

House of Representatives

# Supplementary Order Paper

**Tuesday, 21 July 2020**

**Films, Videos, and Publications Classification (Commercial Video on-Demand) Amendment Bill**

*Proposed amendments for the consideration of the Committee of the whole House*

**Key:**

- **this is inserted text**
- **~~this is deleted text~~**

**Note:** This Supplementary Order Paper shows amendments to the Bill that are being proposed by the Minister for the purposes of consideration in Committee of the whole House. This document does—

- **NOT have official status in terms of unamended text**
- **NOT have the status of an as-reported version of the Bill.**



## **Explanatory note**

This Supplementary Order Paper sets out amendments to the Films, Videos, and Publications Classification (Commercial Video on-Demand) Amendment Bill. The main amendments change the commencement date and create a mechanism to recover some of the costs of regulating the sector by providing the ability to impose an annual levy on specified providers of commercial video on demand.

### *Commencement*

The commencement dates and associated transitional provisions in *clause 2* and *Schedule 1* are amended to recognise that the Bill will not be enacted as early as anticipated. The supporting provisions in the Bill will come into force on 10 August 2020 and the new labelling regime for commercial video on-demand content will come into force on a date set by Order in Council. The set date must be at least 4 months from the date of the Order. If no Order is made, the labelling regime provisions will come into force on 1 August 2021. This will ensure there is time for regulations required to support the new regime to be promulgated well before those requirements commence. The transitional provisions allow a further 6 months for specified providers to label commercial video on-demand content that was made available before the new requirements come in to force.

### *Levy*

*New clause 19* provides for an annual levy on specified providers of commercial video on-demand content to fund the costs of Classification Office activities related to that industry. The levy can be set by regulations. The levy must be reasonable, and the Minister of Internal Affairs may not recommend regulations to set a levy unless satisfied there has been consultation with each specified provider. If a differential levy is proposed, the Minister must be satisfied that it is fair. The amendments clarify that a dispute about the levy does not remove the obligation to pay it and authorise the Chief Censor to suspend approval of a specified provider's self-rating system in the event of default. Outstanding levies and fees are recoverable in the Courts as a debt to the Classification Office.

### *Other technical changes*

Technical changes are made to the definition of approved self-rating system, and other references to the approval of the system, to ensure a consistent approach that makes it clear that the Chief Censor has statutory responsibility for approving self-rating systems developed and used by specified providers of commercial video on-demand content.

Other minor and technical changes are also made.

## **Departmental disclosure statement**

The Department of Internal Affairs is required to prepare a disclosure statement to assist with the scrutiny of this Supplementary Order Paper. It provides access to infor-

mation about any material policy changes to the Bill and identifies any new significant or unusual legislative features of the Bill as amended.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=sop&subtype=government&year=2020&no=554&>

#### **Cost recovery impact statement**

The Department of Internal Affairs produced a cost recovery impact statement on 23 April 2020 to help inform the new policy decisions taken by the Government relating to the contents of this SOP.

A copy of this cost recovery impact statement can be found at—

- <https://www.dia.govt.nz/Resource-material-Regulatory-Impact-Statements-Index>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

**The Honourable Tracey Martin, in Committee, to propose the amendments shown in the following document.**

*Hon Tracey Martin*

# **Films, Videos, and Publications Classification (Commercial Video on-Demand) Amendment Bill**

Government Bill

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Films, Videos, and Publications Classification (Commercial Video on-Demand) Amendment Act **2020**.

**2 Commencement**

(1) **Sections 4(2) and (3), 6, 7, 11 to 13A, and 14A to 17** come into force on **1 January 2021**: ~~the earlier of—~~

(a) a date appointed by the Governor-General by Order in Council (which must be 4 or more months after the date on which the order is made);  
and

(b) **1 August 2021**.

(2) The rest of this Act comes into force on **10 August 1 July 2020**.

**3 Principal Act**

This Act amends the Films, Videos, and Publications Classification Act 1993 (the **principal Act**).

