

ANNEXURE B



# planning, monitoring & evaluation

---

Department:  
Planning, Monitoring and Evaluation  
**REPUBLIC OF SOUTH AFRICA**

**SOCIO-ECONOMIC IMPACT ASSESSMENT SYSTEM (SEIAS)  
FINAL IMPACT ASSESSMENT TEMPLATE (PHASE 2)  
15 NOVEMBER 2016  
FILMS AND PUBLICATIONS AMENDMENT BILL, 2015**

## **The Final Impact Assessment: Films and Publications Amendment Bill, 2015**

The Final Impact Assessment provides a more detailed assessment of the ultimately policy/legislative/ regulations/ other proposal. In addition, it identifies **(a)** mechanisms

for monitoring, evaluation and modification as required; and **(b)** a system for managing appeals that could emerge around the implementation process.

## **1. The problem Statement/ Theory of Change**

1.1. Give summary of the proposal, identifying the problem to be addressed and the root (causes) of the problem that will be addressed by the new rule.

### **a) Summary of the proposal (Summary Background of the proposed bill)**

The Film and Publications Act was passed in October 1996, establishing the Film and Publications Board (FPB hereon) whose responsibility included regulating the creation, possession and distribution of films, games and certain publications. The main regulatory tool used by the FPB has been the classification of content to provide age ratings (consumer advisories) ensuring that consumers make appropriate viewing and gaming choices for themselves and children in their care. Central to the provisions of the Act is the protection of children and consumers from exposure to harmful and illegal content whilst also continuing to ensure that it remains a criminal offence to use children in the creation of child pornography.

Since its inception 20 years ago, the FPB has had the responsibility of classifying movies in line with the South African values and norms. This approach has a distinct difference from the censorship regime used by the Apartheid government to advance the state's political agenda. The FPB classification regime entailed the formulation of classification guidelines informed by empirical evidence on what can be deemed harmful for children and sensitive viewers. Secondly, the formulation of the guidelines entails extensive public consultations, ensuring the standards placed within the guidelines are in-line with public expectations. This means the guidelines formulation process is evidence based, transparent and has accountability mechanisms, with all these essential in regulatory policy formulation of a democratic state.

The role of the FPB has previously been distinct as distribution of content that fell within the jurisdiction of FPB was easily identifiable. Films were either distributed via VHS, DVD and in cinema whilst publications were in your pre-packaged magazines and books. With developments in technology however,

much of the content has moved to online streaming or digital platforms. This has left a significant gap in the market. Consumers, and particularly children now can access content that has not been appropriately classified and labelled. This is particularly concerning when referring to adult content, which would be content rated 18 years and above, due to the explicit nature of the content.

Despite progress made on the implementation of the Act, constraints emerged that necessitated a need to introduce amendments, the following are some of those challenges:

- The constitutional court judgment necessitated the redefinition of Child pornography;
- Convergence of the sector has introduced some Policy and regulatory (online, social and media platforms) uncertainty in the films and publications/games industry;
- Lack of alignment between films and publications act with other primary legislations (e.g., sexual offences act, ECTA, etc) – FPB is the secondary legislation;
- Lack of effective enforcement of provisions of the act which deals with noncompliant distributors (Lack of enforcement powers); FPB currently only has monitoring powers over content distributors, but cannot ensure enforcement of the Act. For instance, the inability of FPB compliance monitors to enter and inspect premises of business in the sale, hire or exhibition of film and/or games should that access not be granted (especially small distributors). Online compliance monitors lack powers to remove illegal content
- Too much focus on the criminal sanctions and lack of administrative functions (No balance between criminal justice system and administrative functions); and
- Lack of online regulation to protect children and consumers from harmful and illegal content on social media platforms
- There is no uniform standard in terms of content regulation among online distributors – since no single regulatory institution is responsible for developing standard and compliance in line with local and

international standards (values and norms) – lack of effective and coherent co-regulation system. Online distributors from foreign countries use their own rating systems that may not be in alignment with the existing systems (FPB Classification guidelines).

