

**OBJECTIVE TWO**

To enable the publishing, film and computer game industries to produce and market their products in accordance with public classification standards and preset conditions of sale and exhibition.

## KEY OUTCOMES

- Several industry conventions were attended by OFLC staff, including the Director, senior officers and the CLOs. These officers provided information about classification legislation and legal obligations under the national classification scheme.
- Preparatory work was undertaken on the combined review of the film and computer games classification guidelines.
- The training and authorisation of 19 people to recommend classifications for computer games in the advisory categories in accordance with the Classification Act was undertaken.
- The OFLC granted classification exemptions for 108 film festivals and events.
- Preliminary work commenced on a major reorganisation of the OFLC's website aimed at making it more comprehensive and user-friendly.
- The OFLC's Customer Service Charter was launched by the Attorney-General on 8 September 2000.
- The CLO scheme covering all States and Territories was expanded to include a third CLO.

## CLIENT AND INDUSTRY LIAISON

During the reporting period the OFLC maintained its commitment to close liaison with industry groups and clients.

Consultations with industry during the reporting period included those relating to the implementation of a child health warning label for X18+ rated videos. Consultation also occurred as part of the review of advertising provisions under the national classification scheme.

Several formal and informal consultation sessions were held with industry during the year. Formal meetings with industry sectors and industry associations addressed issues including classification policy, procedure and practice. Informal meetings, discussions and ongoing contact with industry representatives and clients occurred on a more frequent basis.

### Industry Training

When the X18+ criteria in the Code and the film classification guidelines were amended in September 2000, members of the adult film industry requested training by the OFLC. Two officers from the OFLC met with representatives from five businesses in Canberra for this purpose.

In the reporting year, three training sessions were held with distributors of submittable publications, that is, those which are likely to be restricted to adults and therefore require classification.

These sessions focused on the

classification guidelines criteria at the restricted levels.

The OFLC also responded to telephone queries from other distributors requesting information about the classification guidelines. These came from sectors representing publications, computer games and film. The OFLC classification training officers are responsible for providing information and education on classification standards to members of industry on an ongoing basis.

A training session in the interpretation of the classification guidelines was also held for officers from the Online Section of the ABA. The ABA is required under the *Broadcasting Services Amendment (Online Services) Act 1999* to assess some online content to determine if it should be referred to the Board for assessment against the film classification guidelines. Participants in the training included the manager of the Online Section, assistant managers, investigators and a classification adviser.

### **Training for Authorised Assessors for Computer Games**

The Classification Act provides that a person can be trained by the OFLC to make a recommendation to the Board for the classification and accompanying consumer advice in relation to a computer game in the advisory categories of G, G8+ and M15+. Recommendations may accompany applications for the classification of a computer game and are assessed by the Board.

The scheme ensures ongoing liaison and communication between the OFLC and clients and assists in the maintenance of consistent classification standards.

Ten businesses participated in the Authorised Assessor Scheme for computer games during the year which resulted in 19 people being trained and authorised to recommend classifications for computer games in the advisory categories.

On completion of training, the assessor receives a letter of authorisation signed by the Director.



*Classifier Margaret Clancy and Senior Classifier Paul Hunt examine a computer game.*

### **Industry Conventions**

In August 2000, the Director, the CLOs and other OFLC officers maintained a stall at the Queensland Motion Pictures Exhibitors Association's National Convention and provided information to delegates about the classification scheme.

The CLOs also operated stalls at the Sexpo exhibitions in Melbourne in December 2000 and Brisbane in March 2001. The CLOs attended the Sexpo

exhibitions to provide information to the distributors, exhibitors and retailers of adult publications and films (including DVDs and videos) about their legal obligations, and to assist members of the public with questions about the national classification scheme.

### **COMMUNITY LIAISON OFFICER SCHEME**

The CLO scheme is a joint Commonwealth, State and Territory initiative with the specific aim of assisting and educating retailers and distributors of publications, films and computer games to comply with their legal obligations under the national classification scheme.

The scheme was established in 1997 with one CLO covering the six participating jurisdictions. Since 1998, the scheme has had national coverage with both New South Wales and Queensland joining in July and October 1998 respectively. The scheme currently employs three CLOs.

The CLOs visit suppliers and retail premises in each State and Territory providing detailed information about the classification laws and requirements. The CLO role is primarily educative but can also include identification of breaches of relevant legislation and referral of these to the appropriate State and Territorial authorities. The CLOs also provide the OFLC with valuable data and feedback from both industry and the community about the practical operation of the national classification scheme and about

trends that may assist with policy formulation.

During the reporting period officers attended 82 meetings with industry clients and visited 940 sites. Also during this period 894 telephone contacts were made and 2,086 breaches were detected.

Since the commencement of the scheme in 1997, the CLOs have identified and recorded over 15,000 breaches of classification legislation. Over 80 per cent of breaches have been resolved by CLO intervention and only a few matters have required the involvement of the relevant State/Territory enforcement agency.



*Community Liaison Officers provide retailers with information and advice on requirements under the national classification scheme. Julia Williams, CLO, on a site visit.*

### **FILM FESTIVALS AND EVENTS**

Under the national classification scheme, State and Territory legislation provides

that film festivals may become 'approved organisations'. This entitles them to apply to the appropriate authority to have their unclassified films exempted from the classification requirements of the relevant State/Territory laws provided they meet certain criteria set out in approved guidelines.

The appropriate authority for film festivals in Victoria, New South Wales, Western Australia, the Australian Capital Territory and the Northern Territory is the Director of the Board. In South Australia exemption applications should be directed to the Attorney-General, the Hon K. Trevor Griffin MLC through Ms Rita Fameli at the South Australian Attorney-General's Department. Those seeking 'approved organisation' status or exemption in Tasmania or Queensland must apply to authorities in those States. The contact officer for applications in Tasmania is Mr Peter Maloney, Director of Legislation, Policy and Information Resources at the Tasmanian Department of Justice. In Queensland, applications should be directed to Mr David Cannavan, Film Classification Officer at the Queensland Office of Fair Trading.

Details of film festivals and other organisations granted exemptions during the reporting period can be found in Appendix One.