**Part 1**

**New rating and labelling requirements for specified CVoD providers' commercial video on-demand content**

**4 Section 2 amended (Interpretation)**

(1) In section 2, insert in their appropriate alphabetical order:

**approved self-rating system** means a system approved by the ~~Classification Office Chief Censor~~ under **section 46E** ~~that is to be used for use~~ by a specified CVoD provider to rate and label the provider's commercial video on-demand content

**commercial video on-demand content—**

(a) means video on-demand content that is made available to persons in New Zealand for a fee or other consideration; but

(b) does not include video on-demand content that is made available on a platform provided by a broadcaster as part of a subscription-based television service if—

(i) the platform is only accessible by subscribers to the service; and

(ii) that content has been classified in accordance with a code of broadcasting practice issued or approved by the Broadcasting Standards Authority under section 21(1) of the Broadcasting Act 1989

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**Examples**

A movie that can be downloaded from the Internet by a person who pays a one-off fee to access that movie.

A series made available to a person who paid a subscription fee for access to a catalogue of content to be accessed through a computer or other electronic device.

A short film made available to a person who has been given access to a catalogue of online content as a benefit of entering into a contract with an Internet provider.

**specified CVoD provider** means—

- (a) a company listed in **Schedule 4**, to the extent that the company makes commercial video on-demand content available in New Zealand ~~whether directly or indirectly through a subsidiary~~; and
- (b) a subsidiary of a company listed in **Schedule 4**, if that subsidiary makes commercial video on-demand content available in New Zealand

**video on-demand content** means content, in the form of visual images produced electronically and shown as a moving picture, that is made available to persons on-demand using a computer or other electronic device

- (2) In section 2, replace the definition of **film** with:

**film**—

- (a) means a cinematograph film, a video recording, and any other material record of visual moving images that is capable of being used for the subsequent display of those images, and includes any part of any film, and any copy or part of a copy of the whole or any part of a film; and
- (b) includes video on-demand content

- (3) In section 2, replace the definition of **film poster** with:

**film poster**—

- (a) means any poster, placard, video slick, photograph, or other printed pictorial matter that is intended for use in the advertising or exhibition of any film to the public, and includes a miniature representation of the whole or part of any such poster, and also includes any enlarged representation of the whole or any part of any such poster; but
- (b) does not include a poster, placard, video slick, photograph, or other printed pictorial matter that is intended for use to advertise commercial video on-demand content

**5 New section 4A inserted (Transitional, savings, and related provisions)**

After section 4, insert:



**4A Transitional, savings, and related provisions**

The transitional, savings, and related provisions set out in **Schedule 1AA** have effect according to their terms.

**6 Section 8 amended (Films exempt from labelling requirements)**

(1AAA) In section 8(1), replace “section 6 does” with “sections 6 and **46B** do”.

(1) After section 8(1)(q), insert:

- (r) any video on-demand content made available by a person who is not a specified CVoD provider:
- (s) any video on-demand content made available by a specified CVoD provider that was uploaded by a user to the provider’s platform, and that was not commissioned by the provider.

(2) Replace section 8(2) with:

- (2) The Chief Censor may, at any time, require any person to make an application under section 9 for the issue of a label in respect of a film of a class mentioned in subsection (1) if,—
- (a) in the case of video on-demand content, the person has made the content available to persons in New Zealand, or proposes to do so; or
  - (b) in any other case, the person has exhibited or supplied the film to the public, or proposes to do so.

(3) In section 8(3), after “section 6”, insert “or **46B**”.

**7 New Part 3A inserted**

After section 46, insert:

**Part 3A**  
**Labelling requirements for specified CVoD providers’ commercial video on-demand content**

**46AAA Purpose of Part**

The purpose of this Part is to reduce the risk of psychological and physical harm to people who view commercial video on-demand content, particularly vulnerable people and children, by enabling informed viewing decisions through requiring consistent and informative content labelling by specified CVoD providers.

**46A Extraterritorial application to specified CVoD providers**

This Act, and any regulations made under it, apply in respect of commercial video on-demand content that is made available in New Zealand by a specified CVoD provider, regardless of whether the provider is resident or incorporated in New Zealand or outside New Zealand.