- Currently internet access providers are not obliged to curb prohibited content when using their services – More and more people are using internet access providers services to propagate prohibited (e.g., hate speech, child pornography)
- The existing penalties proved to be insufficient in prohibiting noncompliance with registration, classification and content labelling. This will mean that consumers who buy content from distributors are not adequately protected from distribution of harmful and illegal content

The purpose of the Bill therefore is to close the regulatory gap that currently exists in the market. Consumers and children run a risk of exposure to harmful content. It is important to note that what is deemed to be harmful content may differ from one jurisdiction to the next. Harmful content is value laden concept and it is important for it to reflect the societal values and norms of that country. The Bill therefore wishes to extend the current rating system and content regulatory regime to online content providing services. This would enhance the protection of children and limit consumer confusion.

Above all, the Department of Communications would like to improve coordination in regulating the creation, possession and distribution of films, games and certain publications and the protection of children and consumers from harmful and illegal online content on social media platforms. Co-ordination and collaboration amongst and between organs of state and industry is required to ensure future-proof classification regime for the films, games and publication sector.

**b) Problem/s and root causes that the proposal is trying to address**

Identified Problem	Root causes	Why the problem persists/effect
<p><b>Overarching Problem:</b> Children and consumers are potentially exposed to harmful and illegal on/off-line content (i.e. all distribution platforms/networks and services)</p>	<p>The existing Act is outdated and hence does not adequately protect children and consumers against harmful and illegal content</p>	<p>The rapid technological advancement allows for proliferation of harmful and illegal on/off-line content (all distribution platforms/networks and services)</p>
	<p><b>Premature exposure to harmful content:</b></p> <p>Lack of regulation of online content to ensure the protection of children and consumers from harmful and illegal on/off-line content (all distribution platforms/networks and services)</p>	<p>Convergence of the sector has introduced some Policy and regulatory (online content distribution platforms) uncertainty in the films and publications/games industry</p>
	<p><b>Lack of Policy and Regulatory certainty:</b></p> <p>There is no uniform standard in terms of content regulation among online distributors – since no single regulatory institution is responsible for developing standards and compliance in line with local and international standards (values and norms) – lack of effective and coherent co-regulation system.</p> <p>The online content distributors currently do not classify films, games, publications in line with the existing classification guidelines.</p> <p>Currently there are no independent mechanisms for handling harmful content for non-commercial distributors – Should a consumer complain about content distributors can choose to ignore or reject the</p>	<p>International classification systems are not in line with the SA standards – so the age ratings and consumer advisories (labels) would confuse the SA consumer and may expose children to content that SA may view as harmful.</p> <p>Each company has its own community standards which may not be in complete coherence with the South African values and norms.</p> <p>The current self-regulatory systems have limited accountability mechanisms to consumers as there are no direct accountability mechanisms between the consumer and the distributor.</p>

Identified Problem	Root causes	Why the problem persists/effect
	complaint without any recourse for the consumer.	
<p><b>Overarching Problem:</b></p> <p>Children and consumers are potentially exposed to harmful and illegal on/off-line content (all distribution platforms/networks and services)</p>	<p><b>Ineffectiveness implementation of mandates:</b></p> <p>FPB currently only has monitoring powers over content distributors, but cannot ensure enforcement of the Act. For instance, the of FPB compliance monitors are not empowered to enter and inspect premises of business in the sale, hire or exhibition of film and/or games should that access not be granted (especially small distributors)</p> <p>Fragmented policy and regulatory approach to implementation of online child protection initiatives</p> <p><b>Current definition of child pornography not in-line with the Constitutional Court Judgement</b></p> <p>The Constitutional Court revised section 16 of the FP to pre-classification regime aligning it to Constitutional provisions.</p>	<p>Lack of effective enforcement of provisions of the act which deals with non-compliant distributors (Lack of enforcement powers)</p> <p>The constitutional court judgment necessitated the redefinition of Child pornography. The court suggested a new definition and it has been captured as follows in the Bill ("<b><u>child pornography</u></b>' means <b><u>child pornography as defined in section 1 of the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act 32 of 2007)</u></b>").</p> <p>Lack of alignment between films and publications act with other primary legislations (e.g. Constitution, sexual offences act) – FBP is the secondary legislation</p>

