aligned with the Australian approach.
- Introduces a system to measure impact (hopefully more clear) – first determine what is meant by low, mild, moderate, strong, very strong and extreme and then apply to the classifiable elements (please see grid’s below).
- Please note that classifiable elements with an Extreme impact generally falls either within the X18 or XX category (Restricted Distribution).

2. Process:

- Consideration of Context, Impact and Release Format is mandatory.
- The Impact must always be considered in light of the context, therefore a higher or lower rating than that indicated by the impact and classification grid if justified by the context

Considerations = Possible Decisions



IMPACT GRID – GAMES

*Low	**Mild	***Moderate	****Strong	***** Very Strong	*****Extreme
*no noteworthy single or cumulative occurrences of classifiable elements accordingly classifiable elements occur in passing or briefly	**only single occurrences of classifiable elements	***single or cumulative occurrences of classifiable elements and incidental depiction of a classifiable element	****single or cumulative occurrences of classifiable elements	*****single or cumulative occurrences of classifiable elements	*****Single or cumulative occurrences of classifiable elements
*occurrences of classifiable elements may be highly stylised and not realistic	*occurrences of classifiable elements may be highly stylised and not realistic	*occurrences of classifiable elements are not realistic	****Occurrences of classifiable elements may be realistic	*****Occurrences of classifiable elements may be realistic	*****Occurrences of classifiable elements may be realistic
*no details, close-ups or slow motion of nudity, sexual conduct or violence	*no details, close-ups or slow motion of nudity, sexual conduct or violence	*no details, close-ups or slow motion of nudity, sexual conduct or violence	****No details, close-ups or slow motion of nudity, sexual conduct or extreme violence	*****May contain details, close-ups or slow motion of classifiable elements	*****May contain details, close-ups or slow motion
*no accentuation techniques such as lighting, perspective and resolution	*no accentuation techniques such as lighting, perspective and resolution	*no accentuation techniques such as lighting, perspective and resolution	****No accentuation techniques such as lighting perspective and resolution of nudity, sexual conduct or extreme violence	*****May use accentuation techniques such as lighting perspective and resolution	*****May use accentuation techniques such as lighting perspective and resolution

*Low	**Mild	***Moderate	****Strong	***** Very Strong	*****Extreme
*theme of material is *not threatening and cause no moral harm	*theme of material is *not threatening and cause no moral harm	*Theme of material *may be threatening but cause no moral harm	*Theme of material *may be threatening but cause no moral harm	*Theme of material *may be threatening but cause no moral harm	*****Theme of *****material may be threatening and may cause ethical harm.
*limited occurrences of competitive intensity involving violence and violence occur in third person gameplay	*Occurrences of competitive intensity do not involve realistic and extreme violence and is infrequent or in third person gameplay	*Occurrences of competitive intensity do not involve realistic and extreme violence and is infrequent and may be in first person gameplay	*Occurrences of competitive intensity may involve realistic but not extreme violence and may be in first person gameplay	*****Occurrences of competitive intensity may involve realistic and extreme violence and may be in first person gameplay	*****Occurrences of competitive intensity may involve realistic and extreme violence and may be in first person gameplay
*no use of incentives or rewards for classifiable elements	*no use of incentives or rewards for classifiable elements	***some use of incentives or rewards for classifiable elements but not for nudity and sexual conduct or activity	***some use of incentives or rewards for classifiable elements but not for nudity and sexual conduct or activity	*****some use of incentives or rewards for classifiable elements	*****Use of incentives or rewards for classifiable elements;
*No verbal reference or visual representation of certain classifiable elements such as sexual activity or conduct, sexual violence and violence	*No verbal reference or visual representation of certain classifiable elements such as sexual activity or conduct, sexual violence and violence	***Verbal reference rather than visual representation of certain classifiable elements such as sexual activity or conduct, sexual violence and violence with no noticeable effect	***Verbal reference rather than visual representation of certain classifiable elements such as sexual activity or conduct, sexual violence and violence which may have a noticeable effect	*****Verbal reference and/or visual representation of certain classifiable elements such as sexual activity or conduct, and violence but not sexual violence	*****Verbal reference and/or visual representation of certain classifiable elements such as sexual activity or conduct, sexual violence and violence