## **ADVERTISING EXEMPTION SCHEME**

Part 3, Division 2 of the Classification Act contains provisions relating to the

advertising of films which have not been classified. It states that persons may apply to the Board for a certificate of exemption for advertising purposes in relation to a film for public exhibition.

Certificates of exemption may only be granted in relation to an 'eligible film' as defined by section 31 of the Classification Act, that is, any unclassified film for public exhibition which complies with conditions as determined by the Commonwealth Attorney-General by notice in the *Commonwealth of Australia Gazette (Government Notices)*.

The Classification (Eligible Films) Determination 1999 sets the number of exemptions permitted in any calendar year at 80.

## **OFLC WEBSITE**

The OFLC's worldwide website is located at [www.oflc.gov.au](http://www.oflc.gov.au).

The website provides a useful tool for the OFLC in meeting its obligations to its industry clients by assisting them to produce and market their products in accordance with public classification standards and preset conditions of sale and exhibition.

The website assists this process in a number of ways.

Firstly, the website assists industry clients by providing them with access to information on their obligations. The site contains copies of the publications, films and videotapes, and computer games guidelines, links to the legislation and

general information about the classification system and the OFLC.

Secondly, and perhaps more importantly, the website provides consumers, industry clients and any other interested parties with access to a database of classification decisions, which, in the case of films, includes details of decisions going back to 1971.

The website has proved to be a valuable resource for both industry and consumers, and is extensively used. The OFLC is committed to the continued improvement of the site and, in the reporting period, began a significant upgrade program which will lead to a more 'user friendly' and flexible site. Database search facilities and accessibility of information will be significantly enhanced, consistent with the Government's *Online Strategy*.

### **OFLC CUSTOMER SERVICE CHARTER**

The Attorney-General, the Hon Daryl Williams AM QC MP, launched the OFLC's Customer Service Charter in Sydney on 8 September 2000. Those attending the event included OFLC clients, client representative groups, the Board and the Review Board.

The Customer Service Charter represents the OFLC's commitment to providing all clients with high quality service.

The standards set out in the Charter include:

- response to correspondence within 30 days;
- classification decisions within 20 business days;
- issue of receipts for payment within three working days; and
- regular consultation with industry and the public.

The Customer Service Charter recognises that the OFLC has two groups of clients – industry who apply to have publications, films and computer games classified, and Australians who consume these products.

The Customer Service Charter outlines what the Board and the OFLC do, their objectives, responsibilities and service standards for all clients. It also outlines how clients can give feedback and make complaints about OFLC services.

The OFLC Customer Service Charter complies with the Department of Finance and Administration's *Customer Service Charter Principles* (June 2000).

There will be an independent review of the charter every three years.

As the Customer Service Charter has not been in place for the full year, assessment of the OFLC's performance against the charter is not included in this report.

Comments on the Customer Service Charter are welcome at any time.

Members of the public can obtain a copy of the charter from the OFLC.

OUTPUT 1.2 - PROVISION OF SERVICES ANCILLARY TO THE  
OPERATION OF THE NATIONAL CLASSIFICATION SCHEME  
INCLUDING RESEARCH, THE COMMUNITY LIAISON OFFICER  
SCHEME, POLICY DEVELOPMENT AND MINISTERIAL SUPPORT

49

OUTPUT 1.2 - PROVISION OF SERVICES ANCILLARY  
TO THE OPERATION OF THE NATIONAL  
CLASSIFICATION SCHEME INCLUDING RESEARCH,  
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OBJECTIVE THREE

To establish the OFLC as a principal source of expert advice and information on classification issues for Government.

### KEY OUTCOMES

- The provision of secretariat and policy support for meetings of the Standing Committee of Attorneys-General (SCAG) and meetings of censorship officials.
- The development of policy papers for the forthcoming Review of the Guidelines for the Classification of Films and the Guidelines for the Classification of Computer Games.
- The provision of classification services and advice for Police and ACS including training seminars in Sydney.
- The provision of high level advice to Government on a range of censorship matters.
- The preparation of responses to Ministerial and general correspondence.

### COMMUNITY LIAISON OFFICER SCHEME

The CLO scheme is reported under output 1.1, objective 2, but also contributes to output 1.2.

### MINISTERIAL COUNCIL MEETINGS

The OFLC provided secretariat and policy support for meetings of the Standing Committee of Attorneys-General: Censorship.

SCAG comprises the Attorneys-General of the Commonwealth, the States and the Territories. At the end of 2000-2001, for censorship matters the membership was the same as SCAG except that the representative from Queensland was a Minister other than the Attorney-General (the Minister for Tourism, Racing and Fair Trading).

Issues considered at SCAG (Censorship) meetings include the operation and administration of the national classification scheme, classification legislation, enforcement of legislative requirements, classification guidelines and community standards.

In 2000-2001, the following matters were considered:

- consequences of media convergence;
- amendment of classification guidelines for films;
- CAPs;
- CLO scheme;
- free-to-air television;
- determined markings for X18+ films;
- DVDs;
- review of advertising provisions;
- review of classification guidelines for films and computer games;
- offensive audio recordings;

- passage of the *Classification (Publications, Films and Computer Games) Amendment Bill (No 2)* and complementary State and Territory legislation; and
- the Council of Australian Governments' review of Ministerial Councils.

The SCAG (Censorship) met on three occasions to discuss censorship matters. They met in Brisbane on 27-28 July 2000, Launceston on 16 November 2000 and Adelaide on 22 March 2001.

Censorship Ministers agreed at their meeting on 22 March 2001 to reduce the number of meetings per year to two, with the option of a third meeting if necessary. Censorship officials will continue to meet in Sydney three times a year.

## CENSORSHIP OFFICIALS' MEETINGS

State and Territory censorship officials meet prior to Censorship Ministers' meetings to consider SCAG (Censorship) agenda items. The OFLC hosts these meetings in Sydney.

Officials met on 13 October 2000, 16 February 2001 and 7 June 2001.