**1.2. Describe the intended outcomes of the proposal**

Reducing and addressing the exposure of children and the vulnerable to harmful and illegal content through the implementation of a Credible Classification system for media content distributed across all networks/platforms and services (with the exception of Broadcasting and Print Media services) in the South African market.

**1.3. Describe the groups that will benefit from the proposal, and the groups that will face the cost. These groups could be described by their role in the economy or in society. As a minimum, consider if there will be specific benefits or costs for the poorest households (earning R 7000 a month or less); for black people, youth or women; for small and emerging enterprise; and /or for rural development. Add more rows if required**

Groups that will benefit	How will they benefit?
Children	<p>The Bill protects the children from:</p> <ul style="list-style-type: none"> <li>• Use in creation of illegal media content (Child Pornography) for distribution in the SA market</li> <li>• Exposure to illegal content distributed in the SA environment, particularly online.</li> <li>• Exposure to harmful content online (Pornography / Sex, violence etc.). Premature exposure could have adverse psychological and behavioural impacts on children.</li> </ul>
Adult consumers / parents	<p>The Bill protects Adult consumers / parents through:</p> <ul style="list-style-type: none"> <li>• Clear labelling and consumer advisories of content online, enabling them to make responsible viewing choices for themselves and children in their care.</li> <li>• Awareness on available mechanisms required in safeguarding children online.</li> <li>• Responsiveness and accountability of the FPB and service providers when consumer complaints are lodged.</li> </ul>
Creators and Publishers of content	<ul style="list-style-type: none"> <li>• Section 16 of the FP Act, now clarifies provisions related to freedom of expression, thereby provides newspapers and publications with legal clarity and certainty by balancing Section 16(1) related to protected speech (e.g. freedom of press and media) and Section 16 (2) related to prohibited speech (advocacy of hatred that is based on race, religion, etc.) of the Constitution (provision relating to Freedom of Expression).</li> <li>• Smaller content producers will be able to circulate content in the market without incurring the cost of classification.</li> </ul>
Online distributors of films and games	<ul style="list-style-type: none"> <li>• The Bill protects online distributors of films and games against piracy – Removal of requirement to submit material for pre-</li> </ul>

Groups that will benefit	How will they benefit?
	<p>Classification allows distributors to retain control of the distribution model and enables building of controls.</p> <ul style="list-style-type: none"> <li>• Quicker turn-around times for Classification decisions</li> <li>• Greater consumer confidence due to the use of trusted classification methods</li> </ul>
Law enforcement agencies (SAPS and NPA)	<ul style="list-style-type: none"> <li>• Law enforcement agencies will, through this Bill, be empowered to prosecute effectively since perpetrators of prohibited content will be easily identifiable.</li> <li>• Law enforcement agencies can now, using penalties and fines provided for in Bill to combat piracy</li> </ul>
The Public	<ul style="list-style-type: none"> <li>• Victims of online revenge pornography will now have recourse mechanism</li> <li>• Members of the public will be empowered through digital literacy campaigns</li> <li>• Make informed decisions through accessing content that has been classified and labelled appropriately</li> </ul>
Internet Services Providers	<ul style="list-style-type: none"> <li>• Alignment with the primary act (EC Act) – avoid confusion and regulatory certainty</li> </ul>
Regulators and broadcasters	<ul style="list-style-type: none"> <li>• Clarity and harmonisation in relation to content classification in the SA market</li> </ul>
NGO's (e.g., Children Rights Organisations, etc.)	<ul style="list-style-type: none"> <li>• Act provides scope for partnership and collaboration on digital media literacy campaigns and related matters.</li> <li>• Act also provides legislative certainty and enhance advocacy initiatives when advancing the rights of children online</li> </ul>
Poor/marginalised communities and rural schools	<ul style="list-style-type: none"> <li>• Cyber safety (ensuring child protection from grooming and use in child pornography)</li> </ul>
Film and Publication Board	<ul style="list-style-type: none"> <li>• Legal and regulatory clarity with respect to power and mandate in the online distribution environment.</li> <li>• Increased revenue collection from online distributors that will be required to register with the FPB.</li> <li>• Legal certainty will empower FPB to undertake regional co-operation arrangement in SADC to develop regional and continental classification framework reflective of the African values and norms (regional framework important in the online space).</li> </ul>

