

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Communications
Classification (Publications, Films and Computer Games) Act 1995
Classification (Publications, Films and Computer Games) (Markings and Consumer Advice)
Amendment Determination 2017

The *Classification (Publications, Films and Computer Games) Act 1995* (the Act) facilitates the operation of the cooperative legislative scheme for classification in Australia. The Act sets out procedures for the classification of films, computer games and some publications.

Authority for making the instrument

Subsection 8(1) of the Act enables the Minister, by legislative instrument, to determine markings for each type of classification giving information about the classification and principles relating to the display of the markings and consumer advice.

Subsection 8(1A) of the Act provides that the Minister may determine principles relating to the manner in which the markings are to be displayed.

Subsection 8(1B) of the Act provides that the Minister may determine principles relating to the manner in which consumer advice is to be displayed.

Purpose of the instrument

This legislative instrument provides for an exemption from the requirement for a still or moving image that advertises a classified film or computer game on a screen to display the consumer advice relating to the film or game. This is provided in item 4 which inserts subsection 15(3) into the *Classification (Publications, Films and Computer Games) (Markings and Consumer Advice) Determination 2014* (the principal determination).

Issues giving rise to the need for the instrument

The exemption in the principal determination states that a still or moving image that advertises a classified film or computer game on a screen does not need to display consumer advice if the person screening the advertisement reasonably considers that they are incapable of adding consumer advice to the content of the advertisement. The exemption ends on 1 February 2017.

Advertisements that are subject to the requirement include movie trailers that are shown to audiences in cinemas. The cinema exhibition industry has indicated that it is unable to comply with the requirement to display consumer advice and has requested an ongoing exemption.

It will still be a requirement in the principal determination that advertisements on a screen display the classification markings of the advertised film or computer game. Cinemas will still be required to display classification markings and consumer advice for films before the point of ticket purchase, including on the internet for online ticket sale.

Consultation

The Department consulted state and territory classification officials and the Independent Cinema Association of Australia (ICAA), the National Association of Cinema Operators (NACO), the Motion Picture Distributors Association of Australia (MPDAA) and the Interactive Games and Entertainment Association (IGEA).

Commencement

This legislative instrument commences on 2 February 2017 immediately after the expiry of “Part 4 Further transitional provisions” in the principal determination on 1 February 2017.

In accordance with subsections 44(1) and 54(1) of the *Legislation Act 2003*, the legislative instrument is not subject to disallowance or sunset. This is because the Act facilitates the establishment or operation of an intergovernmental scheme involving the Commonwealth and one or more of the states, and authorises the instrument to be made for the purposes of the scheme by the Minister.

Regulation Impact

The Office of Best Practice Regulation (OBPR) advised that the legislative instrument does not have a major regulatory impact and a Regulation Impact Statement is not required (OBPR ID: 21568).

Senator the Hon Mitch Fifield
Minister for Communications

19 December 2016

Details of the *Classification (Publications, Films and Computer Games) (Markings and Consumer Advice) Amendment Determination 2017*

Item 1 – Name

Item 1 provides that the title of the instrument is *Classification (Publications, Films and Computer Games) (Markings and Consumer Advice) Amendment Determination 2017*.

Item 2 – Commencement

Item 2 provides for the instrument to commence immediately upon the expiry of “Part 4 Further transitional provisions” in the *Classification (Publications, Films and Computer Games) (Markings and Consumer Advice) Determination 2014* on 1 February 2017. The instrument commences on 2 February 2017.

Item 3 – Amendment of paragraph 15(1)(c) of *Classification (Publications, Films and Computer Games) (Markings and Consumer Advice) Determination 2014*

Item 3(1) inserts “subject to subsection 15(3),” before “A still or moving image” in paragraph 15(1)(c) of the principal determination.

Item 3(2) omits “A” and inserts “a”.

This means that the requirement in paragraph 15(1)(c) of the principal determination that a still or moving image that advertises a classified film or computer game (including an online advertisement) must display the relevant classification marking and consumer advice is subject to an exemption in subsection 15(3) of that determination.

Item 4 – After subsection 15(2) of *Classification (Publications, Films and Computer Games) (Markings and Consumer Advice) Determination 2014*

Item 4 inserts an exemption provision as subsection 15(3) immediately after subsection 15(2) of the principal determination. The exemption provision states that if a person reasonably considers that they are incapable of adding to the content of an advertisement, it will be sufficient for compliance purposes if the classification symbol rectangle or classification symbol square applicable to the advertised film or computer game is displayed. In such a situation, there is no obligation to display consumer advice. Item 4 notes when this exemption provision may apply.