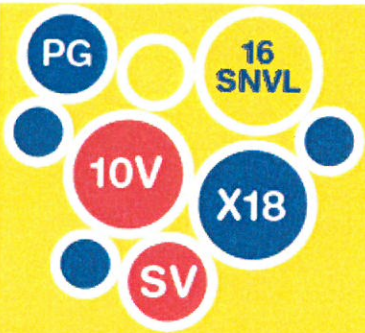




FPB ONLINE REGULATION POLICY

APRIL 2016



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Contents

1	Definitions	3
2	Introduction.....	3
3	Application of the Policy	5
4	Objectives of the Policy	5
5	Online distribution of television films & games.....	5
6	User generated content.....	8
7	Complaints	9
8	Public Awareness and educational campaigns	10
9	Review of classification decisions by self-classifiers	10
10	Audits of self-classification decisions	11
11	Sanctions regime for self-classification decisions.....	11
12	Classification decision database	11
13	Policy review	12



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1 Definitions

- 1.1 **“Act”** means the Films and Publications Act 65 of 1996, as amended from time to time;
- 1.2 **“Bill”** means the Film and Publications Amendment Bill, 2014;
- 1.3 **“Board”** means the Film and Publication Board as established by section 3 of the Act;
- 1.4 **“Council”** means the Council established by section 3 of the Act
- 1.5 **“film”** means any sequence of visual images in such a manner that by using such recording such images will be capable of being seen as a moving picture and includes any picture intended for exhibition through any medium or device;
- 1.6 **“game”** means a computer game, video game or other interactive computer software for interactive game playing, where the results achieved at various stages of the game are determined in response to the decision, inputs and direct involvement of the game player or players; and
- 1.7 **“Minister”** means the Minister to whom the administration of the Act has been assigned.

2 Introduction

- 2.1 The Board is a public entity of the Department of Communications, established in terms of the Act.
- 2.2 The mandate of the Board can be summarised as follows:
 - 2.2.1 to regulate the creation, production, possession and distribution of films, games and certain publications by way of classification;
 - 2.2.2 to protect children from exposure to disturbing and harmful material and from premature exposure to adult material; and
 - 2.2.3 to criminalise the use of children in and exposure of children to pornography.
- 2.3 Section 18(1) of the Act requires any person who intends to distribute any film or game and certain publications in the Republic of South Africa to first register with the Board and submit the film, game or publication to the Board for examination and classification. Although the current legislation is not platform-specific, the Board's compliance and classification activities have, over the years, focused more on physical platforms and less on the online space, resulting in children being exposed to unclassified content accessed through the internet and other mobile platforms.
- 2.4 Media convergence – a new technology trend enabled by the digitization of media content, the widespread availability of high-speed broadband connections, and the proliferation of internet-enabled devices – has fundamentally transformed the way media content is distributed and consumed. Consumers can now access media content across geographic boundaries, anytime, anywhere and however they want it.

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- 2.5 Until recently the Board adopted a fragmented approach in responding to the demands of industry players and online distributors for a solution to enable them to classify and distribute online content in the Republic of South Africa.
- 2.6 The Council and several stakeholders have argued strongly for the need to move from piecemeal responses that apply the existing classification framework to each new technological development, towards one that is framed in such a way as to be adaptive to broader convergent media trends. The Executive branch of the state has also called for a framework that can adapt to “the rapid pace” of technological change in media available to, and consumed by, the South African community.
- 2.7 Strategic object 4 of the Board’s five year strategic plan requires it to ensure the effective and innovative regulation of content distributed online and on mobile and related platforms, to protect children and inform the general public. In response, in August 2014, the Council approved the Board’s Online Content Regulation Strategy (Strategy). This Strategy lists, as its core objectives as the following:
- 2.7.1 to ensure classification and compliance monitoring of digitally-distributed content;
 - 2.7.2 to provide appropriate technology for online content regulation;
 - 2.7.3 to inform and educate the community on the challenges of digital content; and
 - 2.7.4 to partner with national and international regulators on cross-border regulation.
- 2.8 In addition to this Strategy, the Board has recently finalised the review of its legislation, the Bill and submitted it to the Minister. Once enacted and applied in conjunction with the approved Strategy, the Bill will create a legislative framework that will ensure a greater role for online distributors in classifying their own content on behalf of the Board, using the Board’s Classification Guidelines and the Act. In the context of the ever-greater convergence of media technologies, platforms and services, and more media being accessed from the home through high-speed broadband networks, the framework will also make it possible for the industry to enter into co-regulation agreements with the Board for the purposes of content classification and compliance monitoring.
- 2.9 Currently, section 4A of the Act empowers the Council, on consultation with the Minister, to issue directives of general application, including classification guidelines, in accordance with matters of national policy that are consistent with the purpose of the Act. Thus on 16 October 2013, Council resolved to enact an online policy that issues directives on how the Board must regulate the distribution of online content in the Republic of South Africa.

