

# OFFICE OF FILM AND LITERATURE CLASSIFICATION

## BRIEFING TO THE INCOMING MINISTER

### AT A GLANCE

In the year ending 30 June 2012 the Office of Film and Literature Classification:

#### Will have:

- 28 staff (24 full time equivalents)
- An operating budget of \$3,486,158 (1,960,000 appropriation and 1,526,158 in fees)
- Capital assets valued at \$1,170,381
- 125 years combined experience in censorship

#### Expects to:

- Classify between 1,329 and 1,822 commercial publications
- Classify between 345 and 630 publications for enforcement agencies and courts
- Respond to between 1,000 and 1,500 complaints and inquiries from the public
- Disseminate information on 69,000 occasions through our website
- Disseminate information through 40 outreach contacts with members of the public
- Provide 50 formal research papers to inform classification decisions
- Provide weekly collections of media items about censorship

#### Will continue to be seen as:

- Independent
- Fair
- Consistent
- Professional
- In tune with community values and attitudes

## **WELCOME TO THE OFFICE OF FILM AND LITERATURE CLASSIFICATION**

The Office of Film and Literature Classification was created in 1993 merging the functions of the Video Recordings Authority, the Indecent Publications Tribunal and the Office of the Chief Censor of Films. As Chief Censor I am the Chief Executive of the Office of Film and Literature Classification.

The Office promotes the right to freedom of expression while protecting the community, in particular children, from the harm which would otherwise flow from the unrestricted access to 'objectionable' material. It thus contributes to government's focus on protecting the community, in particular children.

I would welcome the opportunity to discuss this briefing with you at your convenience.

## **KEY FUNCTIONS AND CURRENT OPERATING MODEL**

The Office:

- Classifies publications under the Films, Videos, and Publications Classification Act 1993 for commercial distributors, for the Courts, and for enforcement agencies (Police, Customs and the Department of Internal Affairs),
- Provides information to the public about the classification system,
- Responds to complaints and inquiries from the public about classification decisions and processes, and
- Conducts the research necessary to inform classification decisions.

Appendix 1 shows in more detail how the Office operates.

Appendix 2 contains an organisation chart showing the current structure of the Office.

Appendix 3 records how the public view the Office and the current classification system.

## **OPERATING ENVIRONMENT**

### Domestic

The Office of Film and Literature Classification operates in an environment which can best be described as a statutory co-regulatory environment. The film and DVD industry through the Film and Video Labelling Body, a body recognised in statute, issues labels and submits films and DVDs requiring classification to the Office. A picture of the environment is in appendix 4.

### International

Because films and DVDs are almost all sourced from overseas, international trends and developments are very important to the work of the Office of Film and Literature Classification.

Of particular interest at present is Australia's first principles review of its censorship system.

## **CURRENT ISSUES**

### Deficit

For the last three financial years the Office has operated in deficit. Although the Office has cash reserves and will continue to be able to meet its obligations until the end of 2017, addressing this deficit is the top current priority for the Office.

Significant savings have been made by reducing the size of the Office from 33.25 full time equivalent positions in June 2008 to 24 today. This has been achieved by attrition, better using technology and the skills and experience of staff, and by automating back office functions allowing the disestablishment in 2011 of a business unit comprising three positions. A detailed review of the Office's costs was been conducted in 2011 and more savings are being sought through a review of the Office's operating model. This is unlikely to provide an enduring solution to the deficit but will slow the drain on the Office's cash reserves and allow time to address the key drivers behind the deficit.

### Funding model

A related issue is the Office's current funding model. The Office's current funding model is unfair, unprincipled, sanctions anti-competitive commercial behaviour, encourages non compliance, and imposes an unnecessary impost on businesses. The same fee is paid for a mainstream movie which generates substantial box office revenue as for a niche market film festival film. In addition , the first importer of a film pays the classification fee and all subsequent importers of the same film do not have to pay anything; they effectively 'freeload' off the first importer. Thirdly, the burden of the classification fee currently falls on distributors of films rather than on the consumers who ultimately benefit from the classification process, and as such the current funding model is inconsistent with state sector funding principles promulgated by Treasury and the Auditor-General.

