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# ARIA/AMRA

## RECORDED MUSIC LABELLING CODE OF PRACTICE

**ARIA**  
Australian Record Industry Association

**AMRA**  
AUSTRALIAN MUSIC RETAILERS ASSOCIATION

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## **1.0 INTRODUCTION**

ARIA members manufacture and/or distribute on a wholesale basis copies of audio only recordings in various formats (including CDs, cassettes, records, collectively 'Product'). AMRA members sell Product sourced from ARIA members and other parties to the public.

ARIA and AMRA are aware that some Product available for purchase in Australia may contain language and/or themes which may offend some members of the public ("themes" means social issues such as crime, suicide, drug and alcohol dependency, death, serious illness, family breakdown and racism). This Labelling Code of Practice ("Code") addresses the main issues relating to the classification, labelling and sale of such Product and gives guidance as to how ARIA and AMRA members ought to operate.

ARIA and AMRA are responsible for ensuring compliance with this Code by their respective members.

## **2.0 UNDERLYING PRINCIPLES**

The principles underlying the Code are broadly based on those contained in the National Classification Code in relation to the classification of films, publications and computer games, and aim to balance the interests of consumers, artists, record companies and retailers:

### 2.1 Code Principles:

- a) Adults in a democratic society should be free to listen to what they wish.
- b) Creative artists should be free to express themselves without fear of intervention.
- c) Consumers should be supplied with sufficient information so that they can choose to avoid exposure to material which may offend them, and make informed purchasing decisions in relation to Product which is not suitable for minors.
- d) Record companies and recorded music retailers operate under a commercial imperative to respectively, release sound recordings and make them available for sale to members of the public.

## 2.2 Classification Principles

The following principles form the basis of the Labelling Guidelines (in Section 4 below) and are to be taken into account when applying the criteria in those guidelines:

- a) the standards of morality, decency and propriety generally accepted by reasonable adults; and
- b) the literacy, artistic or educational merit (if any) of the Product; and
- c) the general character of the Product, including whether it is of medical, legal or scientific character; and
- d) the persons or class of persons to or amongst whom it is published or is intended to be published.

## **3.0 CLASSIFICATION RESPONSIBILITIES**

### 3.1 General

Product containing potentially offensive lyrics and/or themes will be classified as set out in the Labelling Guidelines.

### 3.2 ARIA Members

ARIA members must classify and, if appropriate, label all Product released and/or distributed by them in Australia in accordance with the Labelling Guidelines outlined in Section 4 below.

In instances where an ARIA member is uncertain as to how to classify a particular Product or where the ARIA member has received a complaint regarding a classification decision it has already made, it may refer the matter to the ARIA Labelling Subcommittee for a classification determination. If the ARIA Labelling Sub-Committee fails to reach a majority agreement, then the decision will be referred to the Labelling Code of Practice Ombudsman ('Ombudsman' see Section 6 below) who will make a final determination.

No Product shall be distributed by an ARIA member until it has been classified.

### 3.3 AMRA Members

AMRA members must classify and, if appropriate, label all Product made available for sale by them (which is not sourced from ARIA members) in accordance with the Labelling Guidelines outlined in Section 4 below.

If an AMRA member is unsure of the appropriate classification category for a particular Product, they may refer the decision to the ARIA Labelling Subcommittee for a final classification determination. If the ARIA Labelling Subcommittee fails to reach a majority agreement, then the decision will be referred to the Ombudsman who will make a final determination.

AMRA members must ensure that Level 3 Product is not sold to minors and that Product exceeding the criteria for Level 3 is not sold to anyone.

### 3.4 The Office of Film and Literature Classification ('OFLC')

Product to be released and/or distributed in Australia which contains audio-visual and/or visual material must, pursuant to the national classification scheme, be classified by the Classification Board in accordance with the classification guidelines for film and computer games. Such product may require classification by the Board, and the ARIA/AMRA member should refer it to the OFLC for classification by the Classification Board.

Product classified by the OFLC shall not require any separate classification or labelling under the Code as it is regulated by the Classification (Publications, Film and Computer Games) Act 1995 (as amended) and is therefore outside the scope of this Code. Enquiries should be directed to the OFLC.

#### **4.0 LABELLING GUIDELINES**

All Product will be classified and, if required, labelled in accordance with the following criteria.

##### **Level 1 Criteria**

Product containing:

- infrequent aggressive or **strong coarse language**; and/or
- moderate impact ('impact' means the strength of the effect on the listener) **references** to drug use, violence, sexual activity or themes.