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- 2.10 Against this background, and to give effect to the above Council resolution, the goals set out in the Online Content Regulation Strategy and the Bill, the Online Regulation Policy is hereby enacted. This Policy, read with the Online Regulation Strategy and the Bill, will also ensure that classification focuses on media content, rather than on platforms or delivery technologies. This is necessary because regulatory frameworks for media based upon their delivery platform have proven to be unsustainable over time.

3. Application of the Policy

- 3.1 This Policy applies to any person who distributes or exhibits online any film or game or certain publications in the Republic of South Africa. This Policy also sets out the way in which the Board will deal with user generated content (UGC).

- 3.2 The following exemption as set out in clause 34(1)(a) of the FPB Classification Guidelines for the classification of films, interactive computer games and certain publications applies to this Policy:

"All publications that are bona fide newspapers or magazines published by a member of a body either recognised by the Press Ombudsman or another recognised self-regulatory authority, and that subscribe and adhere to a code of conduct, do not fall within the jurisdiction of the FPB".

4 Objectives of the Policy

The objectives of this Policy are:

- 4.1 to create a regulatory classification and compliance monitoring framework, giving effect to sections 16 and 18 of the Act by enabling effective regulation and speedy classification of digital content by the Board; and
- 4.2 to create an opportunity for co-regulation between the Board and the industry for the classification of digital content distributed on mobile and digital platforms.

5 Online distribution of television films and games

- 5.1 Section does not apply to UGC for the reasons set out in section 6.
- 5.2 All online films or games distributed, or to be distributed, in the Republic of South Africa must be classified before distribution.

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- 5.3 No online content distributor will be authorised by the Board to distribute online films and games in the Republic of South Africa unless it has registered with the Board as an online distributor and has paid the prescribed registration fee for content providers as determined by the Minister, and any other fees that the Minister may determine from time to time.

Permit.

- 5.4 Section 23(2) of the Act sets out a process for the exemption of a class of films or games from classification, subject to conditions as outlined in the provision of the Act below

"The Board may, in its discretion and subject to such conditions as it may deem fit to impose...by means of a permit, issued in the prescribed form,...exempt from classification ...any particular class of films or games, ...and may at any time, after due enquiry withdraw any such permit or exemption..."

- 5.5 Class' speaks to type, that is characteristics, attributes and qualities. Typically, games distributed through an app store have certain common characteristics, namely they are of a relatively low level of sophistication and file sizes are relatively small. This gives them the attributes of a class. An additional attribute of the class is that such films and games will be distributed through an online medium.
- 5.6 Until the Act is amended to allow for the practical regulation of online content, the Board sets out guidelines in this Policy to regulate the distribution of online content by issuing a permit for exemption to online distributors granted in terms of section 23(2).

Agreements with online distributors

- 5.7 The permit in section 23(2) must be in the prescribed form. The Regulations to the Act at present do not prescribe the form for such a permit; therefore the Board will draft these permits in the form of an agreement to be negotiated with the online distributor (Agreement).
- 5.8 The Agreement must contain the following terms to fulfill the requirements of a permit:
- 5.8.1 the online distributor is exempted from submitting the following class of films or games for classification by the Board: games or films distributed over an online medium;
 - 5.8.2 the online distributor must classify the content in accordance with a classification system that has been accredited by the Board (in terms of paragraph 5.10) or through self-classification after undergoing training with the Board (in terms of paragraph 5.11);
 - 5.8.3 to maintain the permit, the online distributor must adhere to the terms of this Agreement;
 - 5.8.4 the Board retains the right to audit samples of classified content; and

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5.8.5 the online distributor must pay the Board the fees as prescribed by Regulations to the Act.

- 5.9 The Board has the right to withdraw the permit at any time if the online distributor does not comply with the permit conditions. Online distributors may approach the Board for a permit in terms of section 23(2). Any existing permits with online distributors will be amended in accordance with this Policy from time to time.