Text (2 lines) withheld consistent with section 9(2)(f)(iv) of the Official Information Act 1982

The current funding model is also a key cause of the Office's annual deficit. While making savings in the Office's expenditure will reduce the deficit, an enduring long term solution lies in changing the Office's funding model. The Office is working on identifying possible alternative funding models.

### Platform neutrality

Platform neutrality is the phrase used to describe the principle that the same audio visual material should be subject to the same rules in terms of classification irrespective of the medium on which it is carried to the public. The term 'convergence' is used to describe the view that audio visual material is available on a range of media.

Currently audio visual material can be viewed at cinemas, on DVD, on television and on the internet. The same material is subject to different standards depending on the medium in which it is carried to the consumer, and complaints are dealt with by different agencies following different processes. The public find this confusing.

Developing a single set of standards for movies irrespective of how they are carried to the consumer is a major and important long term issue. It is however complex and potentially controversial.

## **RELATIONSHIPS WITH MINISTER AND DEPARTMENTS**

Because the Office is an Independent Crown Entity you as the responsible Minister play no direct role in classification decisions.

However, I am responsible to you for the financial management of the Office under the Crown Entities Act 2004. The Department of Internal Affairs is the agency which under that Act monitors my performance in that regard and reports to you.

The Minister consults with the Ministers of Women's Affairs and Justice and makes recommendations to the Governor-General on the appointment of the Chief Censor and Deputy Chief Censor. The Deputy Chief Censor's term of office expires in June 2012.

As Minister you also recommend appointments to the Film and Literature Board of Review which is the body responsible for hearing appeals against the Office's classification decisions.

The Ministry of Justice is responsible for the Films, Videos, and Publications Classification Act 1993.

I met with your predecessor monthly and ensured my management team alerted his departmental private secretary to any media or other issues which arose on a no surprises basis.

## **STAKEHOLDERS**

Commercial interest groups, concerned individuals and community organisations may from time to time contact you to advance their views on particular decisions, or policy or legislative issues. I will happily provide advice to help you respond to such inquiries.

A list of stakeholders is attached as appendix 6.

## **RISKS**

There are no immediate risks in terms of the Office of Film and Literature Classification. Individual classification decisions can be controversial but as responsibility for these decisions rests with me as Chief Censor the risk is generally contained.

The longer term problem of platform neutrality is complex and poses risk. Maintaining the status quo entails risk because of changes in technology and media consumption patterns increasingly highlight the inconsistencies in treatment afforded the same material distributed on different media. Responding to those changes and changing the status quo similarly creates significant risk as was demonstrated by the Ministry of Culture and Heritage's preliminary deliberations on this issue in mid 2011. The Law Commission's (very) recent discussion paper on news media standards reform though not directly on point provides a good background discussion on this issue, and perhaps a useful starting point for addressing the challenges in a considered way.