Level 1 Product will be labelled as follows:

**Label:** (Black and White)



##### **Level 2 Criteria**

Product containing:

- frequent aggressive or strong **coarse language**; and/or
- strong **impact references** to or **detailed descriptions** of drug use, violence, sexual activity or themes.

Level 2 Product will be labelled as follows:

**Label:** (Blue and White)



### Level 3 (Restricted) Criteria

Product containing **graphic descriptions** of drug use, violence, sexual activity or very strong themes, which have a very high degree of **intensity** and which are high in impact.

These Products require an **adult perspective** and are therefore not to be sold to persons under eighteen years of age.

Level 3 Product will be labelled as follows:

**Label: (Red and White)**



### Exceeding Level 3 – Not To Be Sold:

Product containing lyrics which promote, incite, instruct or **exploitatively** (“exploitative” means appearing to purposefully debase or abuse for the enjoyment of listeners, and lacking moral, artistic or other values) or gratuitously (“**gratuitous**” means material which is unwarranted or uncalled for, and included without the justification of artistic merit) depict drug abuse; cruelty; suicide; criminal or sexual violence; child abuse; incest; bestiality; or any other **revolting or abhorrent activity** in a way that causes outrage or extreme disgust to most adults.

These recordings are not permitted to be released and/or distributed by ARIA members or sold by AMRA members.

## **General**

All labels should be of a standard design conforming to the following specifications:

- A rectangular shape with dimensions of 3.5cm x 2.5cm.
- Labels must be placed on the front of the relevant case (e.g. jewel box) holding the Product, so that they are clearly visible.
- In the case of locally printed slicks, the label can be worked into the artwork on the slick.
- In the case of imported titles with slicks already printed, the label must be placed on the case of the Product. In order to maintain a consistent system and achieve high consumer recognition, this should be attached irrespective of whether there is already an overseas warning printed on the slick.

Additional labels will be made available by ARIA/AMRA for retailer use in the event of case breakage or other damage.

## **5 COMPLAINTS PROCEDURE**

### **COMPLAINTS HANDLING SERVICE**

#### **5.1 Establishment**

AMRA will establish and administer a central Complaints Handling Service ('CHS') for handling and resolving all complaints (regardless of where they are originally received) relating to the classification, labelling and/or sale of Product.

#### **5.2 Complaint Referral**

The CHS will be available for consumers to contact via telephone (1800 number for ease of access), email, fax or post when they have a complaint or query regarding the classification, labelling and/or sale of Product in Australia. The contact details and remit of the CHS shall be displayed on point of sale material at retail outlets and on the websites of ARIA and AMRA.

If ARIA, AMRA, any of their members, the OFLC, any Federal or State government department/agency or the Ombudsman receive a complaint relating to the classification of Product as described above, they shall refer the consumer to the CHS.

### 5.3 Process

The procedure to be followed by the CHS shall comply with the requirements of Australian Standard 4269-1995 *Complaints Handling*.

Complaints received by the CHS will be dealt with according to their nature as follows:

- If the complaint relates to the sale of Level 3 Product to a minor, the CHS will in direct consultation with the relevant retailer resolve the complaint.
- If the complaint relates to the classification and/or labelling of Product sourced from non-ARIA members, the CHS will, in direct consultation with the relevant retailer, resolve the complaint.
- If the complaint relates to the classification and/or labelling of Product released or distributed in Australia by an ARIA member the CHS will, in accordance with its procedures, contact ARIA who will liaise with its member and provide its response to the complaint to the CHS.
- In instances where, after having been dealt with by the CHS, a complainant remains dissatisfied, the CHS will inform the complainant that they may refer their complaint to the Ombudsman for review.

### 5.4 Complaints Resolution

Complainants will at the time of registering their complaint be provided with written acknowledgement together with a consumer guide to the complaints handling process which will illustrate possible outcomes.

The complainant will be notified in writing of the outcome of the complaint by the CHS within four weeks of receipt of the complaint. This time frame will only be exceeded where it has been impossible to locate the relevant Product or where the complainant is not able to respond in a timely fashion to a request for further information.

## **6.0 LABELLING CODE OF PRACTICE OMBUDSMAN**

ARIA and AMRA shall jointly appoint, in consultation with the OFLC an Ombudsman with knowledge of classification standards, relevant skills and a demonstrable understanding of the Australian music industry to perform the functions conferred by the terms of reference outlined in Appendix A to the Code.