Classification and labeling of content

- 5.10 To enable online distributors to classify films or games using a classification system other than the Board's, the Board must accredit that classification system. While no two classification systems will be entirely aligned, the Board considers it important that elements of the Classification Guidelines are reflected in the accredited classification system, including:
- 5.10.1 independent decision-making;
 - 5.10.2 the need to protect children from harm;
 - 5.10.3 meaningful classification information;
 - 5.10.4 transparency of decisions and classification processes;
 - 5.10.5 availability and integrity of review mechanisms;
 - 5.10.6 efficient and accessible public complaints processes;
 - 5.10.7 alignment with the Board's classification decisions and labelling requirements; and
 - 5.10.8 comparable classification categories and criteria and endorsement by governments in other jurisdictions.
- 5.11 Where an online distributor elects to self-classify, the distributor's classifiers must be trained and certified by the Board and ensure that their processes are substantially similar to the Board's classification processes. The Board will only certify such classifiers if they have completed the training approved by the Board and have demonstrated competencies in the application of the Board's Classification Guidelines and the Act. Training must be ongoing; its frequency determined by needs such as the introduction of new classification staff members by the distributor or changes to the Board's Classification Guidelines.
- 5.12 All content classified pursuant to the provisions of paragraphs 5.10 and 5.11 above must conspicuously display the Board's logo and classification rating on the landing page of the website or in the website catalogue. The logo must be displayed as prescribed in Regulation 21 of the Act and as illustrated in the example below:



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6 User generated content

- 6.1 User created (or generated) content (UGC) is content created by users of online services, which enable such content to be uploaded by the user. It applies to both professional and amateur productions and does not distinguish between whether consumers must pay to view the content or not.
- 6.2 The rise of UGC, supported by technological advancements in 'smart phones' and the availability of user distributor tools such as YouTube and other global digital media platforms, has shifted the nature of media users from being audiences to being participants. More and more South Africans, the majority of which are children, are using contact services such as Facebook and Twitter. The bulk of this media content is unclassified content on online platforms.
- 6.3 The volume of UGC is enormous. It is estimated that 300 hours of video, much of it UGC, is uploaded to YouTube alone every minute.
- 6.4 UGC presents the following challenges:
- 6.4.1 the majority of it is produced, hosted in, and distributed from, foreign countries in which the Board has no jurisdiction;
 - 6.4.2 the sheer volume being produced makes traditional methods of review and classification impossible; and
 - 6.4.3 the diffuse nature of the internet means that the Board cannot keep track of every website distributing UGC.
- 6.5 The effect of these challenges is that the Board cannot use its finite resources to attempt to classify and regulate UGC in general. To attempt to do so would consume resources of the Board that could be better spent classifying and regulating matters which it can.
- 6.6 The Board may, however, exercise a discretion to regulate specific instances of UGC which constitute the content described in sections 16(2), 16(4) and 18(3) of the Act. In exercising its discretion the Board will take into account the following factors:
- 6.6.1 the target market of the UGC (for example children);
 - 6.6.2 its accessibility and the extent of its distribution;
 - 6.6.3 the egregious nature of the content; and
 - 6.6.4 the potential to cause severe harm, especially to children.
- 6.7 Where the Board regulates such content it may do so on its own accord or on the basis of complaints received by members of the public in relation to the content set out in sections 16(2), 16(4) and 18(3) of the Act. The complaints process is dealt with in more detail at paragraph 7.
- 6.8 The Board may approach the media platform including internet services providers, to

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take down the offending content or institute criminal charges, where appropriate.

- 6.9 In addition, the Board's role in relation to UGC will be expressed through its education and awareness mandate. The Board will, subject to budgetary considerations, conduct campaigns together with registered online distributors to:

6.9.1 inform the public as to what UGC is;

6.9.2 explain that the majority of UGC is unclassified throughout the world;

6.9.3 warn consumers that they do not have the security of knowing that the Board has reviewed and classified the content before they view it and that there is therefore no advice of any sort from the Board attached to UGC; and

6.9.4 advise consumers to exercise caution, and in particular to take care when exposing or permitting children to be exposed to UGC.

7 Complaints

- 7.1 Complaints about the classification of content will be directed, in the first instance, to the content provider responsible for the classification decision. A complainant may lodge a complaint with the Board where that complainant considers that the complaint has not been satisfactorily resolved. The Board has the power to investigate all substantiated complaints.

