

10 June 2011

Convergence Review Secretariat
Department of Broadband, Communications and the Digital Economy
GPO Box 2154
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By email: convergence@dbcde.gov.au

Dear Sir/Madam

SUBMISSION ON CONVERGENCE REVIEW – FRAMING PAPER

The National Film and Sound Archive (**NFSA**) commented on the Proposed Terms of Reference¹ and welcomes this opportunity to comment on these aspects of the Framing Paper:

1. the appropriateness of the principles as a starting point for the review; and
2. the policy issues raised by the principles in relation to the evolving media and communications environment.

1. THE APPROPRIATENESS OF THE PRINCIPLES AS A STARTING POINT FOR THE REVIEW

The NFSA considers the principles appropriate for the review, subject to comments in part 2 of this submission.

On a point of accuracy, it appears that Principle 5 should refer to paragraph 5(e)(i), not 5(e)(ii).

2. POLICY ISSUES RAISED BY THE PRINCIPLES IN RELATION TO THE EVOLVING MEDIA AND COMMUNICATIONS ENVIRONMENT

The NFSA observed in its initial submission that the phenomenon of convergence presents challenges to regulation other than communications and media regulation. The NFSA submitted that copyright law and classification law should be expressly included in the Terms of Reference, for consideration in the course of this review.

¹http://www.dbcde.gov.au/digital_economy/convergence_review/submissions_received_on_draft_terms_of_reference_for_convergence_review/convergence_review_terms_of_reference_structured_submission?submissionid=99

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The Review Committee has dealt with copyright, classification and other forms of content regulation by acknowledging their relevance in the Terms of Reference in introductory remarks and indirectly at paragraph 2. The Framing Paper on pages 6-9 presents the regulation of media content and communication services as the main focus of the review while recognising other legislative and regulatory frameworks as 'Other policy considerations' on page 17.

The submissions of many other organisations and individuals, including the first comment posted on the Convergence Review Discussion Pages², have referred to the inextricable link between copyright and convergence. The link becomes more pronounced when principles underlying copyright law and classification law are reflected in the following principles in the Framing Paper.

Diversity and competition

Principle 1: Australians should have access to a diversity of voices, views and information

Local and Australian content

Principle 3: Australians should have access to Australian content that reflects and contributes to the development of national and cultural identity

Community standards

Principle 4: Australians should have access to news and information of relevance to their local community

Principle 5: Communications and media services available to Australians should reflect community standards and the views and expectations of the Australian public

Consumer and citizen rights

Principle 6: Australians should have access to the broadest range of content across platforms and services as possible

If the scope of the Terms of Reference is open to comment about copyright and classification, the NFSA submits that the *Copyright Act 1968* (Cth) and the *Classification (Publications, Films and Computer Games) Act 1995* (Cth) should be mentioned in the Framing Paper under 'Other policy considerations' or in the context of the numbered principles.

Copyright appears most relevant to paragraphs 2, 3, 4, 5(b), 5(c), 5(d), 5(e)(ii), 5(g) of the Terms of Reference and Principles 1, 3, 4, 5 and 6.

Classification appears most relevant to paragraphs 3, 4, 5(d), 5(e)(i), 5(e)(ii), 5(g) of the Terms of Reference and Principles 1, 3, 5 and 6.

We appreciate the Review Committee's consideration of this submission. If you have any questions, please contact Adam Flynn, Senior Legal Officer, by phone on 02 6248 2056 or by email at adam.flynn@nfsa.gov.au.

Yours sincerely



Ann Landrigan
Acting Chief Executive Officer

² <http://blog.dbcde.gov.au/convergencereview/proposed-principles/diversity-and-competition/>