<b>Groups that will bear the cost or lose</b>	<b>How will they incur the costs or lose?</b>
Dept. of Communications	<ul style="list-style-type: none"> <li>• The cost of establishing the Online Content and Digital Media Literacy Directorate.</li> </ul>
Commercial Online content distributors	<ul style="list-style-type: none"> <li>• They will now be required to pay licencing fees to FPB to self-classify.</li> <li>• The current cost R795 000.00/ annum to enter into online distribution agreements (study to determine appropriate fees is currently under review)</li> <li>• The cost of acquiring compliance and monitoring staff to implement the FPB Classification guidelines.</li> <li>• Cost of submitting material for classification should they opt not to conclude online distribution agreement</li> </ul>
Film and Publication Board	<ul style="list-style-type: none"> <li>• The cost of acquiring technologies to improve online monitoring infrastructure.</li> <li>• Cost of additional research to understand trends in the South African market.</li> <li>• Cost for an expanded digital media literacy campaign to reach bigger segment of South African population.</li> <li>• Cost of re-skilling current personnel to adapt to the new regulatory environment and technology.</li> <li>• Cost of change management and process re-engineering to assist the organisation in adapting to the new environment.</li> <li>• Increased personnel and resources to support the work of the Enforcement Committee.</li> <li>• Cost of litigation in enforcing industry compliance</li> </ul>

<b>Groups inside Government</b>	<b>Behaviour that must be changed (Current Behaviour)</b>	<b>Main mechanism to achieve the necessary changes</b>
Departments of Communication; Telecommunications and Postal Services; Social Development; Justice and Constitutional Development	Lack of co-ordination (fragmentation) of departments within Government when dealing with illegal and harmful content that can be accessed by children.	Inter-ministerial / departmental committee will be set-up to address the issues.  For clarity purposes, this will be provided for as a new section in the Bill.
Department of Basic Education (DoBE)	Lack of synergy on cyber-safety education in schools.  There is no co-ordinated awareness and education tools for digital media literacy and dealing with harmful on/off-line content education. For example, different schools have different approaches on how to incorporate new media in the schools. Secondly, teachers are not adequately equipped to teach children on cyber-safety	Inter-ministerial / departmental committee will be set-up to address the issues.  DoBE lead in digital media literacy campaign when targeting learners and educators.
Department of Higher Education and Training (DoHE&T)	Lack of synergy on cyber-safety education in the Higher Education and Training institutions.  There is no co-ordinated awareness and education tools for digital media literacy and dealing with harmful on/off-line content education. For example, different higher education institutions would have different approaches on how to incorporate new media in the Higher Education and Training institutions. Secondly, students and lecturers are not	Inter-ministerial / departmental committee to address the issues.  DoHE&T lead in digital media literacy campaign when targeting students and lecturers.

	adequately equipped to teach students and lecturers on cyber-safety	
--	---	--

1.4. Describe the behaviour that must be changed, main mechanisms to achieve the necessary changes. These mechanisms may include modifications in decision making process systems; changes in procedures; educational work; sanctions; and or incentives. Also identify groups inside or outside government whose behaviour will have to change to implement the proposal. Add more rows if required.