- 7.2 A content provider or online distributor authorised by the Board to self-classify its content must develop an internal complaint-handling mechanism.

- 7.3 The complaint handling mechanism must cover:

7.3.1 awareness and accessibility of the complaints mechanism;

7.3.2 response time frames and recording and reporting processes;

7.3.3 processes for escalating serious complaints; and

7.3.4 the review and reclassification of classification decisions, where appropriate.

- 7.4 In all instances, the Board retains the authority to investigate complaints about classification decisions and about unclassified or unrestricted media content. In the course of investigating complaints (especially those that are more complex or serious), the Board may liaise with the content provider or online distributor to ascertain how the original complaint was initially addressed, to obtain reasons for the classification decision (if the content has been classified) or to discuss options for resolving the complaint.

- 7.5 The Board may, in response to a complaint about media content or of its own accord:

7.5.1 issue the content provider or online distributor with a 'classify' notice or a 'restrict access' notice;

7.5.2 direct the content provider or online distributor to take down offending content;

7.5.3 classify content or review the original classification decision; or

7.5.4 lay criminal charges, where appropriate.



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8 Public awareness and educational campaigns

The Board shall together with industry and stakeholders conduct public awareness and educational campaigns to foster digital literacy and ensure a secure cyber environment particularly for children taking into account the fundamental rights to security, dignity, access to information, the right to communication and freedom of expression.

9 Review of classification decisions by self-classifiers

9.1 Allowing online distributors to classify their own content may raise concerns in certain sectors of South African society about achieving an acceptable balance between content providers' commercial interests and community needs and concerns.

9.2 Self-classification will only be permitted where classifiers use the Board's classification system as set out in paragraphs 5.10 and 5.11.

9.3 The Board retains the power to review a selection of content that has been self-classified by online distributors to ensure consistency with the Board's Classification Guidelines. Where inconsistencies are detected during a review, the Board may elect to expand the sample of content reviewed. The Board may offer further assistance to self-classifiers in complying with the Board's Classification Guidelines. As a last resort, the Board retains the power to revoke an online distributor's right to self-classify and the certification of the online distributor's classifiers may be revoked in the case of serious or persistent breaches.

9.4 Self-classifiers must submit schedules of classifications to the Board. The Board will then select a sampling of content to review. The self-classifiers must provide the compliance monitors with copies of selected content; alternatively the online distributor may elect to give the Board's compliance monitors access to the online films and games to conduct the review.

9.5 If the Board objects to the classification applied to a particular film or game, it must notify the online distributor which must promptly work towards updating the classification to comply with the guidance of the Board.

9.6 If detected during a review that a film or game that falls within the description of an 18 age rating in the Act and the Board's Classification Guidelines is rated lower than 18, the online distributor must immediately classify such content as 18 when distributing in the Republic of South Africa.

9.7 In the event that an online distributor is found to have manipulated or provided false information to the Board or any other person with the sole object of achieving a classification decision that advances its own commercial interest, the Board may withdraw the online distributor's section 23(2) permit and direct that all media content belonging to the distributor be submitted to the Board for classification by the Board.

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10 Audits of self-classification decisions

- 10.1 As part of the quality-assurance process and monitoring of self-classification the Board has the power to undertake post-classification audits of media content that must be classified and of media content that must be restricted to adults. This is to ensure that classifications are legally sound and valid.
- 10.2 Board uses the audits as the primary mechanism by which the Board proactively manages and oversees the activities of self-classifiers, to maintain a high standard of consistency during self-classification.
- 10.3 The Board also uses the audits as the means for advising self-classifiers about any issues identified with the classification decision-making process, and may initiate remedial action to assist classifiers to improve their job performance. This might involve liaising with the online distributor or content provider and suggesting additional training or supervision. In some cases, audit outcomes might require content providers to revisit decisions, as appropriate.
- 10.4 Where necessary, the Board may use the outcome of audits as evidence of serious and persistent breaches as set out in paragraph 8.3.