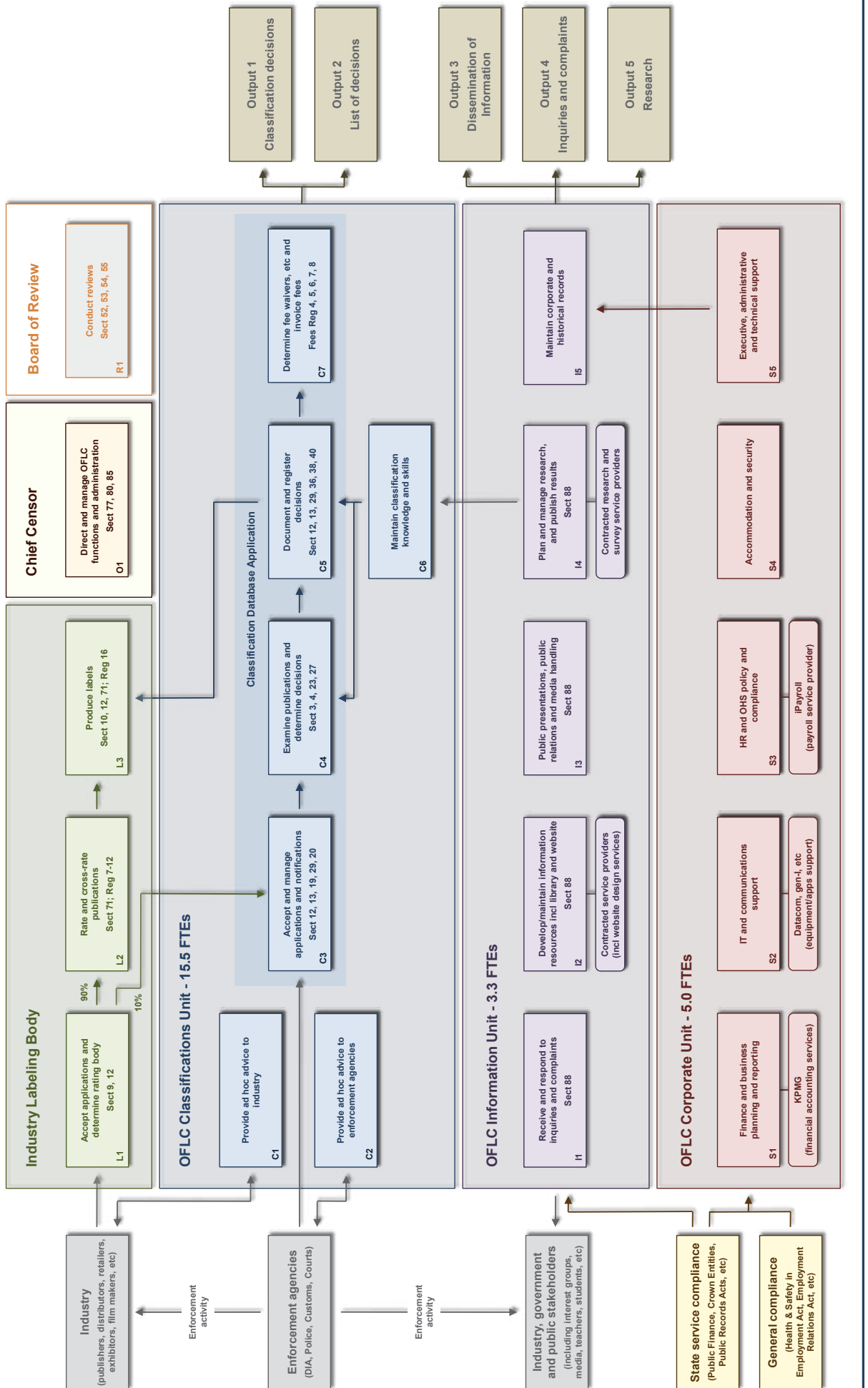


Dr A R Jack  
Chief Censor

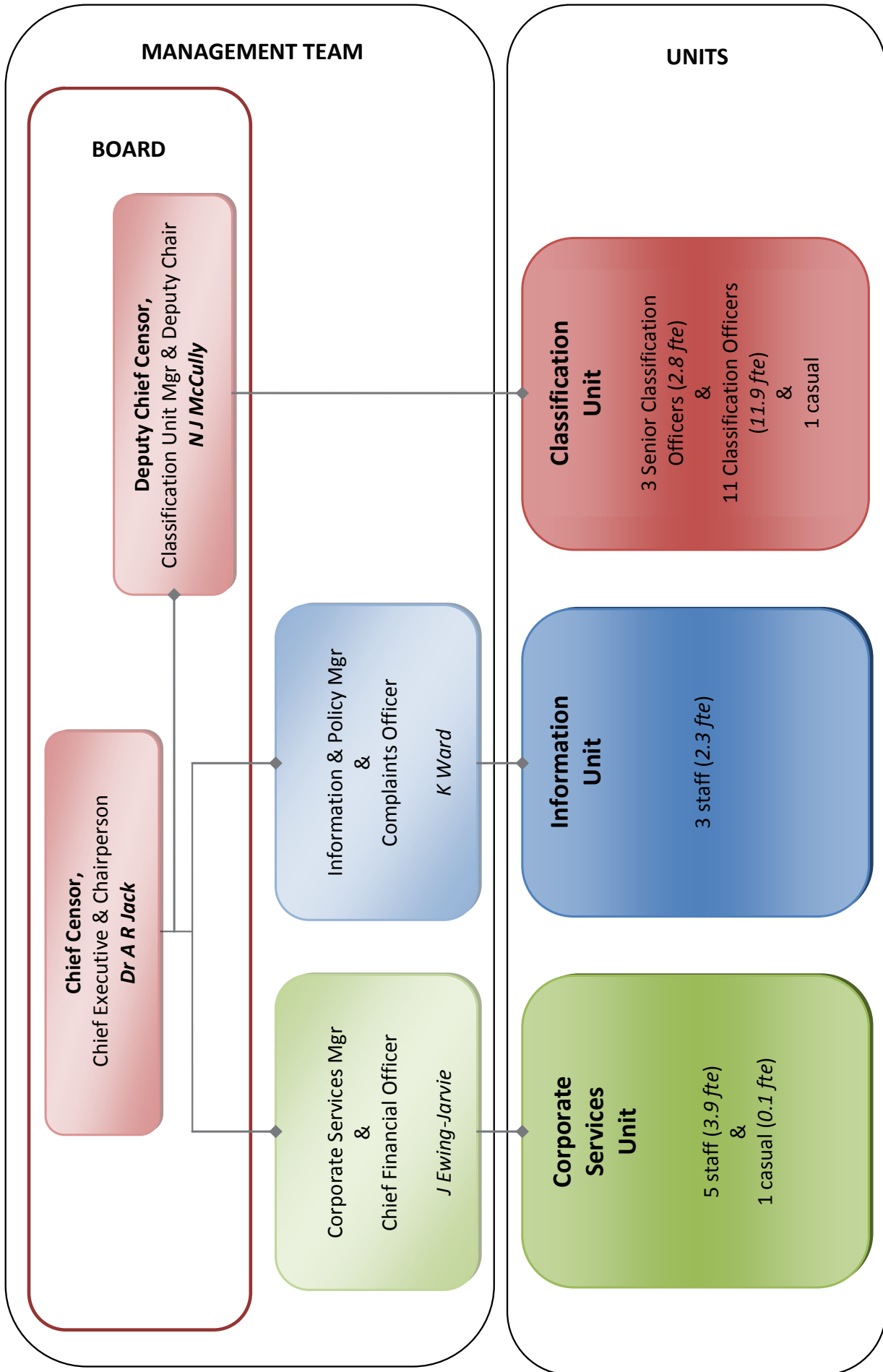
## Appendices

1. Operating Model
2. Organisation Chart
3. *Public Understanding of Censorship* - Briefing Paper
4. Operating Environment from 2011-14 Statement of Intent p. 9
5. Appendix 5 (3 pages) withheld consistent with section 9(2)(f)(iv) of the Official Information Act 1982
6. Stakeholders

Film, Videos & Publication Classification Act 1993  
Operational Business Model - OFLC Focus



Appendix 2 - Organisation Chart



## HIGHLIGHTS OF THE 2011 PUBLIC UNDERSTANDING OF CENSORSHIP RESEARCH

### Knowledge of the OFLC and the classification system

- 4 out of 5 people had heard of the OFLC.
  - 84% correctly named at least one function of the OFLC.
  - 84% who had heard of the OFLC felt that it was doing a 'good' or 'excellent' job.
- 69% said the classification system was 'about right'.
  - More thought it was too lenient (23%), than too strict (8%).
- The majority correctly defined at least 6 out of the 7 classification labels.
  - There was lower understanding of the 'M' and 'RP' classification labels.

### Media use: what's changed since 2006

- Significant increase in the frequency with which adult New Zealanders play computer games and watch DVDs.
  - 44% play games (32% in 2006) and 54% (cf. 43%) watch DVDs or videos at least once a week.
- Substantial increase in importance of classifications and descriptive notes for decisions about young people's viewing and gaming.