GAMES - CLASSIFICATIONS

Classifiable Elements FILM	PG	10	13PG/13	16	18
"B"	Advise	Advise	Advise	Advise	Advise
"D"	NO	NO	NO	NO	**mild
"H"	*Low impact	**Low/Mild	***Moderate	****Strong	*****Very Strong
"L"	NO	Low/Mild	Moderate	Strong	Very Strong
"N"	NO	NO	NO	*Low – no incentives or rewards	***Moderate – no incentives or rewards
"P"	NO	NO	NO	NO	****Strong
"S"	NO (affection yes)	NO (affection yes)	NO (affection yes)	**Mild implied sexual activity – No actual sexual conduct or sexual activity	***Moderate actual or implied – no incentives or rewards
"SV"	NO	NO	NO	NO	NO actual may be implied
"V"	*Low - stylised	*low impact violence in first person gameplay or **mild impact violence in third person gameplay	***Moderate in third person gameplay, low or **mild impact violence in first person gameplay	****Strong - violence in third person gameplay, ***moderate impact violence in first person gameplay	*****Very Strong impact violence in third person gameplay and a ****strong impact in first person gameplay

Photo/pattern sensitivity/Motion Sickness/ Frequency Sound Low	Voluntary Advise	Voluntary Advise	Voluntary Advise	Voluntary Advise	Voluntary Advise
"Imitable Behavior"	Voluntary Advise	*Voluntary Advise - low impact	**Voluntary Advise - mild	***Voluntary Advise - moderate	****Voluntary Advise - strong
"Criminal Techniques"	NO	NO	NO	NO	NO
Competitive Intensity	**Mild - with no or *low impact violence in third person gameplay and first person gameplay	**Mild - provided there is *low impact first person gameplay violence and/or **mild impact third person gameplay violence	***Moderate - in ***moderate impact third person gameplay violence and **mild impact first person gameplay violence.	***Moderate impact in ***strong impact third person gameplay violence and ***moderate impact first person gameplay violence	****Strong impact in ****Very Strong Impact third person gameplay violence and ****strong impact first person gameplay violence

Elements	X18 - just for rating purposes	XX - just for rating purposes
"S"	<p>***** Very Strong</p> <p>Explicit sexual conduct between consenting adults (no bona fide story line)</p> <p>May not be linked to incentives or rewards</p>	<p>***** Extreme</p> <p>Explicit sexual conduct which violates or shows disrespect for the right to human dignity of any person</p> <p>Bestiality, incest rape (sexual violence)</p> <p>Conduct or act which is degrading of human</p>

		<p>beings</p> <p>Explicit infliction of sexual or domestic violence</p> <p>Non consensual sex and apparently non-consensual sex due to either party being non compos mentis</p> <p>Depictions and encouragement of Harmful Paraphilia's</p> <p>maybe linked to incentives or rewards</p> <p>*****Extreme</p>
<p>"V"</p>	<p>*****Very Strong</p>	<p>Gratuitous, exploitative or offensive depictions of violence which are excessively frequent prolonged or detailed and cruelty or real violence which are very detailed</p>
<p>"D"</p>	<p>*****Very Strong (not detailed)</p>	<p>Conduct or act which is degrading of human beings</p> <p>*****Extreme</p>

		Detailed instruction or promotion in matters of crime or violence
"H"	*****Very Strong (not detailed)	*****Extreme Conduct or act which is degrading of human beings
"V"	***** Very Strong (not detailed)	*****Extreme Explicit infliction of sexual or domestic violence Explicit visual presentations of extreme violence
"SV"	NO	*****Extreme Explicit infliction of sexual or domestic violence
Criminal Techniques	***** Very Strong (not detailed)	*****Extreme Detailed instruction or promotion in matters of crime or violence

PUBLICATIONS

1. Considerations:

- Current regulations required a critical overview.
- Only publications containing content mentioned in section 16 of the Act is mandated to be classified.
- All other publications may be classified upon request.
- The fact that the FPB does not classify all publications does not mean that compliance is not mandatory – non-compliance is an offence.
- Introduces age categories of 13, 16 and 18 in unrestricted publications, as well as a classification system.
- Classification system is only based on context and impact.
- Introduces a system to measure impact (hopefully more clear) – first determine what is meant by low, , moderate, strong, very Strong and extreme and then apply to the classifiable elements (please see grid's below).
- Please note that classifiable elements with a Very Strong impact generally falls either within the X18 or XX category (Restricted Distribution).

