

## Submission re: Broadcasting Classifications and Timebands

### From the NZ Children's Screen Trust

Charitable Trust Registered January 2013

Registered Charity CC50070

We submit that the classification system and timebands are still essential and relevant tools in New Zealand's media landscape. In an increasingly diverse and complex media environment, children's rights still need to be protected by guidelines.

*"The digital environment shapes children's lives in many ways, creating opportunities and risks to their well-being and enjoyment of human rights. Governments are recommended to review their legislation, policies and practices to ensure that these adequately address the full range of the rights of the child."*

<https://www.coe.int/en/web/children/-/new-recommendation-adopted-on-children-s-rights-in-the-digital-environment>

### **CLASSIFICATIONS:**

*1. Do you agree that FTA television should now adopt the pay television classification labels? a. If yes, what benefit will this bring? b. If no, why not?*

The NZ Children's Screen Trust endorses adopting the Pay Television Classifications to bring clarity and consistency to the classification system.

### **TIMEBANDS**

*1. Are you aware of the FTA television timebands?*

*2. Do you use them to decide what programmes children in your care should watch? 3. Do you think that the timeband restrictions on FTA television ought to change? a. If NOT, why not?*

*b. If YES, then which of the three options do you consider is most appropriate and why?*

*4. Are you aware of the ways in which you can restrict access to content in your home? a. If YES, what tools do you use? b. If NO, what are the barriers to use, and what would enable you to use the tools?*

*1. NO CHANGE – we keep the existing timebands*

*2. ADJUST CURRENT PGR TIMEBAND: G/PG (PGR) – screened any time (with suitable classification and warnings and ability to set parental locks for PG content); M (PGR/AO) – screened after 7.00pm (broadcasters will adopt responsible programming principles, which means they will have regard to children's interests and usual viewing times when scheduling PG and M content); 16 and 18 (AO) screened after 8.30pm (broadcasters will adopt responsible programming principles, which means they will have regard to children's interests and usual viewing times when scheduling 16 and 18 content).*

*3. TRANSITION TO REMOVAL OF TIMEBANDS: Option 2 for 12 months, following which there is a move to option 4. During the 12-month transition broadcasters will advertise and raise awareness about*

*availability and use of parental locks, so that parents and caregivers are aware of and know how to use them, before the change to remove timebands takes effect.*

*4. REMOVE ALL TIMEBANDS – but with principles that classifications, programme descriptions and audience advisories will be used and responsible programming (per above) will be adopted to enable parents and caregivers to restrict what their children watch and the watershed will apply where filtering technology/ parental locks are not available.*

### **We support NO Change to the current timebands.**

The adjustments proposed:

- Place the onus on parents/technology to control content, when children have a right to access media that is relevant and safe. (See UNCROC below)
- Commercial imperatives mean that children's interests will not be regarded as proposed
- Timebands ensure that there are 'usual' and accepted viewing times for children for free to air broadcast, in the absence of these there will be no set aside time - meaning that children's viewing will become further marginalised and 'usual' viewing times that broadcasters have regard to will disappear over the medium to long term
- Pay TV has specific children's channels and is paid for and selected by viewers

### **Best Practice**

#### **1. Council of Europe Children's Rights**

The Recommendations of the Council of Europe's Committee of Ministers adopted on 4 July this year show how much more engaged we should be across both broadcast and digital media in protecting children. New Zealand children should continue to be served by legislation in New Zealand and the Council of Europe demonstrates how far behind we are in this respect.

The Children's Rights Division of the Council of Europe aims to mainstream children's rights into all aspects of the Council of Europe's work in the area of data protection, media and Internet governance. The aim is to ensure that a special focus on children's rights is included in all actions carried out by the various bodies of the Council of Europe.

[https://www.coe.int/en/web/children/the-digital-environment#{%2212440617%22:\[0\]}](https://www.coe.int/en/web/children/the-digital-environment#{%2212440617%22:[0]})

*"How to better protect and empower children as rights-holders in a digital world is at the core of the new Recommendation adopted today by the Council of Europe's Committee of Ministers. Building on international and European legal instruments, the text provides comprehensive guidelines for action by European governments.*

*The digital environment shapes children's lives in many ways, creating opportunities and risks to their well-being and enjoyment of human rights. Governments are recommended to review their legislation, policies and practices to ensure that these adequately address the full range of the rights of the child. States should also ensure that business enterprises and other key partners*

*meet their human rights responsibilities and are held accountable in case of abuses.”*

<https://www.coe.int/en/web/children/-/new-recommendation-adopted-on-children-s-rights-in-the-digital-environment>

## **2. United Nations Convention on the Rights of the Child, 1989.<sup>1</sup>**

The importance of New Zealand’s children having access to diverse and accessible local and international content is supported by the United Nations Convention on the Rights of the Child, 1989. The Convention is a comprehensive formulation of children’s rights that has been ratified or acceded to by every country in the world except Somalia and the United States of America. The New Zealand government ratified it in 1993 and under the terms of the Convention submitted the first report on its implementation to the Child Rights Committee of the United Nations in 1995. Further reports have been submitted since.

The Convention took ten years to develop and widely diverse countries had a hand in the process. As a consequence it is robust. Nevertheless, it is remarkably specific in much of its detail. It includes the so-called “freedoms” adapted for children’s purposes, which are standard in human rights instruments such as, for example, the New Zealand Bill of Rights Act 1990. It also includes economic rights, rights to education, health, protection, participation, due process, place, family and identity among others.

United Nations conventions are not binding in New Zealand law unless transported by, for example, their inclusion in an Act of Parliament. The Convention has not been so transported but appears in New Zealand case law.

With reference to the time-slots and classifications: **Article 17 (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of Articles 13 and 18.**

The Articles of the Convention with direct relevance to media are:

### *Article 8*

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognised by law without unlawful interference.

### *Article 13:*

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<sup>1</sup> A copy of the United Nations Convention on the Rights of the Child, 1989 can be downloaded from: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of the child's choice.

*Article 17:*

States Parties recognise the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of Article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of Articles 13 and 18.**

*Article 31:*

1. States Parties recognise the right of the child to rest and leisure, **to engage in play and recreational activities appropriate to the age of the child** and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

### **3. The Broadcasting Act**

The importance of New Zealand's children having access to diverse and accessible local content is also supported by the Broadcasting Act 1989. Section 36(1) of that Act is as follows:

### 36 Functions of Commission

- (1) The primary functions of the Commission are—
  - **(a) to reflect and develop New Zealand identity and culture by—**
    - **(i) promoting programmes about New Zealand and New Zealand interests; and**
    - **(ii) promoting Maori language and Maori culture; and**
  - (b) to maintain and, where the Commission considers that it is appropriate, extend the coverage of television and sound radio broadcasting to New Zealand communities that would otherwise not receive a commercially viable signal; and
  - **(c) to ensure that a range of broadcasts is available to provide for the interests of—**
    - (i) women; and
    - **(ii) youth; and**
    - **(iii) children; and**
    - (iv) persons with disabilities; and
    - (v) minorities in the community including ethnic minorities; and
  - (ca) to encourage a range of broadcasts that reflects the diverse religious and ethical beliefs of New Zealanders; and
  - (d) to encourage the establishment and operation of archives of programmes that are likely to be of historical interest in New Zealand—  
by making funds available, on such terms and conditions as the Commission thinks fit, for—
    - (e) broadcasting; and
    - (f) the production of programmes to be broadcast; and
    - (g) the archiving of programmes. [Emphasis added]