<b>Groups outside Government</b>	<b>Behaviour that must be changed (Current Behaviour)</b>	<b>Main mechanism to achieve the necessary changes</b>
Parents / Consumers	Lack of vigilance (poor parental supervision) from parents/consumers when their children are online	The DoC/DTPS will play a major role in co-ordinating the empowerment of Parents/Consumers through educational awareness campaigns and compliance efforts. GCIS will advise on how to engage with broadcasters/mobile operators and internet service providers.
Children	Children consume content that is not suitable for their respective ages (pornography, violent games, hate speech etc.)	The DoC will engage the Department of Education and other key/relevant stakeholders regarding the role of education in assisting children to engage with the new on/off-line environment; especially as there is a rollout of ICT in education.
Online Commercial Distributors	Online Commercial Distributors have different ways of classifying content amongst themselves, which at times is different/inconsistent with the FPB Classification system.	The DoC will engage the Online Commercial Distributors and the FPB to ensure that they both agree to consistent classification standards that will work for the South African socio-cultural/economic/political environment.

1.5. Report on consultations on the proposal with the affected government agencies, business and other groupings. What do they see as the main benefits, costs and risks? Do they support or oppose the proposal? What amendments do they propose? And have these amendments been incorporated in your proposal?

**Table on consultations:**

Affected Stakeholders	What do they see as main <u>benefits, costs and risks?</u>	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> propose?
NPA	Duplication with other legislation as the Sexual Offences and Related Matters Act deals with child pornography	They do not support the duplication as it may cause uncertainty during prosecution.	They propose that it be harmonised with other legislation.
Internet Service Providers Association (ISPA)	Risk – the bill is unconstitutional and forces pre-classification when they do not have capacity to do so	They oppose the amendments extending the mandate of the FPB to the Online environment.	They are proposing amendments to deal with issues raised through legislation (i.e. Sexual Offences and Related Matters Act, Criminal Justice Bill, Communication and Transaction Act)
Google	The powers of compliance monitors are too broad and subject to abuse.	They do not support the provisions	They propose that orders or warrants be obtained prior to inspections being conducted.
	It is not practical for all online content to be classified and such a requirement would render the legislation unenforceable. They oppose the obligation for user generated content	Only commercial online distributors are required to submit content for classification.	Only online content that is distributed for commercial purposes should be classified.

Affected Stakeholders	What do they see as main <u>benefits, costs and risks?</u>	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> propose?
	to be submitted for classification.		
1. Civil Society: Media Monitoring Africa	<p>The term child pornography is incompatible with international practice as the term used is now child sexual abuse material. This poses a risk as the legislation may soon need to be amended should the term change from child pornography to child sexual abuse material.</p> <p>The Bill does not adequately reflect</p>	They oppose the reference to child pornography	They propose the should rather be sexual abuse ma
Right 2 Know	The fees for classification are a barrier to freedom of expression	They oppose the current fees as gazetted	They call for a re the tariffs and
South African Jewish Board of Deputies	The penalties are not harsh enough for hate speech, revenge porn and content depicting violence against children and therefore will not have the intended effect	They support the prohibitions but oppose the fines	They call for harsh penalties
2. The Public			
3. Other groupings: NAB	The Bill's provisions directing the circumstances under which ICASA must not issue, suspend or revoke licences is unconstitutional.	They oppose the provisions as they are considered unconstitutional.	They propose the provisions pertai ICASA and its jur be removed.
	FPB does not have the authority to pronounce what constitutes broadcasting and such a	They do not support the provision that streaming does not constitute broadcasting	They propose the provision be rem