**46B Duty to label commercial video on-demand content**

- (1) Before making commercial video on-demand content available to persons in New Zealand, a specified CVoD provider must ensure that the content has been labelled in accordance with this Act.
- (2) The label must be displayed in the prescribed manner and must include any classification or rating assigned to the content and any description assigned to the content.
- (3) This section is subject to section 8.

**46C Content previously labelled or classified**

- (1) If a specified CVoD provider intends to make commercial video on-demand content available to persons in New Zealand and a label for that content has previously been issued under this Act, the provider must issue a label that contains the same classification or rating and the same description (if any) that was contained in the label that was previously issued.
- (2) If a specified CVoD provider intends to make commercial video on-demand content available to persons in New Zealand and that content has previously been classified under this Act, but no label has been issued for that content, the provider must refer that content to the Classification Office for a direction under section 36.
- (3) **Subsections (1) and (2)** apply irrespective of whether the content is in the same technical form or a different technical form.

**46D Content not previously labelled or classified**

- (1) If a specified CVoD provider intends to make available to persons in New Zealand commercial video on-demand content to which a label has not been assigned under this Act, the provider must label the commercial video on-demand content by—
  - (a) using an approved self-rating system; or
  - (b) applying to the labelling body under section 9(1) for the issue of a label in respect of that content.
- (2) Unless the approved self-rating system used by the provider identifies the commercial video on-demand content as potentially being objectionable, the provider must apply the label generated by the approved self-rating system.
- (3) If the approved self-rating system used by the provider identifies the commercial video on-demand content as potentially being objectionable, the provider must refer that content to the Classification Office for classification.

**46DA How ratings and descriptions must be determined**

- (1) The rating and description assigned to commercial video on-demand content by a specified CVoD provider using an approved self-rating system must be con-

sistent with the purpose of this Part, taking into account all of the following factors:

- (a) the dominant effect of the content as a whole:
  - (b) the persons, classes of persons, or age groups of the persons to whom the content is intended or is likely to be made accessible:
  - (c) the extent to which, and the manner in which, the content deals with sex, horror, crime, terrorism, cruelty, violence, torture, sexual violence, sexualisation of children, self-harm, or offensive language or behaviour:
  - (d) whether and how the content—
    - (i) degrades or dehumanises or demeans any person:
    - (ii) represents (whether directly or by implication) that members of any particular class of the public are inherently inferior to other members of the public by reason of any characteristic of members of that class, being a characteristic that is a prohibited ground of discrimination specified in section 21(1) of the Human Rights Act 1993:
  - (e) any other aspect of the content which is likely to be of concern to parents and young people or to cause harm to persons who view that content:
  - (f) any literary, artistic, social, cultural, educational, or scientific importance, merit, or value of the content:
  - (g) any other factors prescribed in regulations.
- (2) The rating must indicate whether the content is—
- (a) suitable for all audiences; or
  - (b) suitable for all audiences with parental guidance for children; or
  - (c) suitable for mature audiences; or
  - (d) unsuitable for audiences under a specified age.
- (3) The description, if applicable, must—
- (a) be in the prescribed form; and
  - (b) describe those aspects of the content that are likely to be of concern to parents and young people or to cause harm to persons who view it.

**46E Approval of providers' self-rating systems**

- (1) A specified CVoD provider may apply to the Chief Censor for approval of a system to be used by the provider to rate and label the provider's commercial video on-demand content.
- (2) Every application must contain the prescribed information and be accompanied by the prescribed fee (if any).

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Part 1 cl 7

(3) The Chief Censor may approve the ~~provider's use of the self-rating system for use by the provider~~; if the Chief Censor is satisfied that use of the system will enable the provider to meet the requirements of **section 46DA**.

(4) The Chief Censor's ~~approval may be~~ ~~may approve a provider's use of a self-rating system~~ subject to any terms and conditions that the Chief Censor considers are necessary for the purposes of **subsection (3)**.

**46F Classification Office Chief Censor must annually review use of approved self-rating systems**

(1) The Chief Censor must annually review each ~~specified CVoD provider's use of the provider's approved self-rating system used by a specified CVoD provider~~.