*David Cannavan (Film Classification Officer, Queensland), Peter Maloney (Director, Legislation, Policy and Information Resources Division, Department of Justice, Tasmania) and Frank Morisey (Secretary, Censorship Office, Western Australia) at a meeting of censorship officials.*



### **POLICE TRAINING**

The OFLC classification training officers and the CLOs work closely together to provide education and training to police officers across the jurisdictions.

During the reporting year, the CLOs, in conjunction with the OFLC, established an Enforcement Officers Contact network with police officers from several jurisdictions, and officers from the ACS. The officers met at the OFLC for a day of training, the content of which covered methods for facilitating communication between and among enforcement agencies, the aims and objectives of the CLO scheme in the context of the national classification scheme and the role of the CLOs in distributing and disseminating information via this network.

At the request of police officers in NSW, a training session was offered at the OFLC in classification legislation relating to restricted publications and in the identification of breaches.

### **CUSTOMS TRAINING**

At the request of the ACS, the OFLC has provided regular training sessions for ACS officers since 1996. In the reporting period, a total of approximately 60 officers were trained to assess material and determine its status under the Customs (Prohibited Imports) Regulations 1956.

The seminars are usually conducted over a two-day period. They focus on the application of Regulation 4A of the

Customs (Prohibited Imports)

Regulations 1956, and the comparison between these regulations and the RC category of the Code and guidelines. An on-call consultancy service is offered to the ACS to supplement the intensive training program.

This training arrangement between the OFLC and the ACS ensures a streamlined process which supports the work of both agencies.

### **CLASSIFICATION REVIEW BOARD TRAINING**

At the request of the Convenor of the Review Board, two training sessions were conducted with some members during the reporting period.

### **INTERNATIONAL LIAISON**

During the reporting year, the OFLC maintained contact with overseas colleagues by hosting visits of delegations from Korea, Singapore, and Norway. These meetings provided valuable insights into international classification schemes and classification standards.

Two representatives from the Juvenile Protection Committee of Korea met with senior members of the Board and policy officers to discuss classification issues surrounding online content.

A delegation from the Singaporean Ministry of Information and the Arts-Film and Publications Department met



*Director of the OFLC, Des Clerk, with members of the visiting Singaporean delegation, November 2000.*

with the Director, members of the Board and senior staff. The group observed the Board at work and were presented with an overview of the classification scheme, processes and standards.

Two delegates from Norwegian media regulatory bodies met with the Director, members of the Board and senior staff. The discussion focused on the advisory categories of the classification code and guidelines, with an emphasis on the classification of computer games.

In January 2001 the Deputy Director, Mr Simon Webb, undertook an official journey to India to liaise with that country's regulatory bodies and study its film classification practices. He met with Mr V Singhla, Regional Officer of the Central Board of Film Certification in Mumbai India, and visited several regional film certification offices.

## **SUBMISSIONS TO GOVERNMENT COMMITTEES/ INQUIRIES**

The OFLC made a submission to the Council of Australian Governments' Review of Ministerial Councils on 27 March 2001.

## **MINISTERIALS**

The OFLC dealt with 245 letters to the Attorney-General in the reporting period. The main issues raised in these letters were:

- the X18+ category for videotapes and the proposed NVE (Non-Violent Erotica) category (71 letters);
- the sale of CDs with offensive lyrics (63 letters); and
- the MA15+ classification of the film *Hannibal* and the subsequent R18+ classification by the Review Board (35 letters).

**OBJECTIVE FOUR**

To ensure the optimum operation of the OFLC by pursuing continual improvement in the management of its resources.

## **KEY OUTCOMES**

- The OFLC's IT infrastructure was significantly upgraded, including the replacement of all desktop computers and associated software.
- Obsolete video viewing equipment was replaced and additional DVD viewing facilities acquired.
- External audit of the OFLC was undertaken.

## **IMPROVING OUR SERVICES PROJECT**

During 2000-2001 recruitment continued in accordance with the new organisational structure adopted in 1999-2000 following KPMG's review of the operations of the OFLC. (This organisational structure, agreed with staff in November 1999, is reflected in the organisation chart in the 'Corporate Overview' section of this report.)

Recruitment was undertaken for a number of new positions, most significantly the Manager, Development and Marketing, who heads the new Development and Marketing section. This section is to have a key role in communication with stakeholders and aligning the OFLC's services with changes in entertainment media technology and related community and industry requirements.

## RESOURCE MANAGEMENT

### Consultancies

In 2000-2001 the OFLC let six consultancy service contracts. Expenditure on consultants during the year totalled \$33,532.

The OFLC applies the principles and policies of the *Commonwealth Procurement Guidelines* when engaging consultants. Except where particular skills or capabilities are required, the OFLC engages consultants via a tender process.

Two consultancies for the period exceeded \$10,000, and these are detailed below:

Name of Consultant	Purpose of Consultancy	Amount Paid	Selection Process Used	Reasons for Engagement
KPMG	Evaluation of CLO Scheme	\$15,750	Extension to existing commission (originally open tender)	Need for independent assessment
Andrews Marketing	Facilitation of Development of Corporate Plan	\$11,042	Select tender	Supplement in-house skills and capacity



*There was a major upgrade of computer hardware and software in 2000-2001. Amy Callaghan, IT officer, assists Dane Varkevisser with the transition.*

## **Purchasing**

The OFLC's procurement procedures are in accordance with the policies and principles set out in the *Commonwealth Procurement Guidelines*.

## **Information Technology**

The OFLC's business operations are highly reliant on IT and, in order to achieve maximum efficiency and effectiveness in its operations, the office is continually reviewing the adequacy of its automated systems. In the reporting year, significant upgrades to the financial management and HR systems (SUN and MicrOpay respectively) and a number of enhancements to the classification database system were implemented.

This latter system – known as BOSS – incorporates 'workflow technology', and provides the OFLC with both an effective decisions database and an efficient means of managing classification processing. The workflow aspects electronically control flow of classification applications through the office, and will alert users to imminent deadlines and the progress of high priority applications. It also allows for electronic storage of relevant documents and files as well as more efficient access to client-related information including the status of applications and prepayment account balances.

The system has improved the detail and accessibility of the OFLC's website.