2. Process:

- Consideration of Context and Impact is mandatory in classification of publications.
- The Impact must always be considered in light of the context, therefore a higher or lower rating than that indicated by the impact and classification grid if justified by the context

IMPACT GRID – PUBLICATIONS

*Low	***Moderate	****Strong	*****Very Strong	***** Extreme
no noteworthy single or cumulative occurrences of classifiable elements	single or cumulative occurrences of classifiable elements and incidental depiction of a classifiable element	single or cumulative occurrences of classifiable elements	single or cumulative occurrences of classifiable elements	Single or cumulative occurrences of classifiable elements
No verbal reference or visual representation of certain classifiable elements such as nudity, sexual activity or conduct, sexual violence and violence including details or close-ups of violence, sexual activity or sexual conduct	Verbal reference rather than visual representation of certain classifiable elements such as sexual activity or conduct and violence	May have verbal reference and visual representation of certain classifiable elements such as nudity, sexual activity or conduct and violence	Verbal reference and/or visual representation of certain classifiable elements such as sexual activity or conduct, and violence	Verbal reference and/or visual representation of certain classifiable elements such as sexual activity or conduct, sexual violence and violence
NO	Any verbal reference to sexual violence must be handled discreetly and may not contain any visual representation of sexual violence	Any verbal reference to sexual violence must be handled discreetly and may not contain any visual representation of sexual violence	Any verbal reference to sexual violence must be handled discreetly and may not contain any visual representation of sexual violence	May contain verbal and visual representation of sexual violence
NO	No details or close-ups of nudity, sexual activity and violence	No details or close-ups of nudity, sexual conduct or extreme violence	May contain details and close-ups of classifiable elements	May contain details and close-ups
themes of an adult nature	Themes of an adult nature	Themes of an adult nature	Themes of an adult nature	adult themes may be

<u>Low</u>	<u>Moderate</u>	<u>Strong</u>	<u>Very Strong</u>	<u>Extreme</u>
<p>should be treated discreetly and not be exploitative and cause no moral harm</p> <p>Classifiable elements are not gratuitous and exploitative</p>	<p>should be treated discreetly and not be exploitative and cause no moral harm</p> <p>Classifiable elements are not gratuitous and exploitative</p>	<p>should not be exploitative and cause no moral harm</p> <p>Classifiable elements are not exploitative and gratuitous</p>	<p>should not be exploitative and cause no moral harm</p> <p>Classifiable elements are not exploitative and gratuitous</p>	<p>exploitative and may cause moral harm</p> <p>Classifiable elements are gratuitous and exploitative</p>
<p>No</p>	<p>No visual representations of sexual conduct</p>	<p>May contain visual representations of sexual conduct</p>	<p>May contain visual representations of sexual conduct</p>	<p>May contain visual representations of sexual conduct</p>

PUBLICATIONS - CLASSIFICATIONS

Classifiable Elements	13	16	18	X18	XX
Strong language	*Low	***Moderate	*****High	*****Extreme – no encouragement of sexual violence or paraphilias	*****Extreme
Nudity	*Low	***Moderate	***Strong	Not Applicable	Not Applicable
Prejudiced Language	NO – unless disapproved of	NO – unless disapproved of	***Moderate – provided it is disapproved of	***Strong – provided it is disapproved of	*****Extreme – no incitement of imminent violence or hatred
Sexual Conduct or activity	NO	***Moderate - implied sexual activity but no actual	***Moderate language but no depictions of sexual conduct ***Strong depictions of sexual activity	*****Very Strong	*****Extreme – gratuitous, exploitative or offensive depictions of sexual conduct and paraphilias
Sexual Violence	NO	NO – only of educational value and disapproved of	NO – only of educational value and disapproved of	NO – only of educational value and disapproved of	*****Extreme Explicit infliction of sexual or domestic violence
Violence	*Low	***Moderate	***Strong	*****Very Strong	*****Extreme
Criminal Techniques				*Low	*****Extreme Detailed instruction or promotion in matters of crime or violence
"D"	*Low	***Moderate	***Strong	*****Very Strong	*****Extreme Detailed instruction or promotion in matters of crime or violence