(2) A specified CVoD provider must pay the prescribed fee (if any) for the annual review.

**46FA Suspension and cancellation of approvals**

(1) The Chief Censor may, at any time, give notice to a specified CVoD provider that the ~~provider's approval to use a~~ of the self-rating system used by the provider is suspended; if the Chief Censor considers that the provider is not ~~operating using~~ the self-rating system in accordance with any terms and conditions of the approval.

(2) A notice under **subsection (1)** must specify the reasons for the suspension.

(3) The Chief Censor may cancel a ~~provider's the approval to use a self-rating system if—~~

(a) the Chief Censor has notified the specified CVoD provider of a suspension in accordance with **subsections (1) and (2)** and given the provider a reasonable opportunity to address the Chief Censor's concerns; and

(b) the provider has failed to address those concerns.

(3A) If an approval is suspended under this section, during the period of suspension, the system to which the approval relates is not an approved self-rating system.

(4) If an approval is ~~suspended or cancelled~~ under this section, the system to which the approval relates is not an approved self-rating system from the date of the ~~suspension or cancellation~~.

**46G Complaints process**

(1) Any person may complain to the Chief Censor about the rating or description assigned by a specified CVoD provider to commercial video on-demand content.

(2) After receiving a complaint, the Chief Censor may—

(a) refer the complaint to the provider, along with any comment or recommendation the Chief Censor considers appropriate, and require the provider to consider the complaint and respond to the complainant; or

- (b) classify the content under section 13(3); or
  - (c) decline to take further action, if the Chief Censor considers that the content has been correctly labelled.
- (3) After making a decision in accordance with **subsection (2)**, the Chief Censor must advise the person who made the complaint of the decision and the reasons for the decision.

**8 New section 150A inserted (Amendment of Schedule 4 by Order in Council)**

After section 150, insert:

**150A Amendment of Schedule 4 by Order in Council**

- (1) The Governor-General, by Order in Council made on the recommendation of the Minister, may amend **Schedule 4** by—
- (a) adding the name of any person; or
  - (b) deleting the name of any person.
- (2) The Minister must not recommend that an order be made under **subsection (1)(a)** unless—
- (a) the Minister has consulted the Chief Censor on the proposal that the order be made; and
  - (b) the Minister is satisfied, on reasonable grounds, that adding the name of the person will reduce the risk of harm to viewers of commercial video on-demand content.
- (3) The Minister must not recommend that an order be made under **subsection (1)(b)** unless—
- (a) the Minister has consulted the Chief Censor on the proposal that the order be made; and
  - (b) the Minister is satisfied, on reasonable grounds, that deleting the name of the person will not materially increase the risk of harm to viewers of commercial video on-demand content.
- (4) For the purposes of **subsections (2)(b) and (3)(b)**, the Minister—
- (a) must consider—
    - (i) available evidence of the current or likely extent of public subscriptions to, or use of, commercial video on-demand services and products provided by the person; and
    - (ii) available evidence of the nature of the commercial video on-demand content made available, or intended to be made available, by the person and the potential of that content to cause harm; and
    - (iii) available evidence of the person's commitment to a classification framework recognised in New Zealand as being effective in ensuring

ing that persons in New Zealand who are likely to be harmed by viewing the commercial video on-demand content are warned of the nature of that content by means of clear and consistent labelling; and

- (b) may consider any other factors that the Minister thinks relevant.
- (5) An order under **subsection (1)(a)** must not come into force earlier than 3 months after the date on which it is published.
- (6) An order made under **subsection (1)** is a legislative instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

**9 New Schedule 1AA inserted**

Insert the **Schedule 1AA** set out in **Schedule 1** of this Act as the first schedule to appear after the last section of the principal Act.

**10 New Schedule 4 inserted**

After Schedule 3, insert the **Schedule 4** set out in **Schedule 2** of this Act.

## Part 2 Related amendments

**11 Section 6 amended (Films to be labelled)**

After section 6(2), insert:

- (3) Subsections (1) and (2) do not apply to a film that is commercial video on-demand content offered by a specified CVoD provider, and **section 46B** applies instead.