A hardware refurbishment program was initiated in 2000-2001. The first phase, completed toward the end of the period, comprised the replacement of all desktop computer hardware and software. This measure delivered a significant increase in processing speed. File server hardware and software upgrades are scheduled for 2001-2002.

## **COMPETITIVE TENDERING AND CONTRACTING**

Competitive Tendering and Contracting enables agencies to explore alternative service delivery options, under arrangements which adhere to the objectives of value for money, open and effective competition, ethics and fair dealing, accountability and reporting, national competitiveness and industry development, and support for other Commonwealth policies.

During 2000-2001, proposals were sought from IT service providers for the outsourcing of IT services. There appears at this stage to be no benefit in pursuing this option, as no cost savings could be realised, due in part to the small size of OFLC's IT support facilities.

## **AUDIT AND EVALUATION**

### **Audit**

The activities of the OFLC are subject to examination by the Australian National Audit Office (ANAO).

The Corporate Management Team has the office's financial status as a standing item for its meeting agenda.

The financial statements contained in Appendix Eight to this report have been audited by ANAO.

### **Evaluation**

The OFLC's financial performance for the year was largely as predicted in the budgeted financial statements. The Portfolio Budget Statement for 2000-2001 established the total price of outputs at \$5.77m, and the office managed its expenditure to within the budgeted estimates for the year. Off-budget revenue was slightly in excess of estimates.

During the year the OFLC repaid \$639,000 of the loan established with the Department of Finance and Administration in 1998-1999 for the relocation of the office, in accordance with the loan agreement. One further repayment of \$561,000 in 2001-2002 will discharge this liability.

## **REPORTS BY PARLIAMENTARY COMMITTEES**

There were no reports relating to the OFLC by Parliamentary committees in 2000-2001.

On 28 May 2001, the Director, Deputy Director and Business Manager of the OFLC appeared before the Senate Estimates Committee and answered questions put by members of the committee. Responses to some questions were deferred to be dealt with on notice.

## **COMMONWEALTH OMBUDSMAN**

No matters involving the OFLC were referred by outside agencies or individuals to the Commonwealth Ombudsman during the reporting period.

## **AUDITOR-GENERAL**

There were no reports on the operations of the OFLC by the Auditor-General.

## **DECISIONS OF COURTS AND TRIBUNALS**

### **Courts**

During the reporting period there were no matters dealt with in the Federal or High Court in connection with the OFLC, the Board or the Review Board.

### **Administrative Appeals Tribunal**

During the reporting period an application was made to the Administrative Appeals Tribunal for a review of the Director's decision to refuse the importation of a prohibited import under Regulation 4A of the Customs (Prohibited Imports) Regulations 1956. The matter is ongoing.

### **ESTABLISHMENT AND MAINTENANCE OF APPROPRIATE ETHICAL STANDARDS**

The OFLC has taken a number of steps to promote appropriate ethical standards in the conduct of its business.

All employees of the OFLC employed under the *Public Service Act 1999* are subject to the Australian Public Service (APS) Values and Code of Conduct contained in that Act and the Public Service Commissioner's Directions made under that Act. These establish the primary values and standards of behaviour expected of employees in the APS.

Formal procedures for determining breaches of the Code of Conduct as required by sub-section 15(3) of the Act have been established by the Director.

The APS Values and Code of Conduct are included in the OFLC Agency Agreement and staff are briefed on the importance of these as part of the induction program. All prospective employees of the OFLC are provided

with a copy of the Code of Conduct and elements of the *Crimes Act 1914*, and are required to sign a statement to the effect that they have read and understand these provisions before commencing employment with the OFLC.

Board Members, as statutory officers appointed under the Classification Act, are subject to the Code of Conduct proposed by the July 1979 *Report of the Committee of Inquiry Concerning Public Duty and Private Interest* (the Bowen Report) which established principles for the avoidance and resolution of conflicts of interest.

In addition, Chief Executive Instructions under the FMA Act have been made by the Director and apply to all employees. Included in the detail of the Chief Executive Instructions are OFLC arrangements for ensuring the proper use and management of public money, public property and other resources of the Commonwealth, and the proper accountability for the use and management of these resources.

The APS Values, Code of Conduct, Chief Executive Instructions and other material relevant to ethical conduct are incorporated, as appropriate, into relevant organisational policies, guidelines, instructions and training.

The OFLC's policy concerning the acceptance of gifts and benefits requires the registration of any such offers made to staff members. The policy provides further guidance to employees to overcome any perception of conflict of interest.

The OFLC also works within a defined accountability framework. This includes parliamentary scrutiny, internal audit, external audit by the ANAO, and administrative review under the *Administrative Appeals Tribunal Act 1975* for certain decisions, the *Administrative Decisions (Judicial Review) Act 1977*, the *Freedom of Information Act 1982*, the *Privacy Act 1988*, the *Ombudsman Act 1976* and, in respect of actions taken concerning OFLC employees, the Review of Actions provisions of the *Public Service Act 1999*.

Decisions of the Board are subject to review by the Review Board and subsequently on questions of law by the Federal Court.

OBJECTIVE FIVE

To develop the commitment and professionalism of staff to enhance the effectiveness of the OFLC.

## KEY OUTCOMES

- The OFLC's Performance and Development Review Scheme was implemented following training of all staff in performance management arrangements.
- The OFLC Staff Development Assistance Scheme was established in consultation with staff.
- The OFLC provided ongoing training and development assistance for staff using the Performance and Development Review Scheme as the means for a systematic approach to identifying and addressing the needs of individual staff members.
- The OFLC's Workplace Diversity Program 2000-2001 commenced in September 2000.
- The OFLC Agency Agreement 2001-2003 was certified in May 2001.
- The Consultative Committee, as provided for in the certified agreement, continued operating as the key consultative forum for the OFLC.
- OFLC's Employee Assistance Program (EAP) provider was engaged to provide broader, ongoing support to staff in relation to dealing with the more distressing material handled by OFLC.

The key outcomes contributed significantly to OFLC's ability to effectively manage and develop its human resources to achieve its objectives. They reflect further improvement in relation to performance

management, training and development, occupational health and safety (OH&S) and workplace diversity arrangements in particular.

Staffing statistics for the reporting period are presented at Appendix Three.