### New questions (no comparison to 2006)

- The majority of respondents support the continued use of a fully restricted R16 classification for films and games.
  - 66% believe those under 16 should not be able to view films currently classified R16 even if accompanied by, or with the approval of, a parent or guardian.
  - 74% believe those under 16 should not be able to play games currently classified R16 even if accompanied by, or with the approval of, a parent or guardian.
- 71% believe that all video games should be required to have New Zealand classification labels (not just those requiring restriction).

### Perceptions from discussion groups:

#### About the system

- There is one system in place for all media [There isn't, but this is a perception.]
- We have a good system but it is not always enforced or paid attention to.
- There is more violence in video games than films.
  - I'd be more inclined to allow my son to watch an M movie than I would an M game.*
    - Female, 35-39, New Zealander, parent of primary school aged children
- The M classification is misleading and/or confusing.
- Unsure how applicable classification is in the digital age.

#### Why we need a classification system

*You can't always rely on parents' judgement.*

– Female, 35-39, European/Māori

*I think it gives parents guidance, you can't vet everything that your children see.*

– Male, 60-64, Pakeha/European, Parent of secondary school-aged children

*Because I'm not a parent I'm not quite sure what's necessarily right for their viewing, so it's a good guide for me for that.*

– Female, 35-39, European/Māori

*The producers seem to be pushing the boundaries all the time and sometimes they go over those boundaries. And it's just putting the moral brakes on them to say 'look, that's not acceptable'.*

– Male, 45-54, European, Parent of secondary school-aged children.

*Because I don't know how to play these games, I have no interest, that's why I have to rely so heavily on classification. But with a movie I can just go, and I know what's going on.*

– Female, 35-39, European, parent of primary school aged children.

### **Classification symbols and descriptive notes**

Classifications are not so important to adults making choices for themselves, but descriptive notes are important.

*I'm looking for whether it contains graphic violence or sexual violence. There are certain things that I know I'm not going to be able to watch and be comfortable with, so when I pick up a thriller or a horror I want to check that it's something I'm going to be able to sit through happily.*

– Female, 25-34, European

Classifications and descriptive notes are very important to adults making decisions about young people's viewing and gaming.

*You need to have a caption attached to it because you've got to have some justification as to why it's been labelled this. I mean, kids at that age will start asking you 20 questions as to why they can't watch that movie.*

– Male, 40-44, Māori, parent of primary school aged children.

### **The system needs to be...**

*...simple. Not too many layers or different codes. Simple clear language to accompany the label.*