**12 Section 9 amended (Applications for issue of label)**

- (1) After section 9(1)(b), insert:

(c) any specified CVoD provider.

- (2) Replace section 9(2) with:

- (2) Subsection (1) does not apply to—
- (a) any film in respect of which a label has already been issued under this Act (except any film for which a label has been issued by a specified CVoD provider using an approved self-rating system); or
- (b) any film that has been classified under this Act as objectionable.

**12A New section 11A inserted (Classification Office must provide film database)**

After section 11, insert:

**11A Classification Office must provide film database**

- (1) The Classification Office must provide and maintain a database of films that have been labelled under this Act and that includes the prescribed information in respect of each film.
- (2) The Classification Office must make the database available for public inspection at all reasonable times, free of charge, by publishing it on an Internet site maintained by, or on behalf of, the Classification Office.

**12B Section 27 amended (Conditions relating to display of restricted publications)**

- (1) In section 27(5), replace “display of a film” with “display of a film (other than a film that is video on-demand content)”.
- (2) After section 27(5), insert:
- (6) The conditions that may be imposed pursuant to this section in respect of the display of advertising material for video on-demand content that has a restricted classification are as follows:
  - (a) that the advertisement must indicate the classification and any description assigned to the content by way of a label displayed in a manner specified by the Classification Office:
  - (b) that the advertisement may only be displayed, broadcast or otherwise published, or must not be displayed, broadcast or published—
    - (i) in places or media specified by the Classification Office:
    - (ii) at or between times specified by the Classification Office:
    - (iii) in association with other advertising or media content of a type specified by the Classification Office:
    - (iv) in circumstances specified by the Classification Office.

**13 Section 36 amended (Issue of labels in respect of films)**

- (1) After section 36(1), insert:
- (1A) If the Classification Office has examined and classified commercial video on-demand content referred to it by a specified CVoD provider pursuant to **section 46D(3)**, the Classification Office must, subject to subsection (4) and to section 34(b), direct the specified CVoD provider to issue a label in respect of the content.
- (2) Replace section 36(2) with:
- (2) If the Classification Office has examined and classified a film submitted to it under section 13 or 42, or referred to it under section 29(1) or 41(3), the Classification Office may,—

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Part 2 cl 13A

- (a) in the case of commercial video on-demand content made available, or intended to be made available, by a specified CVoD provider, direct the provider to issue a label in respect of that content; or
  - (b) in any other case, if the Classification Office is satisfied that the film is available for public supply or public exhibition, or is intended to be made available for public supply or public exhibition, direct the labelling body to issue a label in respect of that film.
- (2A) **Subsection (2)** is subject to subsection (4) and section 34(b).
- (3) In section 36(3), replace “subsection (1) or subsection (2)” with “subsection (1), **(1A), or (2)**”.
- (4) In section 36(4), after “labelling body”, insert “or a specified CVoD provider”.
- (5) Replace section 36(5) with:
- (5) If, under **subsection (2)**, the Classification Office directs the labelling body or a specified CVoD provider to issue a label in respect of any film, any label previously issued in respect of that film by the labelling body or specified CVoD provider, and any previous direction by the Classification Office to the labelling body or specified CVoD provider to issue a label in respect of that film, must, for the purposes of this Act, be deemed to be cancelled.

**13A Section 38 amended (Decisions of Classification Office)**

In section 38(2)(d), after “the labelling body”, insert “or a specified CVoD provider”.

**14 Section 77 amended (Functions of Classification Office)**

After section 77(1)(a), insert:

- (aa) to support and facilitate the development by specified CVoD providers of approved self-rating systems:
- (aab) to provide and maintain a database of films (*see section 11A*):
- (aac) to support the Chief Censor to approve self-rating systems developed by specified CVoD providers for their use to label commercial video on-demand content (*see section 46E*) and to monitor the operation of, and results of the use of, those approved self-rating systems:
- (aad) to support the Chief Censor to review the use of approved self-rating systems used by specified CVoD providers (*see section 46F*):

**14A Section 120 amended (Non-compliance with labelling requirements)**

- (1) In section 120(2)(a), after “public”, insert “or makes available”.
- (2) In section 120(4), after “section 6”, insert “and **section 46B**”.



