CLEAR & FAIR

Consistent classifications that work for New Zealanders

The way we watch films and shows has changed dramatically in recent years and classification legislation has not kept up.

Commercial video on demand platforms and providers offer a vast range of content to New Zealanders which is not covered by the Films, Videos & Publication Act 1993. A survey we commissioned last year found about a third of New Zealanders regularly use these services to watch their shows and films.

This regulatory gap has meant where age ratings and descriptive notes are included they are inconsistent and sometimes inaccurate, leaving NZ consumers in the dark about key content. Our research tells us New Zealanders want warnings – particularly about sexual violence, rape, and suicide.

While the government has signaled a wider review of content regulation, this simple change can be made now as a sensible interim step that is cost effective and quick to put in place. The self-rating approach is the direction that other countries are heading in.

Making this change will mean a positive change sooner, so that families and young people are given the information they need to make good choices about what they view.

The problem:

Commercial video on demand classifications and warning notes are inconsistent and unreliable.

- A movie appears on different platforms with completely different classifications and warnings. This creates confusion for NZ consumers seeking reliable information when making viewing choices for themselves – or for young people in their care.

- Providers are streaming increasingly graphic content without displaying adequate age ratings and content warning notes.

- Uncertainty around the current law has led some commercial video on demand providers to display overseas classifications or their own self-generated ratings on titles.

Responses have been mixed:

Responsible industry participants recognise the need to warn consumers, but have struggled with the absence of clear regulation in NZ.

Some commercial video on demand providers (including Lightbox and Netflix) are members of the **New Zealand Media Council (NZMC)**, which has developed a voluntary code for commercial video on demand content.

NZMC members who elect to use the code, apply age labels with letters indicating violence, language, sex, and disturbing content (V, L, S, D). This doesn't warn of specific harmful content, such as suicide or rape. There is no R13 equivalent. The code is 'opt in'. Netflix is an example of a member that implements its own system, which differs significantly from both the code and official NZ classifications.

Meanwhile, other major commercial video on demand providers are not even members of the NZMC. Amazon is one example who take their own approach to ratings and don't provide any content warnings at all.

Without a clear direction, the picture will remain confused and confusing for the NZ public.

Examples of unclear and confusing classifications

Here's how it's self-rated by streaming platforms

Suicide Squad

RESTRICTED 13 Restricted to persons 13 Years and over. Violence, horror and cruelty

EXAMPLE 1

SUICIDE SQUAD (Marvel)

Official NZ classification:

R13: Violence, horror and cruelty

Here's how it's self-rated by VoD platforms:

AppleTV classification:
PG13 but no content warning

GOOGLE PLAY classification:
M (unrestricted) with no content warning

❝ *I am left wondering what on earth the NZ ratings system is really for, because providing an accurate guide for parents/caregivers and placing appropriate obligations (and authority) [on providers] to police their audiences does NOT appear to be what is happening... As a parent, I am very much aware of my responsibilities to my children and take them seriously. Accurate ratings are an important part of that, as no parent has the time or can afford to pre-screen every movie they consider letting their children see, hence my concern in this case* **❞ – AUCKLAND DAD RESPONDING TO** *SUICIDE SQUAD* **CLASSIFICATION BEFORE THE CLASSIFICATION OFFICE INTERVENED**

Suicide Squad
August 2016 M 122 minut[es]
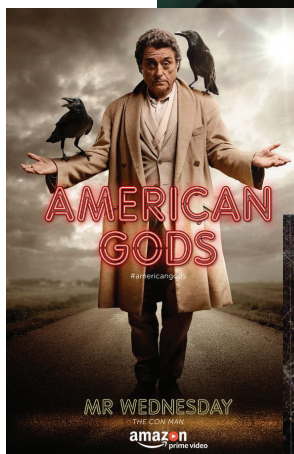
RENT HD $4.99   BUY H
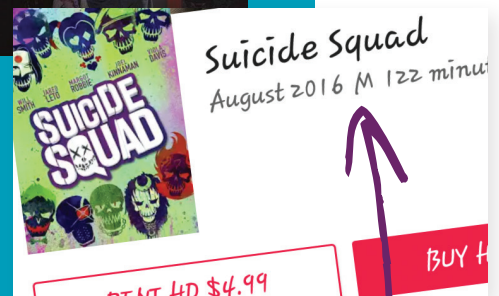
This is all consumers see on Google Play

EXAMPLE 2

The two series, *Slasher* and *American Gods* were previously classified **R18** by the Classification Office with warning notes for 'Graphic violence, horror, sex scenes and offensive language.'