## KEY TRAINING AND DEVELOPMENT STRATEGIES

The OFLC's Performance and Development Review Scheme commenced in September 2000. The scheme seeks to improve the overall performance of the OFLC through focusing on the development and improvement of individual staff performance against key result areas. The scheme is based on the establishment of Performance and Development Agreements, observation of these by both parties over a twelve-month cycle and a final appraisal of the staff member. The scheme is designed to also determine salary advancement within classification levels.

The implementation of the Performance and Development Review Scheme, following training in participation in such a scheme for all staff, has introduced a more systematic approach to identifying and addressing training and development needs for individual staff members within the OFLC.

A Staff Development Assistance Programme was developed for the OFLC's circumstances and implemented in June 2001. Staff will be assisted in

work-related study with both financial and leave assistance through the program.

Over the reporting period there has been ongoing training, both formal and informal, across a wide range of areas. Expenditure by the OFLC on training and development activities in 2000-2001 was \$45,440. The total number of person days spent by staff in training and development programs during the year was 165. There were 163 attendances at training and development activities during 2000-2001.

## FEATURES OF CERTIFIED AGREEMENTS AND AUSTRALIAN WORKPLACE AGREEMENTS

### Non-Senior Executive Service Employees

The OFLC Agency Agreement 2001-2003 was certified by the Industrial Relations Commission in May 2001. The Agreement, made with the Community and Public Sector Union under section 170LJ of the *Workplace Relations Act 1996*, covers all APS employees in OFLC below the Senior Executive Service (SES) level.

The main features of the OFLC's certified agreement include:

- establishment of a work environment and employment framework to better support the day-to-day operation of the OFLC and also ensure the commitment to and support for the ongoing process of change through, amongst other provisions:

- effective operation of a performance management system driving skill development across the organisation;
- a cooperative and consultative approach to workplace relations; and
- working arrangements which support staff in balancing work and family responsibilities; and
- commitment to continuous improvement and the ongoing reform of OFLC structures, procedures and practices to maximise flexibility, productivity and responsiveness in the delivery of high quality services.

Salary ranges for staff covered by the OFLC's certified agreement are at Appendix Three.

Non-salary benefits provided by the OFLC to employees covered by the agreement include:

- superannuation coverage under the *Superannuation Act 1990* or the *Superannuation Act 1976*;
- access to flexible remuneration packaging on a salary sacrifice basis;
- reimbursement of certain health improvement-related expenditure; and
- reimbursement of dependant care-related expenditure in certain circumstances.

### Senior Executive Service Employees

The OFLC has only one SES APS employee. Remuneration and other conditions of employment are established

by an Australian Workplace Agreement for this employee.

### **Performance Pay**

No performance pay was paid during the reporting period.

## **OCCUPATIONAL HEALTH AND SAFETY**

The OFLC, recognising the importance and value of taking all reasonable steps to ensure the safety and well-being of its staff, completed a draft OH&S policy and agreement for consultation with staff and the relevant union. Pending the finalisation of this process and establishment of its own policy and agreement, the OFLC continues to recognise the OH&S Policy and Agreement of the Attorney-General's Department.

The OFLC has its own qualified and accredited Health and Safety Representative. Staff safety and welfare are monitored and any safety concerns are addressed through section meetings and the Consultative Committee which operates as the OFLC's OH&S committee.

The HR Manager has been designated by the Director as the officer responsible for OH&S.

During the reporting period the OFLC's EAP provider was engaged to provide training to staff who come into frequent contact with the more offensive and confronting material handled by the OFLC. This training was directed at developing abilities to identify and manage responses to viewing this material and to provide a range of options for dealing with the responses. Such training has been incorporated into



*The OFLC provides a safe and functional work environment for staff. Rebecca Green and Jenny Rose at the front counter.*

induction programs for staff in relevant areas. It was decided that such self-care training would be supplemented with optional periodic debriefing sessions facilitated by the EAP service provider.

During the reporting period there were no accidents or dangerous occurrences arising out of the conduct of the OFLC's activities that required the giving of notice under section 68 of the *Occupational Health and Safety (Commonwealth Employment) Act 1991*. Similarly, no OH&S investigations relating to undertakings carried on by the OFLC were carried out during the reporting period and no directions or notices were given under the *Occupational Health and Safety (Commonwealth Employment) Act 1991*.

## **SOCIAL JUSTICE AND EQUITY**

The OFLC sought to maintain a just, equitable and safe working environment to aid the development of a committed and professional OFLC staff.

The OFLC's Workplace Diversity Program 2000-2001 commenced in September 2000 to ensure the establishment of equity and diversity as key employment principles within the OFLC. This program, developed in consultation with staff, aims at creating an inclusive environment that values and utilises the contributions of employees of different backgrounds, experiences and perspectives.

The HR Manager has been designated by the Director as the officer responsible for workplace diversity. The role of the HR Manager in this regard is to provide advice to the Director on workplace diversity issues, as well as to oversee the implementation and operation of the Workplace Diversity Program within the OFLC.

## **PARTICIPATIVE WORK PRACTICES**

The OFLC Agency Agreement 1998-2000 made specific provision for communication and consultation with staff on workplace issues. This provision is continued in the OFLC Agency Agreement 2001-2003. In accordance with these agreements a formal consultative mechanism, the Consultative Committee, was established and operated throughout the reporting period. The Consultative Committee, which included a representative from the Board, was a forum for discussion and consultation on major developments within OFLC relating to the operation of the business or employment arrangements. The Consultative Committee was the consultative forum for development of the OFLC Agency Agreement 2001-2003.

Staff briefings and consultation also occurred through whole-of-staff and section meetings, as well as small group discussions for particular purposes, such as development of the Corporate Plan.

CLASSIFICATION REVIEW BOARD



Office of Film & Literature Classification  
Locked bag 3 HAYMARKET NSW 1240

The Hon Daryl Williams AM QC MP  
Attorney-General  
Parliament House  
CANBERRA ACT 2600

Dear Attorney-General

In accordance with Sub-section 85(1) of the *Classification (Publications, Films and Computer Games) Act 1995*, I am pleased to submit the report on the management of the administrative affairs of the Classification Review Board for the period 1 July 2000 to 30 June 2001.