## **7.0 COMPLIANCE**

In administering the Code ARIA/AMRA will develop a number of specific measures to ensure compliance by their members with the terms of the Code. Such measures shall include the training of existing and new staff and other initiatives aimed at communicating the requirements of the Code and its importance to members.

If any ARIA member unreasonably fails to co-operate with the scheme, then that company's behaviour may be deemed under ARIA membership rules to be repugnant and the ARIA Board will be entitled to expel such member.

If any AMRA member unreasonably fails to co-operate with the scheme, then that company's behaviour may be deemed under AMRA membership rules to be repugnant and the AMRA Board will be entitled to expel such member.

## **8.0 REPORTING AND REVIEW MECHANISMS**

The Ombudsman will produce annual reports on the following:

- The operation of the Code classification scheme during the reporting period;
- The level of compliance by AMRA members; and
- The level of compliance by ARIA members.

ARIA and AMRA shall provide information to the Ombudsman to enable the preparation of his/her annual reports including details of the quantity and identity of Product labelled and the number, type and outcome of complaints handled by the CHS in the reporting period. ARIA and AMRA will conduct a regular review of the Code classification scheme to ensure it is meeting its objectives.

## **9.0 PUBLIC EDUCATION AND LIAISON WITH RETAILERS**

Point of sale material detailing the new labelling scheme and the CHS will be supplied by ARIA and AMRA to retailers for the purpose of public education, with regular updates. Retailers will be required to display in store the ARIA/AMRA approved point of sale material so that it is clearly visible to consumers.

In order to ensure maximum co-operation for the scheme at the retail level, information detailing the scheme will be distributed to retailers on a regular basis so that they are fully informed of the new arrangements and equipped to handle the sale of labelled product with discretion. Retailers will be encouraged to flag Products requiring a Level 3 label within their point of purchase systems.

## GLOSSARY

- “Complaints Handling Service”: means the central AMRA administered service for handling and resolving complaints from consumers relating to matters relevant to the Labelling Code of Practice.
- “Depiction”: means representation or portrayal.
- “Exploitative”: means appearing to purposefully debase or abuse for the enjoyment of listeners, and lacking moral, artistic or other values.
- “Gratuitous”: means material which is unwarranted or uncalled for, and included without the justification of artistic merit.
- “Impact”: means the strength of the effect on the listener.
- “Product”: means all formats containing sound recordings now known or hereafter developed, (including CDs, cassettes and records) which are distributed and made available for sale in Australia, excluding formats which contain audio visual and/or visual material.
- “Themes”: means social issues such as crime, suicide, drug and alcohol dependency, death, serious illness, family breakdown and racism.

## **APPENDIX A**

### **OMBUDSMAN TERMS OF REFERENCE**

These Terms of Reference, as amended by ARIA/AMRA from time to time, are ancillary to and should be read in conjunction with the ARIA/AMRA Labelling Code of Practice. The purpose of these terms is to outline the key features of the office of Ombudsman established under the Code.

#### **Independence**

The Ombudsman shall discharge the duties of his/her office, in good faith and in a neutral and impartial manner, having regard to the Code.

The Ombudsman shall not be a member of ARIA or AMRA or employed by an ARIA or AMRA member.

The Ombudsman is independent of record companies, music retailers and government.

#### **Appointment of Ombudsman**

ARIA and AMRA shall jointly appoint, in consultation with the OFLC a Labelling Code of Practice Ombudsman with knowledge of classification standards, relevant skills and a demonstrable understanding of the Australian music industry to perform the functions outlined in these Terms of Reference.

The Ombudsman shall be appointed for a fixed term of two years, with the option of reappointment.<sup>1</sup>

Any decision to discharge the Ombudsman prior to the end of their term of office shall be made jointly by ARIA and AMRA, in consultation with the OFLC.

#### **Consumer Access to Ombudsman**

The CHS will, at the end of the complaints procedure, provide information to complainants advising them of their right, should they remain dissatisfied, to seek a review of their complaint by the Ombudsman. Such information shall include details of how a complaint review is sought as well as how long the process takes.

#### **Functions and Powers**

ARIA/AMRA will ensure that their members are aware of the functions and powers of the Ombudsman as outlined below.

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<sup>1</sup> With the exception of the first appointed Ombudsman who will be appointed for a period of twelve months only.