These titles appear on Netflix and Prime Video without content warnings.


Slasher

EXAMPLE 3

Titles previously banned in New Zealand have since appeared on some streaming services.

One example is *The Human Centipede 2* which the Classification Office classified as **'Objectionable'**. The Chief Censor intervened to have the film removed from Netflix in NZ.

The film is an unsubtle portrait of a sexually deranged man who tortures a group of largely anonymous victims in extreme, unflinching detail with a sustained, gratuitous focus on victims' torture, mutilation, forced defecation, rape and murder. These images are linked by a threadbare plot that provides limited narrative justification. This film would be deeply disturbing and shocking to most people.
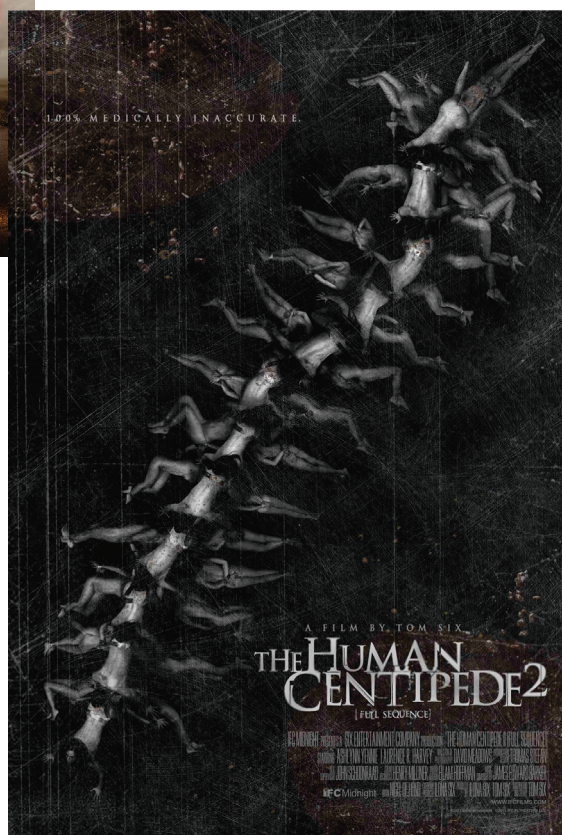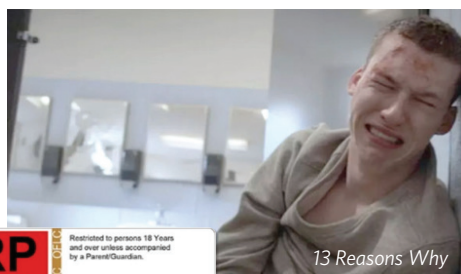
EXAMPLE 4

Not only is some of the Commercial Video on Demand content high-impact material, it's also strongly marketed directly to NZ teenagers – without adequate warnings. Some of this content includes harmful and graphic depictions of suicide and rape.

Season 2 of Netflix's global teen phenomenon *13 Reasons Why* was called-in by NZ's Chief Censor and classified **RP18** with a strong warning for 'Rape, suicide themes, drug use and bullying'.

13 Reasons Why

CLEAR & FAIR Consistent classifications that work for New Zealanders
Prepared by the Office of Film and Literature Classification | February 2020

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The harms and concerns are real

We are seeing an increasing number of films and series that deal with suicide – most recently in *A Star Is Born*. The Classification Office needed to urgently respond to public concerns (and some acute reactions) with a suicide warning. That provides some protection for cinema goers. BUT we know most have not displayed that warning.

