

# CHAPTER 2

## KEY ISSUES AND COMMITTEE VIEW

### **Key issues**

2.1 The committee received six submissions to this inquiry. Of those submissions, the Australian Mobile Telecommunications Association (AMTA) and Mr Bruce Arnold expressed support for the Bill.

2.2 AMTA stated:

AMTA supports the Bill as an interim measure...AMTA believes that [the Bill] reflects current industry practices which are working well. The Bill will provide industry and consumers with the necessary classification of legal and regulatory requirements.<sup>1</sup>

2.3 Mr Arnold commended the Bill as a 'forward-looking and positive interim response to the challenges posed by adoption of digital technologies in an increasingly globalised environment'.<sup>2</sup>

2.4 The Queensland Police Service, while not expressly supporting the Bill, considered that the measures in the Bill would be of 'no detriment' to their operations and '[t]he proposed amendments contain sufficient safeguards to ensure appropriate scrutiny of online games'.<sup>3</sup>

### ***Breadth of exemption***

2.5 The committee received two substantive submissions opposing the Bill, from FamilyVoice Australia and the Australian Council on Children and the Media (ACCM).

2.6 FamilyVoice Australia argued that, in its view, the scope of the proposed exemption from classification for mobile device and online games is 'very broad indeed'.<sup>4</sup> FamilyVoice Australia described the Bill as a 'major loosening' of classification standards for computer games available only online or on a mobile device.<sup>5</sup> FamilyVoice Australia contended that '[i]n effect, this would allow such

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1 *Submission 2*, p. 1.

2 *Submission 3*, p. 2.

3 *Submission 5*, p. 1.

4 *Submission 1*, p. 3.

5 *Submission 1*, p. 4.

games to be readily accessible to children without any age verification being required'.<sup>6</sup>

2.7 ACCM expressed concern at the proposals in the Bill to deregulate the classification of content, arguing that it is 'very difficult politically to re-regulate anything that has been deregulated'.<sup>7</sup>

2.8 The committee notes that a number of safeguards are in place to regulate these types of computer games. As the Minister pointed out in his Second Reading Speech:

Consumers, the general community, the computer game industry, and government will be able to rely on a number of existing protections to exercise suitable control over 'exempt online games'.

Under the Classification Act, any person may submit a computer game to the Classification Board for classification upon payment of a prescribed fee. This option will continue to apply to exempt games.

Under the *Broadcasting Services Act 1992* anyone may lodge a complaint with the Australian Communications and Media Authority about any 'exempt online game' that is reasonably suspected of containing material likely to cause the computer game to be classified MA 15+ or above that is not behind a restricted access system. ACMA will investigate complaints and may refer material to the Classification Board for classification.

In addition, the Director of the Classification Board will retain the power to call in a computer game for classification if it is reasonably suspected to contain material likely to be classified M or above, or if the director suspects that the computer game may not be an 'exempt online game'.

Law enforcement agencies will also continue to be able to apply for the classification of an 'exempt online game'.<sup>8</sup>

2.9 The committee understands from this statement that the Bill will not remove the requirement that material classified MA15+ to have a restricted access system.

2.10 As the EM states, the exemption for classification for mobile and online games does not apply to computer games that are likely to contain 'Refused Classification' material, and existing protections against this category of material contained in Commonwealth, and state and territory legislation will continue to apply.<sup>9</sup> The committee also notes the comments of Mr Arnold that the Bill 'does not open the floodgates to content that is appropriately criminalised'.<sup>10</sup>

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6 *Submission 1*, p. 4.

7 *Submission 6*, pp 3-4.

8 *House of Representative Hansard*, 12 October 2011, p. 11554

9 EM, p. 1.

10 *Submission 3*, p. 5.

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### ***Two-year sunset provision***

2.11 AMTA, while supporting the Bill, raised a concern about the two-year sunset period for the Bill's application. AMTA noted that the Bill is intended to stay in place for two years to allow long-term reforms resulting from the ALRC's review to be established:

While AMTA agrees with this intention, there is concern that the two year period could potentially be too short which would then leave industry faced with regulatory uncertainty until long-term measures can be put in place. AMTA suggests that the Bill's measures should remain in place until such date as they are replaced by longer-term arrangements.<sup>11</sup>

2.12 The committee notes that the Minister in his Second Reading Speech advised that any solution arising out of the ALRC process 'is still some time away'.<sup>12</sup>

### **Committee view**

2.13 In the committee's view, the Bill is a reasonable and sensible interim solution until longer-term reforms for the classification of mobile device and online games are introduced.

2.14 In reaching this view, the committee agrees with the concerns raised by industry and the Director of the Classification Board, as noted by the Minister in his Second Reading Speech, that the legal requirements and obligations for the classification of games played online and on mobile devices need to be clarified.<sup>13</sup>

2.15 Finally, the committee recognises that the measures in the Bill are only interim measures, and that long-term reforms for the classification of mobile device and online games will be informed by the ALRC's review of the National Classification Scheme. The committee believes that a two-year period is sufficient time for any reforms arising from the ALRC review to be considered and implemented.

### **Recommendation 1**

**2.16 The committee recommends that the Senate pass the Bill.**

**Senator Trish Crossin**  
**Chair**

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11 *Submission 2*, p. 2.

12 *House of Representatives Hansard*, 12 October 2011, p. 11553.

13 See the Hon Brendan O'Connor, Minister for Justice, *House of Representatives Hansard*, 12 October 2011, p. 11553.



