

**MINISTRY OF COMMUNICATIONS AND INFORMATION/
INFO-COMMUNICATIONS MEDIA DEVELOPMENT AUTHORITY**

**CLOSING NOTE TO PUBLIC CONSULTATION ON
PROPOSED AMENDMENTS TO THE FILMS ACT**

20 FEBRUARY 2018

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PART I: INTRODUCTION

- 1.1 The Ministry of Communications and Information (“MCI”) and Info-communications Media Development Authority (“IMDA”) seek to encourage the development of a vibrant media industry, while ensuring that the content does not undermine Singapore’s racial and religious harmony, national security or the public interest. MCI/IMDA’s content regulatory approach reflects community standards while providing more choices for consumers and protecting the young.
- 1.2 The Films Act sets out the framework for regulating the distribution, exhibition and possession of films in Singapore. Under the Act, distributors and exhibitors of films are required to obtain a licence from IMDA. In addition, all films need to be classified by the Board of Film Censors.
- 1.3 MCI/IMDA undertook a review of the Films Act to update the legislation given market, societal and technological developments. MCI/IMDA started engaging industry stakeholders on the key proposals from September 2016, and a public consultation on the proposed amendments to the Films Act was held from 4 December to 30 December 2017.
- 1.4 The public consultation covered the following key proposed amendments to the Films Act:
 - (a) Formalisation of the Co-Classification Scheme;
 - (b) Introduction of Video Games Class Licence;
 - (c) Clarification and Update to the Films Licensing and Classification Scope;
 - (d) Amendments to Appeals against IMDA’s Decisions under the Films Act; and
 - (e) Enhancements to IMDA’s Investigation and Enforcement Powers.
- 1.5 At the close of the public consultation, IMDA received a total of 134 submissions. They include feedback from 7 organisations/ groups namely TOUCH Community Services (“TOUCH”), mm2 Entertainment (“mm2”), ODEX Private Limited (“ODEX”), Community Action Network jointly with Function 8 (“CAN/Function 8”), Motion Picture Association (“MPA”), Screenwriters Association Singapore (“SAS”) and the Film Community, 125 submissions from individuals, and 2 online petitions. The full text of these submissions can be found in **Annex**.
- 1.6 MCI/IMDA would like to thank all respondents for their feedback and comments. Part II of this closing note gives an overview of the comments received, and MCI/IMDA’s responses to the comments. Part III concludes with MCI/IMDA’s next steps.

PART II: OVERVIEW OF COMMENTS RECEIVED AND MCI/IMDA'S RESPONSES

(A) Formalisation of the Co-Classification Scheme

- 2.1 In the public consultation, MCI/IMDA proposed amendments to formalise the *optional* co-classification scheme for the video distribution and film exhibition industries, following successful trials in 2011 and 2015 respectively. Under the formalised scheme, registered film content assessors would be able to co-classify video and film titles for distribution and public exhibition. The registration requirements for these assessors, the types of films they can co-classify and their duties would be prescribed in regulations or specified by IMDA. The proposed amendments would also set out the regulatory actions that may be taken against film content assessors for misclassification, and provide for IMDA to reclassify the films.
- 2.2 TOUCH, mm2, ODEX, MPA and an individual respondent supported the formalisation of the co-classification scheme. MPA commended the move to codify the pilot co-classification scheme and permit co-classification so that titles can be made available to consumers on a timely basis, resulting in a more efficient classification process. These views were echoed by both the individual respondent and ODEX, with the latter also requesting enabling film content assessors to review age-restricted films after additional training in the near future. mm2 commented that the training for film content assessors has been beneficial, as it equipped them and the industry with the necessary information about the classification system in Singapore.
- 2.3 Additionally, MPA suggested setting out in legislation a tiered penalty regime, comprising the range of non-punitive and punitive measures that IMDA would use. This was considering that the classification of films could at times be subjective, and a mistake or misclassification by a film content assessor, e.g. classifying a PG13 film as a PG film, should not warrant an unduly harsh fine. There was also a suggestion to impose penalties or suspend the film content assessor's registration only if there was deliberate or intentional misclassification of films, and for IMDA to provide the assessors with clear guidelines and training on how films should be assessed and classified. On the other hand, a few individual respondents commented that IMDA should set out the criteria for film content assessors and have in place safeguards to prevent mischief or biased classifications. One respondent suggested introducing a probation period for new film content assessors where they would be required to submit their classification decisions to IMDA for approval, and for IMDA to check the classification of re-released versions of a film or video (e.g. DVD releases) as film content assessors might simply apply the same classification rating as that used for exhibition without reviewing the re-released version.