11 Sanctions regime for self-classification decisions

- 11.1 All online distributors authorised to distribute online content in the Republic of South Africa are subject to the penalty regime of the Board in terms of the Act and any other directive that the Board may issue from time to time.
- 11.2 In terms of the Act, the Board has the power to impose fines and/or withdraw the permit of any online distributor who does not comply with this Policy or the permit conditions as set out in paragraphs 5.8, 8.3, 8.7 and 9.4

12 Classification decision database

- 12.1 Every online distributor authorised for self-classification must establish and administer a centralised database to record classification decisions made by their classifiers. The database must be accessible to the Board's compliance monitors and must include details such as the classification decision and any consumer advice.
- 12.2 The Board will publish on its website a central and reliable database to enable online distributors to check whether content has already been classified.

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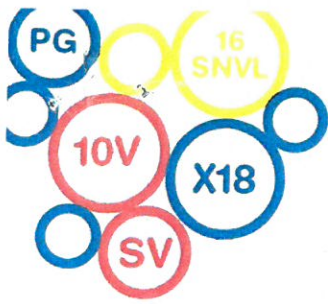
13 Policy review

13.1 This Policy may be reviewed from time to time, based on legal, technological and operational requirements.

13.2 This Policy shall become effective on the date to be fixed by the Minister through notice in the Government Gazette.

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[Signature]



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SUBMISSION

TO : CHAIRPERSON: FILM AND PUBLICATION BOARD

**SUBJECT : APPROVAL BY COUNCIL OF THE FPB ONLINE
REGULATION POLICY**

DATE : 14 April 2016

1. PURPOSE

The purpose of this submission is to request Council approval of the final Online Regulation Policy ("policy") made under section 4A of the Films and Publications Act, 1996 (Act No.65 of 1996) ("the Act") and its submission thereof once approved by Council to the Minister for final approval and gazetting .

2. BACKGROUND

2.1. The Film and Publication Board ("the Board") is a statutory body established in terms of the Act, whose main objective is to regulate the creation, possession and distribution of films, games and publications with a view to protect children from disturbing and harmful content and to provide content information to adults that would enable them to make informed choices for themselves and children in their care about what to watch, play and read.

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- 2.2. The above mandate is also linked to the Board's five (5) year strategic plan in terms of which one of the strategic outcomes for the financial year 2016/2017 strategic plan is the 'effective and visible regulation of industry throughout the entire value chain (content creators, producers and distributors of films, games and publications) to protect children and inform the general public.' To this extent, it is imperative that there is alignment between the Act, all FPB policies and the Board's strategic outcomes.
- 2.3. Until recently, the FPB has focused predominantly on regulation of content distributed mainly on physical platforms.
- 2.4. Media convergence, a new technology trend enabled by the digitization of media content, widespread availability of high-speed broadband connections, and proliferation of Internet-enabled devices has fundamentally transformed the way media content is distributed and consumed not only in SA but also globally.
- 2.5. The industry distribution methods have also shifted significantly to online platforms, resulting in convergence of distribution platforms and in large volumes of content being accessible globally on a 24 hour basis.
- 2.6. Whilst on the one hand digitization has brought positive outcomes in that consumers can now access media content across geographic boundaries, anytime, anywhere and however they want it, on the other hand, proliferation of unclassified media content and child pornography is on the increase.

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- 2.7. The above mentioned shift in distribution platforms also has implications for the FPB in terms of exposure of children to unclassified content on online platforms.

3. DISCUSSION.

- 3.1. Strategic objective 4 of the Board's five (5) years strategic plan requires the Board to ensure effective and innovative regulation of content distributed online, mobile and related platforms to protect children and inform the general public. That being said, apart from the outdated legislation, the costs and level of expertise and capacity involved in the classification of the online content, which are also too high, have made it unattainable for the Board to effectively regulate the online space.

4. EMPOWERING PROVISIONS OF THE ACT

- 4.1. Section 4A of the FP Act empowers Council, in consultation with the Minister, to issue directives of general application, including classification guidelines, in accordance with matters of national policy that are consistent with the purpose of the Act. Pursuant thereto, on 16 October 2013, Council resolved to enact an Online Regulation policy that would issue directives on how the Board must classify and regulate the distribution of online content in the Republic of South Africa.
- 4.2. Prior to the development of the Online Regulation Policy, the FPB consulted extensively with industry, civil society and key stakeholders. What came out of these engagements and consultations was that, in the

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context of ever greater convergence of media technologies, platforms and services, and more media being accessed from homes through high-speed broadband networks, the need for a comprehensive review of classification laws and regulations became apparent.