A Star Is Born
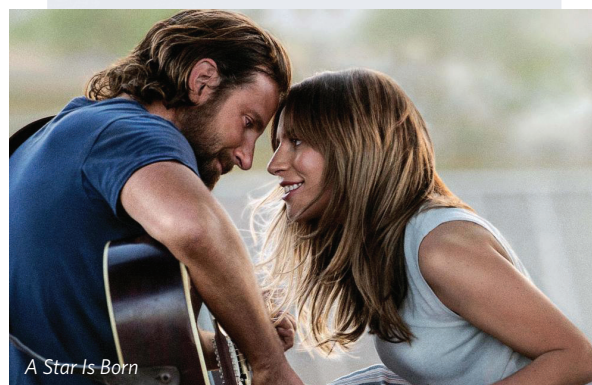
EXAMPLE

TO THE BONE
RP16: Shows realistic, harmful behaviour, with risk of imitation.

" *As a school we are looking at communicating with our parents and our National Association is looking at communicating with our members as well to raise awareness of the potential for this movie to cause harm.*
Is there any intention to look at its rating before the film is released on Netflix? Personally, I believe this film has far more potential to harm than 13 Reasons Why *had because it is shorter and therefore more likely to be watched in its entirety* **– TEACHER/PARENT AND PRESIDENT OF THE NATIONAL ASSOCIATION OF MEDIA EDUCATORS CONCERNED ABOUT THE NETFLIX NZ RELEASE OF *TO THE BONE***

" *... I support the reclassification/ additional note on* A Star is Born.
Had I known it featured a graphic suicide I would never ever have attended the movie. I was absolutely floored by it and left very distressed. Not how I would ever choose to spend a 'relaxing' night, or my 'entertainment' budget!
I wish I had the opportunity to make an informed decision whether to see that content. The trailer (and classification) gave no evidence of the theme.
Thankfully I have had the opportunity to warn off friends and family who I know would also find this disturbing." **– FILM-GOER COMPLAINING TO THE CLASSIFICATION OFFICE ABOUT *A STAR IS BORN***

Chief Censor's decision:

It has merit for shedding light on eating disorders and will hopefully help some sufferers to seek help and treatment. There is risk, however, that content could be triggering to eating disorder sufferers or those at risk, and encourage the imitation of harmful behaviours. It is important that this content is viewed critically, and with the necessary support.

While there is social benefit in young people seeing this film, children and younger teenagers are unlikely to have the skills, knowledge and life experience to critically assess the more problematic content, and would benefit from the support of a parent or other responsible adult to discuss any issues or concerns and clarify misapprehensions that may arise when viewing.

CHANGES ARE NEEDED
WHY NOW?

While the government has announced a wider review of content regulation, the proposed legislative amendments address these issues in the here and now. They're cost effective and quick to implement, paving the way for further smart digital processes to be adopted and upgraded across other areas of media content going forward.

There is also some urgency. The longer this process takes, the longer New Zealand consumers – including families and young people – are without the information they need to manage their exposure to harm and make informed viewing decisions. The simple and straightforward amendments this bill proposes are easy to understand and implement.

minds over media
Watch carefully. Think critically.

OFFICE OF FILM & LITERATURE CLASSIFICATION
Te Tari Whakaropū Tukuata, Tohitohunga

SELF RATING IS THE WAY FORWARD

Consistent labelling of commercial video on demand is easy (and quick to do!)

The New Zealand public is entitled to reliable, clear and consistent age ratings and warning notes.

The compliance requirements are small, applied by the providers themselves (through a self-rating process) and will work in with the systems already used by a range of providers. This is a fully digital solution for new digital media. Large global providers comply with far more onerous regimes in some other countries.
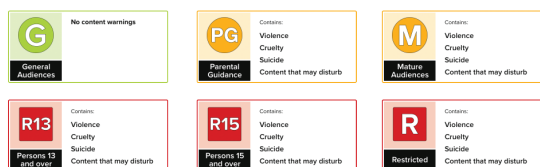
Ease of access will be assured through a streamlined online tool – or a direct machine-to-machine interface that can link directly to providers' systems.