- 2.4 There was a suggestion to have greater clarity on the circumstances under which a film could be reclassified or have its initial classification rating revoked, so as to minimise business uncertainty. An individual respondent further suggested restricting the window during which reclassification would be allowed, e.g. only after 60-90 days of the initial classification, or limiting reclassification to ratings that would either be equivalent to or lower than the original classification rating.

MCI/IMDA's Response

- 2.5 There will be measures in place to minimise the risk of misclassification. Prospective film content assessors will be required to attend formal training and pass mandatory tests before they qualify as registered film content assessors to co-classify films. Registered film content assessors must also fulfil an annual retraining requirement. In addition, registered film content assessors can only co-classify films up to PG13 rating. IMDA will continue to classify films that exceed PG13 rating (i.e. films that can be classified as NC16, M18 or R21). IMDA will also classify certain categories of films regardless of rating, such as films intended for film festivals or outdoor screenings, and those that deal with sensitive subject matters (such as race, religion, or politics).
- 2.6 With these measures, the risk of misclassification by registered film content assessors will be minimal. From the trials, MCI/IMDA observed that the classification ratings assigned by film content assessors were generally aligned with those of IMDA. Nonetheless, to safeguard against cases of mischief, biased classification or collusion, IMDA will conduct regular sample audits on the classification ratings issued by the registered film content assessors. Such a process will also mitigate concerns of registered film content assessors simply applying the same ratings as those used for distribution or exhibition without reviewing the re-released versions.
- 2.7 When there is a misclassification, IMDA will carefully consider the facts and circumstances of the case before determining the appropriate action to be taken, including whether or not there is intentional misclassification, the severity of the misclassification (e.g. a PG13 film misclassified as PG will be less severe than a NC16 film misclassified as PG) and the number of past misclassifications by the same registered film content assessor. If a film content assessor is unclear or has doubts about the content of the film and/or its proposed rating, he/she can consult IMDA on the proposed rating before issuing it or submit the film to IMDA for classification.
- 2.8 IMDA will reclassify a film if it has been misclassified by a film content assessor. IMDA may also reclassify a film due to changes in classification guidelines arising from changes in social norms. Such instances of reclassification would generally be

infrequent. A film may be reclassified to a higher or lower rating. For instance, a film that is misclassified with a lower rating by a film content assessor will be reclassified by IMDA to the appropriate higher rating. On the other hand, social norms could evolve such that lower ratings become more appropriate.

- 2.9 IMDA receives more than 7,000 films and videos for classification annually and about two thirds are classified PG13 and below. The co-classification scheme will thus benefit consumers who can get access to films in the market more quickly. The co-classification scheme will also develop industry capability by training a pool of film content assessors who are familiar with the classification guidelines. Industry players who prefer to submit their films to IMDA for classification may continue to do so.

(B) Introduction of Video Games Class Licence

- 2.10 In the public consultation, MCI/IMDA proposed amendments to the Films Act to establish a new automatic class licence scheme for retailers selling age-restricted M18 video games on physical media (e.g. DVDs). The automatic class licence scheme will spell out clearly that such retailers have to (a) display the correct classification labels on video games classified as M18; and (b) ensure that video games classified as M18 are not sold to under-aged consumers. Breach of these licence conditions will result in the imposition of financial penalties, or the suspension or revocation of licence for more serious breaches.
- 2.11 TOUCH supported the new video games class licence regime as it would signal the importance of safeguarding the young from inappropriate content and helping people make informed decisions. A respondent suggested mandating wholesale video games distributors to provide copies of the classification certificate to retailers, so that retailers would not unwittingly contravene class licence conditions. Another respondent suggested applying the Films Act classification regime to online games.