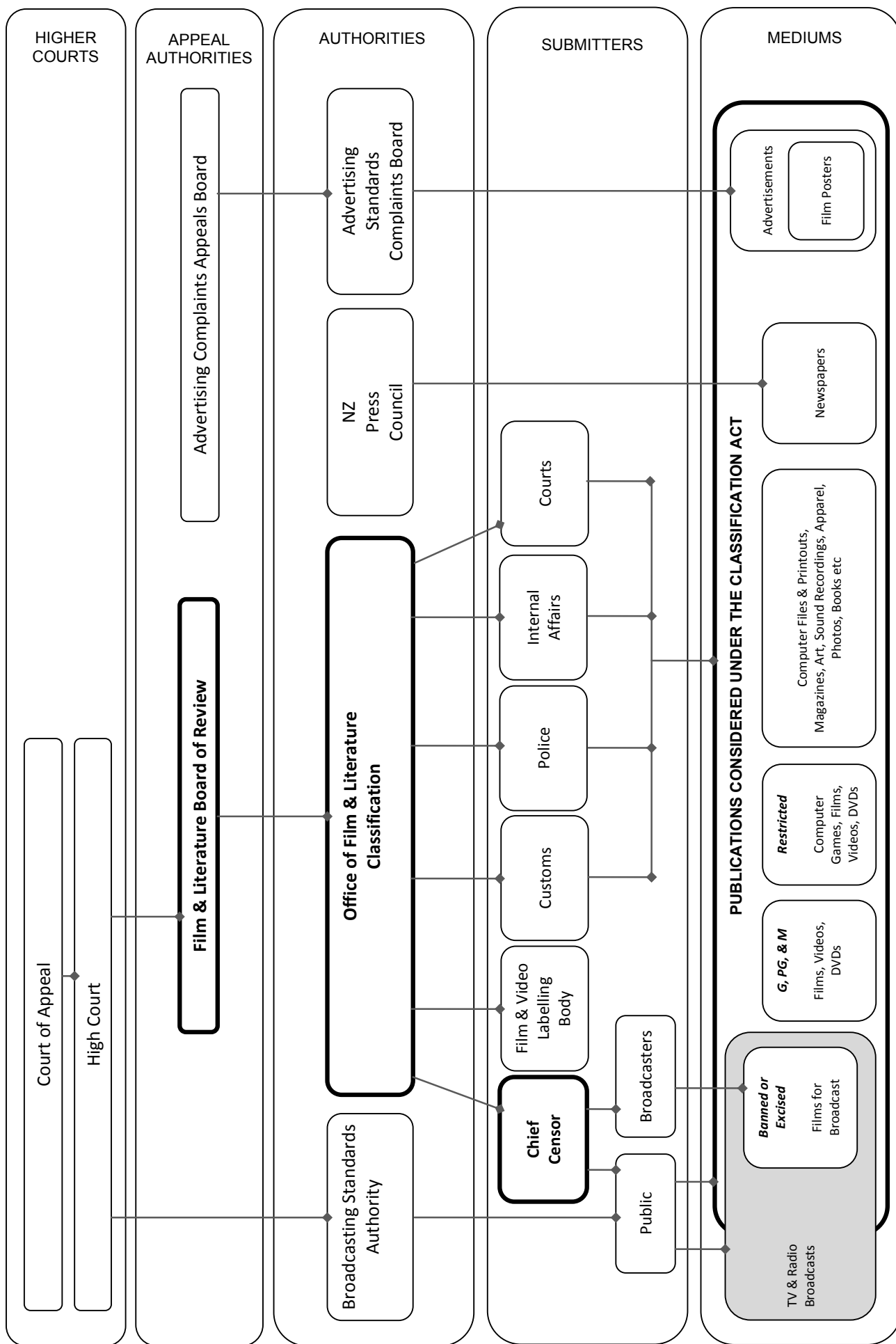
– Female, 40-44, European, parent of primary school aged children

*...aligned to the norms of society ... we're not the same people that we were in the 1950s so the classification system needs to move with the times, so to speak. If we move, then it needs to move with us.*

– Male, 45-49, European, parent of primary school aged children

*Obviously, because there is more content, it needs to be even more robust and reliable and more consistent across the medium it serves.*

– Female, 35-39, New Zealander, parent of primary school aged children.



Appendix 5 -

Appendix 5 (3 pages) withheld consistent with section 9(2)(f)(iv) of the Official Information Act 1982

## Appendix 6 - Stakeholders

### **KEY STAKEHOLDERS**

#### **Government**

- Minister of Internal Affairs
- Minister of Justice
- Minister of Women's Affairs

#### **Industry**

- Distributors (domestic and international) – e.g. Disney, Sony, Madman, Eden Digital Ltd, Calvista (Aus)
- Exhibitors - e.g. Hoyts,
- Film Festival organisers
- Retailers – e.g. The Warehouse, Whitcoulls, local DVD store operators
- Publishers
- Film makers

#### **Public & Interest Groups**

- Educational organisations – e.g. schools, Ministry of Education
- Libraries
- Media
- Community based organisations e.g. Society for the Protection of Community Standards

#### **Enforcement Agencies**

- Courts
- NZ Police
- NZ Customs Service
- Censorship Compliance Unit (Department of Internal Affairs)

#### **Other state agencies**

- Ministry of Justice (legislation)
- Department of Internal Affairs (Crown Entity monitoring)
- Broadcasting Standards Authority
- Ministry for Culture and Heritage