Affected Stakeholders	What do they see as main <u>benefits, costs and risks?</u>	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> propose?
	provision renders the Bill unconstitutional		
	The exemption currently afforded to broadcasters is effectively removed in the Bill and is impractical as to subject broadcast content to classification on the basis that it is being streamed online	They oppose the provisions	They propose the exemption be extended to broadcast content which is online.
	The Bill will result in over regulation of broadcasters who are extensively regulated as it is.	They oppose provisions which seek to regulate broadcasters further.	They propose the ancillary services of broadcasters be exempted.
SACF	The proposed accreditation of the foreign and international classification bodies is very progressive	They support the proposal	The propose that factors to be taken into consideration when determining whether to accredit a system
	The definition of 'hate speech' is too broad	They do not support the definition of hate speech	They propose the definition be revised in line with international conventions and
	The broadness of the Bill in relation to the regulation of online content renders the Bill impractical and unenforceable	They do not oppose the wording used in respect of provisions for online distribution	They propose the distinction be maintained between commercial and non-commercial distribution and of content
Interactive Entertainment South Africa	<p>The Bill seeks to unduly control the kind of content which South Africans seek to consume in the digital space – thus restricting the accessibility and distribution thereof.</p> <p>The Bill will have an adverse impact of the</p>	They oppose the pre-distribution classification requirement and consider it unconstitutional.	They propose for removal of the pre-distribution classification requirement as it is considered unconstitutional. Alternatively, pre-distribution classification must be applied to content which v

Affected Stakeholders	What do they see as main <u>benefits, costs and risks?</u>	Do they <u>support</u> or <u>oppose</u> the proposal?	What <u>amendments</u> propose?
	growth of the gaming industry.		receive an X18 rating higher.

**1.6. Describe possible disputes arising out of the implementation of the proposal, and system for settling and appealing them. How onerous will it likely be for members of the public to lodge a complaint and how burdensome and expeditious is the proposed dispute-settlement procedure?**

Group	Potential Dispute	Mechanism/ procedure for settling the dispute
Online distributors	<ul style="list-style-type: none"> <li>Imposition of tariffs to - Distributors argue that the cost is very high. FPB has commissioned a study assessing the appropriate tariff structure and fees for industry</li> </ul>	<ul style="list-style-type: none"> <li>The methodology adopted includes interviews with industry players to include their data in the determination of the tariff structure and fees. Industry will be consulted on the fees prior to adoption and implementation by regulation, which will address the high price tariffs and the related regulations will set these tariffs at a reasonable level.</li> </ul>
Online distributors	<ul style="list-style-type: none"> <li>The protection and defence for individual privacy when it clashes with consumer protection (e.g. hate speech)</li> </ul>	<ul style="list-style-type: none"> <li>Signing MoUs and agreements with industry operators/multi-lateral institutions and regulators to address these issues</li> </ul>
Games Industry	<ul style="list-style-type: none"> <li>Classification of games – refusal to subject games to FPB Classification process</li> </ul>	<ul style="list-style-type: none"> <li>The DoC will engage the Online Commercial Distributors and the FPB to ensure that they both agree to consistent classification standards that will work for the South African socio-cultural/economic/political environment.</li> </ul>

## 2. Impact Assessment

Describe the costs<sup>1</sup> and benefits of implementing the proposal to the groups identified **in point 1.5 above**, using the following chart. Add more rows if required (BALLPARK FIGURES TO BE PROVIDED/FINALISED ON 18 NOVEMBER 2016)

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
DoC	<ul style="list-style-type: none"> <li>Establish Online Content and Digital Media Literacy Directorate</li> </ul>	<ul style="list-style-type: none"> <li>Cost of capacity building to support executive authority engagements</li> <li>Cost of policy and regulatory development on online content and classification issues.</li> <li>Cost of engagement with industry, public and other policymakers and regulators to support the policy provisions</li> </ul>	<ul style="list-style-type: none"> <li>Efficient monitoring of the policy development within the online content and classification environment.</li> <li>Improving national policy and regulatory development efficiency within the online content and classification environment</li> </ul>	

<sup>1</sup> However, despite requests addressed to the relevant stakeholders we were not able to obtain or be provided with more specific data/information on potential administrative, compliance and enforcement costs for service providers in relation to implementing the regulatory provisions of this Bill.