MCI/IMDA's Response

- 2.12 On the suggestion for wholesale video games distributors to provide a copy of the classification certificates to the retailers, IMDA would leave this to the private arrangements between the video games wholesale distributors and retailers. Without the certificates, retailers can still refer to IMDA's online classification database, as well as the classification label on a video game to determine whether the video game is classified M18, and hence requires age checks before being sold to consumers. On the suggestion for online games, MCI/IMDA wishes to clarify that they do not come under the Films Act's purview.

(C) Clarification and Update to the Films Licensing and Classification Scope

- 2.13 In the public consultation, MCI/IMDA proposed amendments to the Films Act to refocus the classification scope on the distribution and public exhibition of films. Under the current Section 21 of the Films Act, it is an offence to possess, distribute or exhibit an unclassified film. In the revised Section 21 of the Films Act, it remains an offence to *distribute and publicly exhibit* unclassified films, but it is no longer an offence to merely *possess* unclassified films. However, IMDA will have the power to require any film to be submitted for classification. This is intended for scenarios such as when a film is suspected of containing content against public interest.
- 2.14 The Film Community and an individual respondent welcomed the proposal to repeal the offence of possessing unclassified films and refocus regulatory efforts on the distribution and public exhibition of such films. Nonetheless, there were still some respondents who thought that the possession or private viewing (e.g. with family members and friends) of an unclassified film would be an offence under the revised Section 21 of the Films Act. There was also a query on how the imprisonment terms and fines under this Section were determined. Some respondents also questioned the need for IMDA to be able to call in a film not intended for distribution or public exhibition.
- 2.15 The Film Community and some respondents suggested deregulating the mere possession of films under the current Sections 33 and 34 of the Films Act, i.e. to remove the offences relating to the importation, making and reproduction of party political films (“PPFs”), and the powers to enter and search premises where a person had in his possession obscene films or PPFs. Some respondents commented that the definition of PPFs was too broad, while CAN/Function 8 and a few respondents called for the abolition of the PPF regime.
- 2.16 A question was also raised on how a film would be determined as an obscene film, a PPF, or a film against public interest or national security. A respondent commented that a person might not realise a film in his possession would be against public interest, and suggested that citizens be invited to participate in the film classification process to determine if a film would be against public interest.
- 2.17 The Film Community also submitted that the term “refused classification”, which would replace the current term “Not Allowed for all Ratings – NAR” for films disallowed for distribution and public exhibition, was confusing as it would give the wrong impression that the IMDA would not be reviewing or classifying the films, and suggested a reconsideration of the wording to prevent such confusion.

MCI/IMDA's Response

- 2.18 MCI/IMDA wishes to clarify that the revised Section 21 of the Films Act covers offences related to the *distribution* and *public exhibition* of unclassified films. The private viewing of a film with family members and friends is not considered a public exhibition. To determine whether an exhibition is “public” or “private”, IMDA takes into account relevant factors such as whether there was pre-event public solicitation of guests or public advertising of the event, whether entry was limited to pre-registered invited guests, whether there were access controls in place, and whether there was risk of exposure of the film to the public, by way of the venue. For these offences, MCI/IMDA has retained the existing imprisonment terms and fines from the current Films Act. Ultimately, it will be for the court to rule on the outcome of the case, including the corresponding fine and/or imprisonment term should there be a conviction.
- 2.19 As explained in Paragraph 2.13, IMDA's powers to call in unclassified films are intended for scenarios such as when a film is suspected of containing content against public interest. Examples can include content that promotes ill will and hostility among the different races and religions, or extremist content that advocates violence. For films of such nature, it will not be adequate to limit IMDA's powers to only call in films that are intended for distribution and public exhibition. MCI/IMDA wishes to clarify that when IMDA invokes this provision, it will be through a written request to the individual to submit the film to IMDA for classification. It is only an offence if the individual refuses to submit the film to IMDA.
- 2.20 MCI/IMDA wishes to clarify that the term “refused classification” is merely a replacement of the current term “Not Allowed for all Ratings – NAR”. There is no risk of IMDA not reviewing the film before refusing classification. IMDA will continue to review the film, provide reasons to the applicant on why the film has been refused classification and publish the decision in the classification database that is available on IMDA's website. However, MCI/IMDA have noted the concerns regarding the possible misinterpretation of the term, and will state clearly in both legislation and public communications that a decision from IMDA to refuse classification will only be arrived at after viewing the film.
- 2.21 To determine whether a film is an obscene film, a PPF, or against national security or public interest, IMDA will view and assess the content. Where required, IMDA will consult the Films Consultative Panel which comprises more than 70 members of the public from all walks of life. Where relevant, IMDA will also seek additional views from other advisory committees. Collectively, these members provide constant feedback and advice on content standards in the various media forms. In determining whether a film is against national security or public interest, IMDA will be advised by the