A handwritten signature in black ink that reads "Barbara Biggins". The signature is written in a cursive, flowing style.

Barbara Biggins  
Convenor

20 July 2001

## CONTENTS

Introduction	70
Convenor's Overview	71
Classification Review Board Member Profiles	74
Legislative Base	80
Classification Review Board Procedures	80
Decisions of the Classification Review Board	81

## INTRODUCTION

This report contains an overview of the Review Board's activities during the reporting period, profiles of Review Board members, and a table of decisions made by the Review Board during 2000-2001.

Although the Review Board is, for decision-making purposes, an independent agency, it is funded and administratively supported by the OFLC, which also funds and administratively supports the Classification Board.

Accordingly, financial reporting requirements and reporting against relevant outputs and outcomes are met, so far as the Review Board is concerned, in the report of the Classification Board.

## CONVENOR'S OVERVIEW

This is my last report as Convenor of the Review Board, having completed seven years in that role. This length of service as Convenor is something of a record, I understand, in the 30-year history of Review Boards in this field.

### Summary of Activity

The past year has been exceptionally busy, with a total of 21 titles reviewed, over eight meetings. Four additional applications which were lodged out of time were not heard. Somewhat unusually, the proportion of applications for review which resulted in a change of classification was just over 50 per cent, compared to an average of just 28 per cent over the previous six years.

In addition, there have been a number of changes to the membership of the Review Board. The term of Mr Ross Tzannes, who had made a most useful contribution over three years (including a period of three months as acting Deputy Convenor) expired in December. In addition, Ms Joan Yardley and Ms Glenda Banks served as temporary members, from the expiry of their term of three years in December, until the appointment of three new members, Ms Jan Taylor, Ms Kathryn Smith and Ms Dawn Grassick, on 18 June 2001. With the reappointment of Dr Robin Harvey for a period of two years from December 2000, these latter appointments bring the membership of the Review Board to six persons. My thanks to Mr Tzannes, Ms Yardley and Ms Banks. Their considerable talents and

insights were employed with enthusiasm and rigour.

The efficient and effective functioning of the Review Board, particularly in times of high numbers of applications for review, is dependent on there being a membership of sufficient number to be able to convene a representative group as needed. In 2000-2001 it has not been unusual to have cause to convene a number of meetings of the Review Board at short notice to meet the needs of applicants, and this has sometimes become a difficult exercise when membership has fallen below six.

### Significant Issues

The revised guidelines for the X18+ classification (for videotapes containing sexually explicit activity) were introduced in September 2000. One impact of the implementation of the new guidelines was the receipt by the Review Board of an unusually large number of videotapes for review which had been classified RC by the Classification Board. Particular issues which were required to be resolved in reviewing these items included the prohibition of any form of violence in the classification, and the determination of what constituted a 'fetish such as spanking'.

The film *Hannibal* was the subject of some controversy, which resulted in the Federal Attorney-General (at the request of the Queensland Attorney General) requesting the Review Board to conduct an urgent review as the film was about to be publicly released. The Review Board concluded that, overall, it did not find

the film or individual scenes to be stylised in a way that made the frequency of high impact scenes acceptable under the guidelines for the MA15+ classification, and unanimously classified it R18+.

Further controversy was caused by the seizing by the South Australian Police (SAPOL) of the book of photographs by Robert Mapplethorpe entitled *Pictures*. The book was submitted by SAPOL to the Classification Board for classification, and then to the Review Board when SAPOL did not accept the Unrestricted classification assigned. The Review Board unanimously classified the publication Category 1 – Restricted. The operative factor which led the Review Board to place the publication in a restricted category was its opinion that the book's content required an adult perspective and that exposure to many of its images could disturb minors. The impact of the work was considered to be sufficiently strong to require legal restriction.

### Overview of Decisions

A total of 21 titles was reviewed during the year. Of these, 11 titles had their classifications varied. Nine titles submitted by distributors were reclassified with a lower classification, and a further two titles had their classifications raised (*Hannibal* and *Pictures*).

Eleven videotapes which had been classified RC were reviewed with reference to the revised X18+

classification. Of these, six were classified X18+, and five remained classified RC. A further four videotapes which had been classified RC were not accepted for review, as the 30-day period in which applications for review of decisions of the Classification Board can be lodged had expired, and no compelling reason for the delay was submitted.

### A Seven-Year Retrospective

During my membership of the Review Board, a total of 96 titles were accepted for review. Of these, 91 came from the publishers or distributors, four from the Federal Attorney-General, and one from State police forces. Overall, the number of titles whose classifications was varied was 32 (33 per cent). The success rate among distributors seeking a lowering of classification was 28 per cent.

Among the titles whose classifications were lowered were *Shine*, *Primary Colors*, *Fairytales*, *Dead Man*, *The General's Daughter*, *Romance* and *The Color of Paradise*.

Among those whose classification was raised were *Salo*, *Tras el Cristal*, *Hannibal*, *The Australian Marijuana Grower's Guide*, *Pictures* and *Ninja Scroll*.

Considerable controversy was generated about some of the above decisions, and additionally about *Rabelais*, the student newspaper initially classified RC on application by the Victorian Retailers' Association, and later confirmed RC by the Review Board. That case was taken

to the full Federal Court with a finding in favour of the Review Board. The film *Lolita* was the subject of a joint application for review by three West Australian community groups. After presentation of argument, this case was not heard by the Review Board as the groups did not qualify under the law as 'aggrieved persons'.

The independent Review Board is provided with administrative, including financial, support by the OFLC. It has been argued for a number of years (but unsuccessfully) that the provision of a separate allocation to the Review Board, for basic travel and legal advice, would enhance this independence.

### **Conclusion**

I believe that the role of the Review Board is a critical one in the national classification scheme. The existence and work of the independent Review Board allow for checks in regard to community standards, and provide a hedge against any desensitisation of those responsible for the ongoing job of classification.

Further, its decisions have stood up in regard to external assessments done by the Community Assessment Panels.

The independence of the Review Board must continue to be jealously guarded, and its work performed sensibly, and with intelligence and care.