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
		<ul style="list-style-type: none"> <li>• Skilling staff on this new regulatory policy issues</li> </ul>		
Film and Publication Board	<ul style="list-style-type: none"> <li>• Cost of upgrading classification environment to allow for virtual classification</li> <li>• Cost of upgrading technology and purchasing new system (Estimated cost)</li> </ul>	<ul style="list-style-type: none"> <li>• Cost of skilling staff on the new technologies</li> <li>• Cost of Change management to ensure staff adapts to the new environment</li> <li>• Cost of Educating and training distributors to ensure compliance</li> <li>• Cost of developing training manuals for distributor training</li> </ul>	<ul style="list-style-type: none"> <li>• Efficient monitoring of the sector.</li> <li>• Improving operational efficiency</li> <li>• Under-utilisation of system and new technologies (resistance to change)</li> <li>• Litigation against provisions of the Bill</li> </ul>	
Department of Basic Education (Education)	<ul style="list-style-type: none"> <li>• Cost of hiring more teachers</li> <li>• Cost of laying out the requisite ICT infrastructure</li> </ul>	<ul style="list-style-type: none"> <li>• Cost of increasing capacity to support Executive Authority Engagements</li> </ul>	<p>Co-ordinated roll-out of digital literacy in schools</p> <p>National policy on integrating new media</p>	

Group	Implementation Costs	Costs of changing behaviour	Costs/Benefits from achieving desired outcome	Comments
		<ul style="list-style-type: none"> <li>• Cost of curriculum development on cyber-safety</li> <li>• Cost of training of educators on cyber-safety</li> </ul>	platforms in the learning environment	

**2.1. Describe the changes required in budgets and staffing in government in order to implement the proposal. Identify where additional resources would be required for implementation. It is assumed that existing staff are fully employed and cannot simply absorb extra work without relinquishing other tasks.**

- The DoC will need to establish a new Directorate for Online Content and Digital Media Literacy
- The FPB will incur costs related to the establishment of the Enforcement Committee, to deal with administrative non-compliance. The current system costs far outweigh the benefits

**2.2. Describe how the proposal minimises implementation and compliance costs.**

- This Bill brings more efficiency and improve turnaround times for classification.
- The envisaged Inter-Ministerial Committee will assist in avoiding/reducing unnecessary litigation costs (Constitutional Court challenges) and increase co-ordination to create certainty for industry and avoid regulatory forum shopping (co-ordination of content classification between ICASA and FPB mandates).
- The costs of compliance and implementation will be greatly reduced.

### **3. Managing Risk**

3.1. Describe the main risks to the achievement of the desired ends of the policy/bill/regulations/other and/ or to the national priorities (aims) that could arise from adoption of the proposal. Also describe the measures taken to manage the identified risks. Add more rows if necessary.

Identified Risk	Mitigation Measures
Online Content regulation systems downtimes	<ul style="list-style-type: none"> <li>• Protect the system against hacking and invasion by outsiders. Strengthen the security measures.</li> </ul>

Poor public participation in regulations and guidelines formulation processes	<ul style="list-style-type: none"> <li>• Develop a database and engage in quarterly stakeholder engagements. Present a stakeholder engagement plan for approval by DG.</li> <li>• FPB Board to present a stakeholder engagement plan for approval by FPB Council</li> </ul>
Fragmented approach in addressing issues of harmful content	<ul style="list-style-type: none"> <li>• The establishment of the IMC on addressing issues of harmful content</li> </ul>
Constitutional Challenges for some provisions of the legislation related to pre-classification	<ul style="list-style-type: none"> <li>• The Constitutionality of the provisions of the Bill will be checked with the Parliamentary Legal Counsel and State Law Advisor office</li> </ul>

3.2. Describe the mechanisms **included in your proposal** for monitoring implementation, evaluating the outcomes, and modifying the implementation process if required. Estimate the minimum amount of time it would take from the start of the implementation process to identify a major problem and remedy it.