relevant Government agencies. On the suggestions to change or remove provisions relating to PPFs and obscene films, MCI/IMDA would like to clarify that these are outside the proposals put forth for public consultation.

(D) Amendments to Appeals against IMDA's Decisions under the Films Act

Appeals against classification decisions on national security

- 2.22 MCI/IMDA proposed amendments to the Films Act to have the Minister for Communications and Information ("Minister") hear and decide on appeals against IMDA's classification decisions for films determined to be against national security. Minister will consult the Films Appeal Committee ("FAC") for its views, before deciding on the appeal.
- 2.23 The Film Community, CAN/Function 8, SAS, and some respondents viewed that letting Minister, instead of the FAC, hear appeals for films with national security concerns would reduce transparency and undermine public confidence in the appeal process. Some respondents also raised objections to Minister being the arbiter of national security. The respondents suggested letting the FAC continue to hear appeals for such films. Should the decision be to retain the proposal of letting Minister hear the appeals and come to a decision after consulting the FAC, the Film Community and a few respondents suggested allowing appellants to make in-person representations to the FAC. They viewed that this would assure the appellants that their views would be presented and taken into consideration in the decision-making process.
- 2.24 There were other suggestions for the provision of a public avenue where citizens could discuss why a film undermines national security, where appeal details could be published (including Minister's decision and his considerations). Respondents also suggested that Minister's decision should be contestable in the court of law. A few respondents sought clarity on the definition of national security. Some respondents commented that other existing legislations, such as the Sedition Act, the Internal Security Act, and the Penal Code, would already provide for enforcement against films undermining national security.

MCI/IMDA's Response

- 2.25 MCI/IMDA wishes to emphasise that the proposal for Minister to hear appeals for films with national security concerns takes into consideration that national security is one of the Government's core responsibilities. It is not right for a citizen panel to assess threats to national security, as the panellists may not be privy to the full extent of concerns from security agencies due to the sensitivity of the information. Nonetheless,

prior to coming to a final decision on the appeal, Minister will first consult with the FAC. This ensures that citizen representation continues to be preserved in the deliberation. It is up to the FAC whether or not to allow in-person representations prior to giving its input to Minister.

- 2.26 MCI/IMDA would like to clarify that the appellant can communicate Minister's decision to the public if he or she so wishes (as is already the case now with the FAC's decisions). Where appropriate, Minister may also provide grounds for his decision. However, Minister may be constrained from disclosing confidential information.
- 2.27 On using other Acts such as the Sedition Act or Internal Security Act for enforcement against films undermining national security, MCI/IMDA would like to highlight that these Acts serve different purposes. The Films Act governs the regulation of all films, regardless of the content theme or concern. It provides film distributors and exhibitors as well as members of the public with a single point of reference and clarity in regard to the legislation and regulation of films in Singapore. This is a practical approach given that the same film can contain multiple content themes or concerns. The Films Act also allows for a calibrated approach towards films depending on the egregiousness of any undesirable content. For instance, films that are refused classification for exceeding the Films Classification Guidelines are not allowed for distribution and public exhibition but private viewing is allowed.