### ***Secretary***

The Review Board and I have been ably supported over the past seven years by its Secretary Joel Greenberg. He has a wealth of experience and knowledge, and has performed his role with the utmost competence and courtesy.

### **Barbara Biggins OAM Convenor**

## CLASSIFICATION REVIEW BOARD MEMBER PROFILES



### **BARBARA BIGGINS OAM**

*Convenor*

**APPOINTED CONVENOR** 27 June 1994

**APPOINTMENT EXPIRES** 22 July 2001

A recipient of the Medal of the Order of Australia, and a Churchill Fellow, Barbara Biggins, 63, has had a long and distinguished record of community service. She is a graduate of the University of Adelaide and of the University of South Australia and has made a lifetime study of the impact of the media on children. Barbara was a member of the Australian Broadcasting Tribunal's Children's Program Committee from 1982 to 1991. During the 1980s, she convened the South Australian and National Advisory Councils of the Australian Broadcasting Corporation. She has also been a consultant to the Australian Law Reform Commission on children and the legal process and is currently President of the Australian Council for Children's Films and Television, and Executive Director of Young Media Australia.

In addition to her role as a parent, grandparent and community advocate, Barbara has been part-time Senior Librarian with Child and Youth Health, South Australia's statewide community preventive health service, since 1981. She is a member of the Australian Film Institute, and the Australian and New Zealand Communication Association, and is a Director of Netalert (a national education and advisory body on online content). She is also the editor of *small screen*, Australia's only news review of developments in children's media.

Barbara served as Convenor of the Classification Review Board from 1994 until her retirement from the position to occur on 22 July 2001.



**JONATHAN O'DEA**

*Deputy Convenor*

**APPOINTED** 20 February 2000

**APPOINTMENT EXPIRES** 19 February 2003

Jonathan O'Dea, 35, is married with two young children. He holds Bachelor Degrees in Arts/Law and a Master of Laws degree from Sydney University and has authored a number of seminar papers and articles. He is currently studying towards an MBA (Technology Management) from Deakin University.

Employed at Royal & SunAlliance since early 1994, Jonathan is currently a senior insurance manager. Prior to moving into management, he worked as a lawyer for five years, including a period at one of Australia's leading law firms.

Jonathan has been a director on the board of HCF, a major NSW health insurer, since 1995. He also has past experience as an office-holder of various community-based organisations, including as a former local government councillor.



**GLENDA BANKS**

*Review Board Member*

**APPOINTED** 18 December 1997

**APPOINTMENT EXPIRED** 17 December 2000

A director of a corporate communications consultancy, Glenda Banks, 63, has an extensive mainstream media background as an issues-based journalist, editor and broadcaster. She is the author of six books on social issues and a thesis on telehealth, and a co-author of an interactive computer-accessed learning model for publication to CD-ROM. Glenda is a Fellow of the Australian Institute of Company Directors and has served on a number of boards and committees with a community focus. Current appointments include one to the Australian Council on Healthcare Standards. Memberships include the Australian Society of Authors and the National Press Club. She is currently undertaking research for a PhD in the Department of Medicine at the University of Melbourne.



**DAWN GRASSICK**

*Review Board Member*

**APPOINTED** 18 June 2001

**APPOINTMENT EXPIRES** 17 June 2004

Dawn Grassick, 39, is a scientist with extensive experience in the communication of complex science issues to the general community. She holds a Bachelor's Degree in Microbiology and a Graduate Diploma in Sciences Communication and has worked as a professional scientist for nearly twenty years.

Dawn is currently an industry representative on both the Therapeutic Goods Advertising Code Council and the Complaints Resolution Committee of the Complementary Healthcare Council of Australia. She is a member of Australian Science Communicators and an associate member of the Australian Medical Writers' Association.

Dawn has experience as an office holder in community-based organisations, including Australian Junior Chamber. She also has experience in conducting adult education classes in public speaking.



**ROBIN HARVEY**

*Review Board Member*

**APPOINTED** 18 December 1997

**APPOINTMENT EXPIRES** 17 December 2002

Robin Harvey, a registered psychologist, has two children who both attend school in Western Australia. She has worked extensively with young children displaying emotional and behavioural problems and their families. She is currently appointed as a lecturer and clinician for the Department of Psychology at the University of Western Australia and is a post-doctoral research fellow at Edith Cowan University. She has been involved in the establishment of the Child Study Centre Clinic, which is part of the Department of Psychology at the University of Western Australia. This clinic aims to provide expert psychological services to children and families, and directly link current research with practice. Her current areas of research and clinical interest are the development of effective early intervention strategies for preschool children displaying behavioural problems. She is also involved in research that is focused on examining risk and resilience factors related to positive outcomes for adolescent behaviour. Robin is involved in the training of both clinical and educational and developmental psychologists and plays an active role in ensuring that students become good practitioners after graduation.



**KATHRYN JOY SMITH**

*Review Board Member*

**APPOINTED** 18 June 2001

**APPOINTMENT EXPIRES** 17 June 2004

Kathryn Smith, a Sydney mother of three and former member of the Classification Board, has lived in Tasmania for most of her life. She has had wide community contact, having worked as a social worker, TAFE teacher and Employee Assistance Counsellor. She has also been involved in volunteer and community activities as a telephone counsellor for the Samaritans Inc. and the Tenants' Advisory Service, and as a committee member of the Launceston Family Day Care and Launceston Creche Inc. Kathryn is currently at home caring for her family and studies part-time in a graduate Diploma of Counselling course.



**JAN TAYLOR**

*Review Board Member*

**APPOINTED** 18 June 2001

**APPOINTMENT EXPIRES** 17 June 2004

Jan Taylor has extensive experience in the public and private sectors, both in Australia and overseas. Formerly Queensland's Commissioner for Consumer Affairs, Jan is now Managing Director of a corporate consultancy which provides services in community consultation, land management, corporate communications and organisational change.

Jan is a Director of the Royal Automobile Club of Queensland, and Ports Corporation Qld. She is the National Credit Union Ombudsman, and a Member of the Queensland Competition Authority, and is also a Director (and the Immediate-Past National Chair) of the Australian Council of Businesswomen, and President of Epilepsy Queensland Inc.