- 4.3. In keeping with these findings the FPB amended its Regulations to the Act which became operational in February 2013. In 2014 the FPB finalised the review of the Films and Publications Amendment Bill. The review of the Regulations to the Act was predicated on the realisation that although the Act provides for platform neutrality in its application, the Regulations to the Act were ambivalent in relation to the process for classification of digital content.
- 4.4. Further, digitisation and new media has brought about an increase in the Board's costs for public awareness campaigns to educate young people on cyber safety.
- 4.5. In an attempt to keep up with the above trends and changes brought by technology, the FPB Council, in August 2014, approved the Board's five years Online Content Regulation Strategy.
- 4.6. The Online Content Regulation Strategy lists as its core objectives the following: to ensure classification and compliance monitoring of digitally distributed content through co-regulation; to provide appropriate technology for the online content regulation; to inform and educate the public on challenges of digital content; and to partner with national and international regulators on cross border regulation.

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- 4.7. In order to give effect to the above Online Content Regulation Strategy, the Board, empowered by section 4A (1) (a) of the Act, developed the attached Online Regulation Policy, annexed hereto as annexure "A1".
- 4.8. The policy gives effect to the Online Regulation Strategy and Films and Publications Act 65 of 1996, as amended, by ensuring that classification focuses on media content rather than platforms or delivery technologies.
- 4.9. The policy also seeks to ensure that the Board is able to transfer some of the costs for classification, compliance monitoring and public awareness to industry.

5. PUBLIC CONSULTATIONS

- 5.1. The South African Constitution asserts the need for the realisation of a participatory democracy which calls for the active involvement and participation of the public. It is against this background that the FPB invited the public to make inputs on the policy.
- 5.2. The core values underpinning public participation include the recognition that those affected by a decision have a right to be involved in the decision making process.
- 5.3. Accordingly, the policy was formally launched on 04 March 2015 for public participation and inputs.

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5.4. Methodology to Public Consultations

- 5.4.1. Public consultations are central to public policy making processes to firstly educate members of the public on the possible interventions to the challenge at hand, secondly to obtain the necessary buy-in that is essential for the success of the policy. As members of the public are the primary beneficiaries of the proposed policy intervention, it became imperative for the public to be aware what these interventions are, especially as they are the ones that will be affected by the policy once approved and implemented.
- 5.4.2. Public consultations were scheduled and convened in seven (7) provinces, namely: KwaZulu Natal, Western Cape, Eastern Cape, Gauteng, Mpumalanga, Northwest and Limpopo. Resource considerations were the reason for choosing the identified provinces. In the other two (2) provinces where the FPB was unable to fund and convene public workshops, other means of soliciting inputs were used. These included print media, radio and television campaigns and social media.
- 5.4.3. The FPB stakeholders and organised civil society were a central component to the mobilisation strategy for the public consultation workshops. Workshop invitations were sent to stakeholders on the FPB database, and members of the public were invited to participate through broadcast media channels used as a build up to each public workshop.

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5.5. Three tiers of stakeholders were targeted and these included:

5.5.1. Regulatory Partners and the Industry

- Online and gaming distributors
- Film distributors
- FPB Employees
- Classifiers
- SANEF
- IAB
- ICASA
- SABC
- Multi-choice
- Apple
- Google
- SA Communicators forum
- Press Council

5.5.2. Consumers and the Public in General

- Parents
- Educators
- Civil Society Organisations

5.5.3. Law Enforcement Agencies

- South African Police Services
- National Prosecuting Authority

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6. SUMMARY OF CRITICAL INPUTS FROM PUBLIC CONSULTATIONS IN PROVINCES

6.1. Language issues

Some participants complained at the outset about the fact that the draft policy was in English only

To address these concerns, the summary of the policy was translated into isiZulu and seSotho to cater for Nguni and Sotho language speakers.

6.2. Language is too broad

It was pointed out that the language, particularly with regards to the application of the policy and the definitions, was too broad.

In response thereto, the FPB has simplified the language and aligned the definitions in the policy to those in the Act.

6.3. Feasibility/practicability of the policy

Some critics mistakenly thought that the intention of the FPB, in terms of the policy, was to regulate the internet.

In response to this concern, the FPB indicated that the policy is aimed at online content co- regulation between the FPB and industry at large.

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6.4. Infrastructure readiness

It was also queried whether the FPB have the required infrastructure in order to implement the policy, or whether the FPB has at least made significant progress in that regard. It was further elaborated that although the purpose of the policy is commendable and in some respect overdue, it would be unfortunate if it could not be implemented.