Changes to the Composition of the Films Appeal Committee

- 2.28 MCI/IMDA proposed amendments to allow Minister to appoint between 15 to 21 members to the FAC, and to determine the period of their appointment. MCI/IMDA also proposed that the quorum for a meeting be updated from a fixed number (i.e. 5 members) to a proportion (i.e. at least one-third of the members), given the change in the number of FAC members.
- 2.29 Some respondents suggested greater diversity in the composition of FAC members to maintain neutrality and objectivity in appeal decisions. A few of the respondents suggested reserving membership in the FAC for representatives from the film community and civil society. Others suggested to have all FAC members nominated by specified stakeholder groups (e.g. film community, civil security, legal and education professions) and through an open call from public, with selection through ballot. FAC members would then determine which members would be the Chairman and Vice-Chairman of the FAC. There was also a suggestion for a less formal arrangement to be explored, such as a Memorandum of Understanding ("MOU") between the FAC and Arts Engage. Separately, some respondents commented that the appointment of FAC

members by Minister should be for a fixed term of three years, and membership should not be extended beyond their fixed term.

- 2.30 There were also suggestions to increase the transparency and accountability of the FAC's decisions. They included allowing an appellant to attend IMDA's representation to the FAC to facilitate the appellant's appeal, publishing minutes of the discussions of the FAC or alternatively, the decisions and the rationale in the fullest extent possible should the publication of minutes not be feasible due to national security concerns.
- 2.31 Separately, there was also a comment to only allow parties with a direct commercial nexus with the film to appeal IMDA's decisions.

MCI/IMDA's Response

- 2.32 The FAC's current composition comprises individuals representing the community, creative, legal and education sectors as well as academia. There is a mix of both new and experienced members, so that the FAC brings in new perspectives while having an understanding of past decisions. The list of current FAC members can be found on IMDA's website. MCI notes the suggestions on the groups that could be represented in the FAC and will take them into consideration for future appointments. The appointment of FAC members will however remain with Minister, as the selection of members through ballot does not necessarily result in a more representative composition of individuals.
- 2.33 On the term of appointment for FAC members, MCI/IMDA wishes to clarify that the administrative change was to allow Minister flexibility in determining the length of term of FAC members, up to a maximum of three years. This was to address circumstances such as having to appoint a new member to the FAC to fill an unexpected vacancy in the middle of the term.
- 2.34 With regard to transparency of the FAC's decisions and deliberations, MCI/IMDA wishes to clarify that the appellant can release the FAC's decision to the public, as is already the case now. The FAC may also provide grounds for its decision, where appropriate. Currently, IMDA will notify the appellant of IMDA's views on the film and provide an explanation on the classification decision. This would provide sufficient opportunity for the appellant to frame his representation for an appeal.
- 2.35 To the comment that only parties with a direct commercial nexus to the film should be allowed to appeal, MCI/IMDA wishes to clarify that the proposed amendments will only permit persons with a nexus to the film to appeal IMDA's decisions. This includes (a) the applicant who originally submitted the film for classification, (b) the person

intending to distribute or publicly exhibit the film (as classification is no longer required for mere possession of the film), (c) the maker of the film, and (d) in the case that it is a co-classified film, the film content assessor whose classification is revoked.

(E) Enhancements to IMDA's Investigation and Enforcement Powers

2.36 MCI/IMDA proposed amendments to the Films Act to allow IMDA to (i) request information from any person to investigate a breach of the Films Act or licence conditions, (ii) enter premises without warrant to search and seize evidence of the commission of offences under the Films Act, (iii) dispose films, equipment or materials that have been seized during enforcement and is unclaimed, forfeited or has to be disposed without returning to the owner, and (iv) provide for the composition of offences.

2.37 These amendments were proposed as IMDA will enforce and investigate all breaches under the Films Act going forward. This would allow the Police to focus on more serious threats to security and law and order. Currently, IMDA only has powers to enter premises without warrant to seize the films and equipment used in the commission of offences related to PPFs, obscene and unclassified films. IMDA also has no powers to request information or take statements of persons acquainted with the case.

2.38 The Film Community, CAN/Function 8, and majority of the respondents raised concerns over the proposed changes to IMDA's investigation and enforcement powers. In particular, there were concerns that these powers would enable any IMDA officer to enter and search private homes without warrant, and seize personal equipment such as laptops, hard disks and mobile phones. There were also queries on the extent to which IMDA would establish that an offence was being or has been committed before taking enforcement actions. Some respondents questioned the need for powers of entry and search without warrant for offences under the Films Act, which might not be as egregious as other criminal offences. There were also queries on the recourse available, in particular for personal equipment seized which could contain significant other information not related to the offence.