**15 Section 121 amended (Unlawful issue of labels)**

In section 121(1), replace “not being the labelling body,” with “not being the labelling body or a specified CVoD provider using an approved self-rating system”.

**16 Section 122 amended (Meaning of distribute in sections 123 to 132)**

In section 122(1)(b), replace “(for example, to provide access by means of a public data network to digital content that is or includes the publication)” with “(for example, to make available digital content that is or includes the publication by means of a public data network)”.

**17 Section 131 amended (Offence to possess objectionable publication)**

After section 131(5)(f), insert:

- (g) for the purposes of rating and labelling the publication, if—
  - (i) the publication is video on-demand content; and
  - (ii) the defendant is a specified CVoD provider; and
  - (iii) the defendant assesses the content as soon as is reasonably practicable after it comes into the defendant’s possession, using the defendant’s approved self-rating system, and refers the content to the Classification Office for classification in accordance with **section 46D(3)** as soon as is reasonably practicable after the approved self-rating system identifies the content as potentially being objectionable.

**18 Section 149 amended (Regulations)**

(1) After section 149(f)(ii), insert:

- (iii) the self-rating process for commercial video on-demand content provided by specified CVoD providers:

(2) After section 149(i)(iii), insert:

- (iv) the display of labels on commercial video on-demand content provided by specified CVoD providers (including labels to be displayed on the content and on menus and catalogues that list the content):
- (v) the display of labels on advertisements for commercial video on-demand content provided by specified CVoD providers:

(3) After section 149(k), insert:

- (ka) prescribing factors that must be taken into account when the rating to be applied to commercial video on-demand content is determined by use of an approved self-rating system (*see* **section 46DA(1)(f)**):
- (kb) prescribing information to be included in the film database maintained by the Classification Office under **section 11A**:

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Part 2 cl 19

**19 New sections 149A to 149E inserted**

After section 149, insert:

*Levy on specified CVoD providers*

**149A Payment of annual levy by specified CVoD provider**

- (1) A specified CVoD provider must pay to the Classification Office an annual levy prescribed by, or calculated in accordance with, regulations made under **section 149B**.
- (2) The levy is payable to the Classification Office to fund the costs of its activities in support of the purpose of **Part 3A**.
- (3) A provider must pay the levy for each financial year beginning on 1 July (or part of the year) during which the provider is listed in **Schedule 4**.
- (4) In respect of a financial year beginning on 1 July, a provider must pay the levy on or before the later of the following:
  - (a) the 28th day after an invoice is sent; or
  - (b) 31 July of that financial year.

**149B Levy regulations**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations, for the levy that is payable under **section 149A**,—
  - (a) prescribing the amount or rate of the levy or prescribing the methods of calculating or ascertaining amounts or rates of the levy; and
  - (b) requiring the waiver, refund, or remission of the whole or any part of a levy in circumstances prescribed in the regulations; and
  - (c) providing for the Chief Censor to waive, refund, or remit the whole or any part of a levy in such circumstances as (in accordance with the regulations) the Chief Censor thinks fit; and
  - (d) providing for any circumstances in which, and conditions subject to which, providers may be allowed extensions of time for the payment of a levy; and
  - (e) imposing the addition of penalties, not exceeding 10% of the unpaid amount, to a levy that is not paid in full by the due date.
- (2) Regulations in force on 31 May apply to the next financial year beginning on 1 July.
- (3) A levy imposed by regulations made under this section must be reasonable, having regard to—
  - (a) the costs projected to be incurred by the Classification Office carrying out its activities in support of the purpose of **Part 3A**; and

- (b) the amount of any income that could be applied to meet those costs and that is projected to be received by the Classification Office from any other source.
- (4) The regulations may prescribe the amount or rate of the levy, or prescribe the methods of calculating or ascertaining amounts or rates of the levy,—
  - (a) on a uniform basis; or
  - (b) on any differential basis.
- (5) Before recommending that regulations be made under this section, the Minister must be satisfied that—
  - (a) the Secretary has taken reasonable steps to consult each specified CVoD provider in relation to the proposed levy; and
  - (b) if the levy is set on a differential basis, the levy required from different providers is fair having regard to the risk of harm to viewers from commercial video on-demand content made available by different providers (for example, having regard to the market presence of different providers and the nature of the content made available by different providers).
- (6) An order made under **subsection (1)** is a legislative instrument for the purposes of the Legislation Act 2012 and must be presented to the House of Representatives under section 41 of that Act.