The schedule of providers is designed to be updated quickly and easily, to keep pace with anticipated changes in this market.
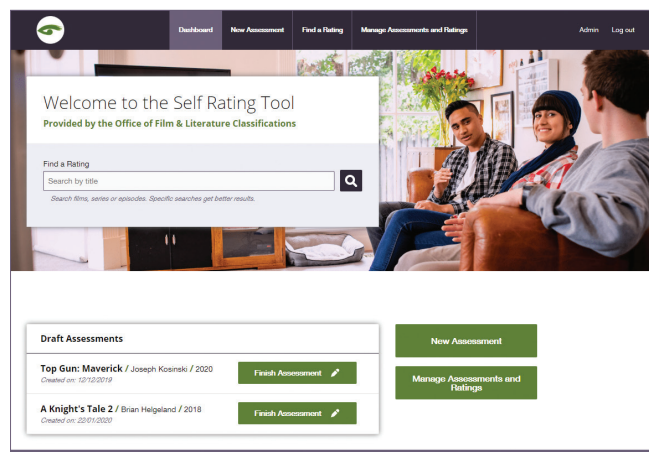
How will it work?

UP FRONT – what the consumer sees

NZers see consistent and familiar age labels and consumer information – THAT THEY TRUST! They can view on either:

- Commercial video on demand providers' own services; and/or
- By accessing them easily online

BEHIND THE SCENES

Commercial video on demand providers label their own content using either The Classification Office online tool or The Classification Office-approved age rating algorithm.

The providers are responsible for keeping labels current and displaying them correctly.

The Classification Office oversees the self-rating system, the online tool, and a live database of all commercial video on demand ratings.

Some complaints received by members of the public may highlight opportunities for system improvements. Such cases will be addressed in the update and improvement mechanisms forming part of the approved ratings regime.

CLEAR & FAIR Consistent classifications that work for New Zealanders
Prepared by the Office of Film and Literature Classification | February 2020

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GUIDING PRINCIPLES

Some useful principles to guide this work are:

1. **CLEAR AND CONSISTENT** age ratings no matter which platform.

2. **WORKS FOR NEW ZEALANDERS.** Clear and accessible ratings and consumer information that reflects New Zealanders' values and concerns.

3. **SIMPLE AND COST EFFECTIVE** for industry and government.

4. **FAST AND FLEXIBLE.** Adaptable digital solutions for a digital media landscape.

5. **FAIR.** To local providers and international providers alike.

1. CLARITY & CONSISTENCY

This reduces confusion within a diverse market. Instead of each platform having to manage and apply their own ratings system and descriptive notes, a simplified, streamlined system benefits consumers while also making things easier for distributors.

2. WORKS FOR NEW ZEALANDERS

This means better information for NZ consumers. Consistent descriptive notes across all platforms means consumers are able to make informed decisions, no matter how or where they view content. We know from our research and experience that New Zealanders are particularly sensitive to content featuring suicide. We also know that New Zealanders – particularly our young people – want to be warned of content involving sexual violence.

3. SIMPLE & COST EFFECTIVE

Any robust classification process and framework will involve cost and resource to providers. At a minimum this will involve viewing the content and self-rating their own content. The proposed amendments should be relatively cheap to implement for industry and government.

4. FAST & FLEXIBLE

Our web-based digital ratings tool will be ready for industry as soon as legislation allows. Other providers may prefer to adapt their own in-house digital ratings tools to comply with our regulations and fit a New Zealand framework. We are flexible and able to work closely with providers in order to provide this service and any necessary training. Digital rating means a high volume of content can be rated quickly, efficiently and effectively. The digital functionality also means the system is agile and responsive – changes can be made quickly in real time.

5. FAIR

Implementation of a New Zealand framework will apply to commercial video on demand content here, regardless of source. Overseas distributors will be subject to exactly the same conditions as local platforms, with all providers held to the same standard. These expectations are not unreasonable and will not unfairly disadvantage local industry. We believe international providers are willing and able to comply with these reasonable requirements.