2.39 Some respondents were concerned that IMDA classification or licensing officers lacked training and experience to exercise such powers in comparison to Police officers, and could potentially abuse these powers in the absence of a court-issued warrant. A few respondents were also concerned about the safety of IMDA officers if unforeseen confrontational situations arise in the course of exercising powers of entry into premises. Many respondents were of the view that the Police should enforce the offences in the Films Act.

- 2.40 Some respondents gave suggestions on safeguards that could be put in place to allay public concerns, should IMDA officers take on the proposed enforcement powers. They include (a) imposing conditions for the execution of the enforcement powers, (b) providing recourse to justice if due process was not followed, (c) ensuring proper training, examination and security screening for IMDA officers conducting the investigation or enforcement as well as those in decision-making positions for such actions, and (d) educating the public to check the authenticity of IMDA officers to reduce the risk of scams by imposters.

MCI/IMDA's Response

- 2.41 Films are regulated to ensure that the content does not undermine the social fabric of society, racial and religious harmony and/or national security. This is particularly critical given that Singapore is a multi-racial and multi-religious society. Being a small and open country, we are also highly susceptible to foreign influences that can undermine our social values or sow discord within our community. Advances in technology mean that content that can undermine public interest can be easily disseminated locally such as through the rapid and mass reproduction of films in DVDs, thumb drives and SD cards, or streamed from a remote overseas location to be publicly exhibited in Singapore.
- 2.42 Under the current Films Act, IMDA as the licensing and classification authority has powers of entry without warrant and powers of seizure for offences related to obscene films, PPFs and unclassified films. These powers are provided to ensure timely intervention by IMDA to protect public interest and secure the necessary evidence to prosecute against the exhibitors and distributors of such films. This is in view of the ease of flight and removal of evidence. For example, an ad-hoc public exhibition of an unclassified film can be over in 2 hours or less, while DVDs, thumb drives and SD cards, can be easily and quickly disposed.
- 2.43 Currently, only dedicated and specially trained enforcement officers in IMDA are permitted to carry out such enforcement actions. These officers are required to attend and pass Home Team Investigation Courses, where they receive both practical and classroom training on the conduct of enforcement and investigation activities in accordance with the Evidence Act and the Criminal Procedure Code. These courses cover areas such as (a) powers of entry, search and seizure, (b) collation of evidence, (c) recording of statements, and (d) preparation of investigation papers for court prosecution. These officers are security-screened prior to their appointment and the majority have prior experience in law enforcement agencies.

- 2.44 Internal processes and controls are also in place to ensure that such powers are exercised judiciously. For example, all entry and search will be authorised by suitably senior IMDA officers holding the office of a Director or its equivalent. The enforcement actions are undertaken by a team of enforcement officers, led by an experienced officer. Items are seized only where they are evidence of an offence under the Films Act. Hence, equipment will only be seized where it is needed to establish the offences.
- 2.45 To safeguard against abuse, each IMDA enforcement officer is issued with an authorisation card that is distinct from general IMDA staff passes, with the legislation empowering the enforcement powers imprinted on the card. An established whistle-blowing policy is also in place where members of the public can lodge complaints of abuse to IMDA, and internal investigations will be conducted by IMDA's Internal Audit Unit, which is independent of the regulatory and enforcement divisions in IMDA. IMDA takes abuse of enforcement powers seriously and will investigate all complaints. Should any officer be found to have indeed abused his or her enforcement powers, appropriate disciplinary procedures will be taken against the officer. In the event of suspected fraudulent representation, members of the public are encouraged to ask persons claiming to be IMDA enforcement officers to produce the authorisation cards and/or contact IMDA for verification.
- 2.46 While there is already an established enforcement framework and process within IMDA to enforce against offences under the Films Act, there are two enforcement gaps that need to be addressed. First, while IMDA's enforcement powers cover offences involving PPFs, obscene films and unclassified films, other offences in the Films Act that are as egregious are excluded. They include unlicensed public exhibition of films and offences related to films prohibited by the Minister on public interest grounds. Second, IMDA has no investigation powers to require information/ documents from or record statements of persons who have knowledge of the facts of the case. This applies to all offences in the Films Act. This means that even if IMDA were to seize obscene films, PPFs or unclassified films under current powers, the films have to be passed to the Police for follow-up investigations. This is despite IMDA being the authority that determines the licensing status of a film exhibitor or distributor, and assesses whether a film is a PPF or an obscene, prohibited or unclassified film.
- 2.47 The proposal to extend IMDA's enforcement powers is meant to close the abovementioned enforcement and investigative gaps and cater for a range of enforcement scenarios within specified parameters. Specifically, the powers to enter and search without warrant was intended to address the additional offences relating to (a) unlicensed public exhibition of films and (b) prohibited films. The provision for investigation powers was to enable IMDA enforcement officers to complete the investigation process for offences in the Films Act, i.e. to require the necessary