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For the purposes of performing his or her functions under the Code, the Ombudsman may:

- request from ARIA, AMRA and their respective members all relevant information and materials (including Product) and ARIA, AMRA and their members shall provide such information and materials to the Ombudsman;
- consult with a complainant, ARIA, AMRA or any of their members;

### Classification

The Ombudsman has authority to make classification decisions in relation to determinations that have been referred to him/her by ARIA, AMRA or the ARIA Labelling Subcommittee.

### Complaints Handling

The Ombudsman will be available to, at the election of the complainant, provide a final level of review for complaints which have been dealt with by the Complaints Handling Service.

The Ombudsman may review a consumer complaint when, after having their complaint dealt with by the CHS the complainant indicates that they remain dissatisfied and would like the Ombudsman to review their complaint. The consumer will then provide all the relevant details of his/her complaint to the Ombudsman.

The Ombudsman must investigate complaints referred to him/her and facilitate their resolution in an impartial and expeditious manner, except where the complaint is, in the reasonable opinion of the Ombudsman, frivolous, vexatious or an abuse of the complaint process under the Code. In this circumstance the Ombudsman may dismiss the complaint.

The Ombudsman may review complaints that are up to three months old.

The Ombudsman can encourage but cannot compel complainants to provide all information relevant to a complaint.

The Ombudsman can demand and ARIA/AMRA members are required to provide, all information which, in the Ombudsman's view, is relevant to a complaint, unless that information identifies a third party to whom a duty of confidentiality or privacy is owed, or unless it contains information which the member is prohibited by law from disclosing.

The Ombudsman shall provide a written report of its review of a complaint ('Complaint Review Report') to the parties to the complaint, ARIA and AMRA. The Ombudsman may, in a Complaint Review Report make one or more of the following recommendations –

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- that a Product be re-classified in accordance with his/her recommendation; and/or
- that the ARIA/AMRA member in question communicate with the complainant; and/or
- that upon presentation of proof of purchase in the form of a receipt by the complainant, an AMRA member provide a refund to the complainant or allow them to exchange the product in question for another Product of equal value.

In all instances the Ombudsman must provide a Complaint Review Report within 30 days from the date of receipt of the complaint.

The Ombudsman shall keep systematic records of all complaints received, classification determinations made and Complaint Review Reports produced, which will form the records of the office of Ombudsman and are the property of ARIA/AMRA.

### General

The Ombudsman may refer particular issues, identified through complaints he/she receives, to ARIA and AMRA as and when he/she determines it is necessary.

If the Ombudsman, when dealing with a complaint or when preparing his/her Annual Report, determines that an ARIA or AMRA member is guilty of non-compliance with the Code the Ombudsman may identify that member and their non-compliance in their annual report.

### Annual Report

The Ombudsman will provide an annual report (covering the period from 1 April to 31 March) on the operation of the ARIA/AMRA classification scheme ('Annual Report') for circulation to ARIA and AMRA members, the OFLC, and Commonwealth, State and Territory Censorship Ministers.

The Annual Report shall contain specific information about the operation of the classification scheme, including:

- information about how the scheme works;
- the number and types of complaints received by the CHS and the Ombudsman and their outcome;
- any systematic problems in the operation of the scheme which became apparent from complaints received;
- information about new developments or key areas where policy or education initiatives are required;
- any consumer awareness and education initiatives undertaken by ARIA/AMRA or their members during the reporting period;
- the total number of discrete titles released during the reporting year, so that the number of labelled recordings can be considered in the context of the total number of releases;

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- the number of Products referred by ARIA or AMRA members to the ARIA Labelling Sub-Committee for a classification determination;
- details of measures taken by ARIA/AMRA or their members to address incidences of member non-compliance, and follow-up action taken to ensure members remain compliant;
- details of any amendments made to the Code;

The Annual Report shall also include two separate sections relating to the respective compliance with the Code by ARIA and AMRA members during the reporting period.

The Ombudsman will circulate a draft of the Annual Report to ARIA, AMRA and the OFLC at least three weeks prior to publishing such report and ARIA, AMRA and OFLC shall have at least fourteen days from the date on which they receive the draft within which to provide the Ombudsman with comments on the draft.

After considering any comment on the draft Annual Report received, the Ombudsman is empowered to publish the Annual Report.

The Ombudsman will make a copy of the Annual Report available to:

- ARIA, AMRA & their members;
- The OFLC; and
- Federal and State Censorship Ministers.

END.