In this regard the FPB has invested financial resources to upgrade its ICT infrastructure. Further the proposed co-regulation regime will see the responsibilities of classification and labelling rest on both the FPB and the respective distributors.

6.5. Benchmarking against foreign countries

In giving background to the development of the policy, the FPB indicated that it had considered the models used by various more developed countries such as Brazil, Australia and the UK. The concern which arose from the public was that these countries have their own set of standards and norms which are in no doubt different by those of South Africa. Further it was doubtful if these foreign standards will be compatible to a South African society.

In response thereto, the FPB indicated that to the extent possible, the FPB must incorporate, in its processes and classification guidelines,

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these foreign standards to ensure alignment with international best practice in classification.

6.6. Digital citizenship and the FPB

The FPB was challenged to demonstrate its cyber safety programmes, especially for the youth, to become cyber literate and digital citizens

On a yearly basis the FPB conducts numerous public education and outreach campaigns. As a member of INHOPE and a Safer Internet Day participant, the FPB works closely with school children nationwide, educating them about cyber safety.

All inputs received were considered and a findings document developed. Based on these inputs the attached policy was revised with the assistance of Norton Rose Attorneys.

7. RISK ANALYSIS

RISK	IMPACT	CONTROLS
Lack of buy-in by industry	Reputational damage due to inability to enforce the policy	MOU with ICASA to block non compliant online distributors at ISP level.
Lack of capacity by FPB to monitor and enforce compliance by	Non compliance by industry and inability by the FPB to take action.	FPB to upgrade ICT infrastructure and capabilities

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RISK	IMPACT	CONTROLS
distributors who self classify content under the co regulatory regimes		
Possible class action by industry to challenging the constitutional validity of the policy.	In ability by FPB to regulate the classification and distribution of digital content	The policy was certified to be constitutionally sound and valid by Norton Rose Attorneys
Lack of financial resources to educate the public on the policy	Inability by the public to be cyber smart and report illegal activities online and non compliance to the FPB.	FPB must continuously set aside funds for media campaigns.

8. BENEFITS

Once approved, the policy will have the following benefits:

(a)	Increased industry participation in content classification and compliance monitoring.
(b)	Co-regulation will result in improved scalable ways to meet industry demands and time lines for content classification.
(c)	FPB will be able to transfer the costs of classification to industry

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	as the current model wherein the state subsidise industry to register and classify content, is not economically viable.
(d)	Co-regulation will create more opportunities for foreign investment in the country as more and more companies will find SA attractive to sell the media content in.
(e)	As online content is not confined to the borders or territories, it is important that when developing classification guidelines, the Board does not confine itself only to South African norms and values but also consider and apply global standards as well. In this regard co-regulation will enhance the FPB classification guidelines by making sure that it also reflects global trends, norms and values.

9. FINANCIAL IMPLICATIONS

The FPB has set aside in the current financial year, 2016/2017, the sum of R250 000.00 for media and public awareness campaigns on the policy.

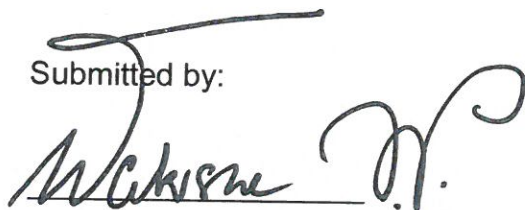
NFTM


10. RECOMMENDATIONS.

It is hereby recommended that-

- a) Council approves the FPB Online Regulation Policy attached hereto and marked as Annexure "A1"; and
- b) Council also submit the FPB Online Regulation Policy to the Minister for approval and gazetting.

Submitted by:



Mr. Themba P Wakashe

Chief Executive Officer

Film & Publication Board

Date: 14.04.2016

Recommend/ ~~Not Recommended~~



Comments:

Ms. Yoliswa Makhasi

Operations and ICT Committee Chairperson

Film and Publication Board

Date: 14.04.2016

10. RECOMMENDATIONS.

It is hereby recommended that-

- a) Council approves the FPB Online Regulation Policy attached hereto and marked as Annexure "A1"; and
- c) Council also submit the FPB Online Regulation Policy to the Minister for approval and gazetting.

Approved/ Not Approved



Comments:

Ms. Thoko Mpumlwana
Council Chairperson
Film and Publication Board
Date: 22/04/2016