information and record statements of persons with knowledge of the facts of the case, and where the offence has been prima facie established, to bring the case to court.

Refinements for clarity

- 2.48 Notwithstanding, MCI/IMDA note the concerns raised on IMDA having too expansive a power for entry and search without warrant. **Hence, specific to the powers of entry and search without warrant, MCI/IMDA will set out in the amendments that these powers will only apply to offences relating to (a) PPFs, obscene and prohibited films, (b) distribution and public exhibition of unclassified films, and (c) unlicensed public exhibition of films. Further, these powers of entry and search will be exercised only by IMDA's enforcement officers and when there are reasonable grounds to believe that these specified offences have been committed or are being committed, or that evidence of the commission of these specified offences can be found in the premises.** These powers will therefore not apply to other offences under the Films Act.
- 2.49 **MCI/IMDA would also like to highlight that the proposed amendments in the public consultation had already provided the avenue for a person to contest such seizures without warrant in court within 48 hours.** The court can among other things, confirm or disallow the seizure in part or whole, or restore the item to the owner subject to the item being preserved and produced when subsequently required. These proposed amendments will continue to be in the revised Films Act to provide a channel of recourse for owners of the seized items. MCI/IMDA wishes also to clarify that the recourse to the court pertains to contesting the seizure. If an owner to a seized item does not complain to the Magistrate within 48 hours, it does not affect his or her claim over the seized item after the conclusion of the investigations (as set out in the revised Films Act).
- 2.50 The revisions will enable IMDA, as the regulatory authority, to enforce the Films Act effectively and efficiently when the situation calls for it, while at the same time ensuring that the extension of powers is limited to only the scope necessary to discharge IMDA's functions. MCI/IMDA would also like to assure the industry and public that strict processes are in place and will be adhered to during enforcement, and only officers who have been properly trained to handle situations on the ground and suitably authorised would be deployed.

(F) Comments on Other Policy Matters

- 2.51 There were queries on the applicability of the Films Act to the online distribution of content. In addition, there were some other comments on content standards, dialect

restrictions, classification fees and the regulatory disparity between the digital and physical distribution of films.

MCI/IMDA's Response

- 2.52 MCI/IMDA would like to clarify that the online distribution of content over the Internet where there is no physical copy of the content does not fall within the ambit of the Films Act.
- 2.53 For the remaining issues, they are policies set out in either licence conditions or content guidelines and not in the Films Act. Hence, they are outside the scope of this public consultation. IMDA will review them separately and engage the relevant parties for their views at an appropriate time.

PART III: CONCLUSION

- 3.1 Having given due consideration to the feedback received during the public consultation, MCI/IMDA will:
- a. **Refine the amendments on IMDA’s investigation and enforcement powers to give greater clarity on the use of these powers**, including the specific offences and conditions for IMDA enforcement officers to exercise powers of entry and seizure without warrant, and the circumstances under which equipment may be seized (see Paragraphs 2.48 and 2.49);
 - b. **Proceed with the rest of the proposed amendments without substantive changes**, namely to:
 - i. Formalise the co-classification scheme;
 - ii. Introduce the video games class licence;
 - iii. Clarify and update the films licensing and classification scope; and
 - iv. Have Minister hear appeals for films determined by IMDA to be against national security and for IMDA’s non-classification decisions.
- 3.2 The Films (Amendment) Bill is targeted to be introduced in Parliament in the first quarter of 2018.