The Bill provides for the monitoring of compliance by online distributors through empowering the FPB to conduct online inspections (explain how they will do it and all the functions they will do).

In order to support these provisions, the following critical success factors of the Bill will be monitored from commencement of implementation:

- No of new registrations of online distributors
- Levels of regulation fees
- No of non-compliant distributors
- Level of public awareness on FPB mandate
- Levels of convergence of FPB Classification guidelines with SA values and norms

The establishment of the DoC Content Directorate and the FPB Entity Oversight Chief Directorate will play a role in terms of overseeing the effective implementation of the Bill.

The IMC will ensure that there is joint planning/forum where there will be regular meetings to address blockages or stumbling blocks.

FPB will continue with its quarterly focus groups across the 9 provinces and its quarterly audits of online distributors samples of self-classifiers will ensure that they apply the classification guidelines correctly.

## 4. Summary

### 4.1. Summarise the impact of the proposal on the main national priorities

National Priority	Impact
1. Social Cohesion	<ul style="list-style-type: none"> <li>• Enhanced social tolerance due to reduced cyber-bullying, grooming and hate speech</li> <li>• Social Cohesion and nation building– protection of premature exposure of children to harmful content. (violence, explicit language and sex)</li> <li>• To ensure society is protected from perpetrators of online hate speech to improve racial and other forms of tolerance in the country</li> </ul>
2. Security (Safety, Financial, Food, Energy and etc.)	<ul style="list-style-type: none"> <li>• Security – Create a safe, secured and empowering environment for children and adults online through digital literacy and enforcement regimes</li> </ul>
3. Economic Growth	<ul style="list-style-type: none"> <li>• The Bill creates an efficient regulatory framework that will enable online commercial distributors to know what to expect (regulatory certainty) when entering the SA market - thereby creating an environment for future investment and innovation. This will provide opportunities for creatives, game and application developers in the SA market.</li> <li>• Economic – reduce the cost of compliance by distributors through co/self-regulatory environment.</li> <li>• Stimulate growth and competition through co-regulation which would include restrictive barriers of submitting content for classification</li> </ul>

National Priority	Impact
4. Economic Inclusion (Job Creation and Equality)	<ul style="list-style-type: none"> <li>• Job Creation and skills development – through training of classifiers employed by industry (e.g. Gaming and film industry).</li> <li>• Industry contribution of development skills in creating local content and applications.</li> </ul>
5. Environmental Sustainability	<ul style="list-style-type: none"> <li>• There is no strong impact identified</li> </ul>

4.2. Identify the social and economic groups that would **benefit most** and that would **bear the most cost**. Add more rows if required.

Main Beneficiaries	Main Cost bearers
Children, Consumers and Parents	FPB and DoC
Commercial Online Distributors	SAPS
	DBE

4.3. In conclusion, summarise what should be done to reduce the costs, maximise the benefits, and mitigate the risks associated with the policy/bill/regulations/other. Note supplementary measures (such as educational campaigns or provision of financing) as well as amendments to the draft itself, if appropriate. Add more lines if required.

- a) Benefits
- b) Costs
- c) Risks
- d) Supplementary measures

4.4. Please identify areas where additional research would improve understanding of the costs, benefits and/ or risks of the policy/bill/regulations/other

For the purpose of building SEIAS body of knowledge please complete the following:

<b>Name of Official/s</b>	<b>Collin Dimakatso Mashile</b>
<b>Designation</b>	<b>Chief Director</b>
<b>Unit</b>	<b>Broadcasting Policy</b>
<b>Contact Details</b>	<b>012 473 0414</b>
<b>Email address</b>	<b>collin@doc.gov.za</b>