She is President-elect (Queensland) of Women Chiefs of Enterprises International, a Trustee for the Committee for Economic Development of Australia, a Fellow of the Australian Institute of Management, and a member of the Queensland Advisory Committee of the Committee for Economic Development of Australia.



She has published a successful textbook, is currently researching another book and is a much sought-after public speaker. More importantly, perhaps, she is seen as having credibility across a wide spectrum including primary producers, media organisations, major corporations, industry and professional associations, community and consumer groups and government.

Jan is an arts graduate of the University of Queensland (Economics and Government) and a law graduate of the Queensland University of Technology. She serves on committees at both Universities.

### **ROSS TZANNES**

*Review Board Member*

**APPOINTED** 18 December 1997

**APPOINTMENT EXPIRED** 17 December 2000

A senior partner in the Sydney law firm, Pryor Tzannes and Wallis, Ross Tzannes, 61, has a long and impressive record of over twenty years' involvement in community affairs. He has served on many boards and councils, notably in the area of ethnic affairs, the environment and the arts. He is currently Senior Deputy Chairperson of the Federation of Ethnic Communities Councils of Australia, a Commissioner with the Ethnic Affairs Commission of New South Wales, a board member of the Australian Conservation Foundation and the Australian Multicultural Foundation, and a member of the Social Security Appeals Tribunal. He has been Vice Chair of the Film, Radio and Television Board of the Australia Council, past president of the Sydney Film Festival and board member of the Museum of Contemporary Art in Sydney.

**JOAN YARDLEY***Review Board Member***APPOINTED** 18 December 1997**APPOINTMENT EXPIRED** 17 December 2000

Joan Yardley, 68, was until recently Chairman of Clemenger/Concept Brisbane, a division of Clemenger BBDO, international brand management, marketing and advertising corporation. A respected member of the Brisbane business community, Joan earlier co-founded the agency which eventually became Mojo Brisbane. She has served on the Board of Queensland Rail and on the University of Queensland Senate, and currently sits on the Brisbane Water Advisory Board and the Queensland Institute of Medical Research Trust.

Having been involved as a corollary to her career with careful monitoring of attitudinal research, Joan brought to the Review Board an ongoing familiarity with changing community standards and an acute sensitivity to their subtleties.

## LEGISLATIVE BASE

The Review Board is established under the Classification Act, which commenced operation on 1 January 1996.

The Classification Act provides that the Review Board is to consist of a Convenor, a Deputy Convenor and at least three, but not more than eight, other members. At the close of the reporting period, the Review Board consisted of a Convenor, a Deputy Convenor, and four other members, all of whom serve part-time.

In advising the Governor-General on appointing members to the Review Board, the Commonwealth Attorney-General must first consult with Ministers participating in the national classification scheme. The Governor-General must have regard to the desirability of ensuring that membership of the Review Board is broadly representative of the Australian community.

## PROCEDURES

Applications for review may be made by:

- the Minister;
- the applicant for classification;
- the publisher of the film, publication or computer game; or
- a person aggrieved by the decision.

A 'person aggrieved' has been judicially defined to mean someone who can demonstrate a direct interest in the subject matter of the review extending

beyond that of a member of the general public. Amendments to the Classification Act which received Royal Assent on 22 March 2001 broaden the definition of 'person aggrieved', while limiting applications under this category to restricted classification decisions. The amendment is not due to come into effect until 22 March 2002, or on proclamation if States and Territories pass complementary legislation before this date.

Applications for review must be in writing, accompanied by the prescribed fee, and lodged within 30 days of the applicant's receiving notice of the decision, or within such further period as the Review Board allows.

Review Board decisions are taken by majority vote in accordance with the Code and classification guidelines endorsed by Censorship Ministers, and taking into account matters set out in section 11 of the Classification Act.

If the members of the Review Board dealing with a matter are equally divided in opinion, and the Convenor is one of the decision-makers, the Convenor has a casting vote as well as a deliberative vote. In any other case, the Review Board may be reconstituted as the Convenor directs, to consider the matter again.

While three members may constitute a quorum, current policy is to try to convene all members whenever possible.

Applicants are advised of reasons for the Review Board's decisions in writing.

## DECISIONS OF THE CLASSIFICATION REVIEW BOARD IN 2000-2001

<b>Title</b>	<b>Media Type</b>	<b>About</b>	<b>Application Upheld</b>	<b>Application Dismissed</b>	<b>Outcome</b>
Almost Famous	Film (PE*)	MA15+	1		M15+
Colour of Paradise	Film (PE)	M15+	1		PG
A Little Piece of My Heart	Film (S/H**)	RC	1		X18+
Second Coming	Film (S/H)	RC	1		X18+
Totally Jill	Film (S/H)	RC	1		X18+
Fame is a Whore... on Butt Row	Film (S/H)	RC	1		X18+
Butt Row Pink Hotel	Film (S/H)	RC	1		X18+
Euro Angels Hardball 6 - Anal Maniac	Film (S/H)	RC		1	RC
Joey Silvera's Butt Row Unplugged	Film (S/H)	RC		1	RC
Butt Row Series... White Men Can't Iron	Film (S/H)	RC		1	RC
Dream Quest (DVD)	Film (S/H)	RC		1	RC
Searchlight #87	Publication	RC		1	RC
Untitled (Police Matter)	Film (CD-ROM)	RC		1	RC
Pictures	Publication	Unrestricted	1		CAT 1 Restricted
Please	Film (S/H)	RC	1		X18+
Dream Quest (Modified)	Film (S/H)	RC		1	RC
Hannibal	Film (P/E)	MA15+	1		R18+
The Mexican	Film (P/E)	MA15+	1		M15+

(Table continued over page)

Captain Corelli's Mandolin	Film (P/E)	MA15+	1	MA15+
Series 7 - The Contenders	Film (P/E)	R18+	1	R18+
Pokemon 3 - The Movie	Film (P/E)	PG	1	PG
<b>TOTAL</b>	<b>21</b>		<b>11</b>	<b>10</b>

\* Public Exhibition

\*\* Sale/Hire