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Suicide Squad

THE PERFECTION

Euphoria

BIG LITTLE LIES

Example of shows and their ratings and classifications

	OFFICIAL NZ CLASSIFICATION / RECOMMENDATION	ON LIGHTBOX	GOOGLE PLAY	
Suicide Squad	**R13** Violence, horror & cruelty	**16** V	**M** (No descriptive information)	Greatly differing age ratings and serious discrepancies in consumer warnings and information
Big Little Lies	**R13** Domestic violence, sexual violence, sex scenes & offensive language	*NEON* **16** VLS		Greatly differing age ratings and serious discrepancies in consumer warnings and information
The Perfection	**R18** Rape, sexual violence, suicide references, graphic violence	*NETFLIX* **16+** Language, violence, nudity Changed to NZ classification after Classification Office contacted provider		Differing age ratings and discrepancies in consumer warnings and information
Euphoria	**R18** Contains rape, drug use, sex scenes and self-harm	*NEON* **18** VLSC		Discrepancies in consumer warnings and information

SELF-RATING IS THE WAY FORWARD

The use of digital tools to help industry self-rate content according to a NZ framework is consistent with approaches we are seeing trialed and adopted in overseas jurisdictions such as Australia and the UK. We are engaging with our international colleagues on opportunities to combine digital tools in order to simplify classifications internationally, while still preserving the unique values and concerns of each country's domestic audience. For example, the development of a single input multi output (SIMO) tool could enable content to be self-rated in the UK or Australia and then a local provider could generate a NZ classification by simply checking the relevant box.

SHORT TERM	MID TERM	LONG TERM
Updating legislation to bring Commercial Video on Demand under FVPCA, and implementing a self-classification tool.		The Government has signaled a broader media regulation review. We know technology will continue to drive change in the media landscape, with opportunities for greater international collaboration in future.

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Q&A

How enforceable is self-rating for international providers? Because the regulation is domestic does that mean only local providers will be subject to enforcement?

The Bill has extra territorial application and applies equally to all commercial video on demand providers who make streaming content available to New Zealanders. These international companies are already subject to classification regulations overseas and they comply with them. Our engagement with international providers in this space tells us that they are prepared to comply with reasonable local regulation if required.

Is there a risk that this will impact choice for NZ consumers as some providers may pull out of the country or reduce their range of content?

Given that this framework is low cost and simple for providers to implement, this would be unlikely to impact services provided to NZ public.

We have not seen providers withdraw from other jurisdictions due to regulation. This light-handed regulatory approach will not require providers to make significant investment to supply our relatively small market.

What about requirements for balance and fairness in Commercial Video on Demand services similar to standards for free-to-air and Pay TV and film?

Standards for balance and fairness are very important for television – particularly for news and current affairs. Commercial video on demand providers, however, focus primarily on entertainment and do not typically have any significant news or current affairs component. The provision of documentary content is generally a small proportion of the catalogues for commercial video on demand providers.

There may be a rationale for ensuring that the wider balance of material available from commercial video on demand services should be subject to some formal standards or oversight – but is best discussed as part of a wider review of content regulation in New Zealand and is not therefore addressed by the proposals currently under consultation.

Would this mean that potentially all paid online video content is required to be classified?

No. The proposed amendments seek to address the substantial gap in providing New Zealand consumers with consistent, clear and reliable content ratings and warnings for commercial video on demand content. This would not apply to platforms providing specialist content (such as sites providing access to technical or informational videos for a fee, or news sites providing content behind a pay wall. NZ subscribers to new, technical or specialist sites will be aware of the nature of the content they are paying for.

Why is traditional media – such as films and TV – still required to go through outdated bureaucratic systems? Aren't we giving commercial video on demand preferential treatment?

The proposal is fairer than the current situation where commercial video on demand is not covered by the classification regime at all. Lessons learned from this change will be able to be applied more widely in future.

In the meantime the traditional approach to classification continues to work reliably for physical media such as films and games. Significant concessions are already available for low volume DVD releases, film festivals and special interest films.