**149C Dispute does not suspend obligation to pay levy**

A dispute about the validity of a levy or the provider's liability to pay a levy does not suspend—

- (a) the obligation of the provider to pay the levy; or
- (b) the right of the Classification Office to receive and recover the levy (or act under **section 149D or 149E**).

**149D Approval may be suspended until debt paid**

- (1) If a specified CVoD provider fails to pay by the due date any levy payable under **section 149A**, the Chief Censor may suspend any approval of a self-rating system used by the provider.
- (2) The Chief Censor must give the provider written notice of the Chief Censor's intention to act under **subsection (1)** (including the reason) at least 10 working days before the Chief Censor acts.
- (3) If an approval is suspended under this section, during the period of suspension, the system to which the approval relates is not an approved self-rating system.

Compare: 1949 No 19 s 67ZR; 1997 No 100 s 16(1), (2)

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*Status and recovery of fees or levy*

**149E Status and recovery of fees or levy**

Outstanding amounts of fees or levy payable to the Classification Office under this Act constitute a debt due to the Office, and the Office may issue legal proceedings for recovery of the debt from the provider in a court of competent jurisdiction.

**Schedule 1**  
**New Schedule 1AA inserted**

s 9

**Schedule 1AA**  
**Transitional, savings, and related provisions**

s 4A

**Part 1**

**Provisions relating to Films, Videos, and Publications Classification  
(Commercial Video on-Demand) Amendment Act 2019**

- 1** **Content classified under broadcasting code before ~~1 July~~ 10 August 2020**
- (1) If, before ~~1 July~~ 10 August 2020, a specified CVoD provider classified commercial video on-demand content in accordance with a code of broadcasting practice issued or approved by the Broadcasting Standards Authority under section 21(1) of the Broadcasting Act 1989, the specified CVoD provider is not required to issue a label for that content under **section 46B(1)**.
- (2) If **subclause (1)** applies, **section 46B(2)** applies as if the classification referred to in **subclause (1)**, and any associated advisory or warning material, were a label issued under this Act.
- (3) Nothing in this clause affects the obligations of any other specified CVoD provider in relation to labelling the same content.
- 1A** **Time when labelling requirements commence**
- For the purposes of **clauses 2 and 3**, the labelling requirements commence when **section 46B** (as inserted by section 7 of the Films, Videos, and Publications Classification (Commercial Video on-Demand) Amendment Act **2019**) comes into force.
- 2** **Other commercial video on-demand content made available before ~~1 January~~ 2021 labelling requirements commence**
- (1) This clause applies to commercial video on-demand content made available in New Zealand by a specified CVoD provider before ~~1 January~~ 2021 the labelling requirements commence without—
- (a) a label issued under this Act; or
- (b) a classification determined in accordance with a code of broadcasting practice issued or approved by the Broadcasting Standards Authority under section 21(1) of the Broadcasting Act 1989.
- (2) The requirements in **sections 6 and 46B** to rate and label commercial video on-demand content do not apply to commercial video on-demand content

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(Commercial Video on-Demand) Amendment Bill**

Schedule 1

referred to in **subclause (1)** until ~~1 July 2021~~ 6 months after the labelling requirements commence.

- (3) However, **despite subclause (2)**, the Chief Censor may require a specified CVoD provider to issue a label in respect of commercial video on-demand content referred to in **subclause (1)** before ~~1 July 2021~~ the date referred to in **subclause (2)**.

**3 Approval of providers' self-rating systems before ~~1 January 2021~~ labelling requirements commence**

- (1) Before ~~1 January 2021~~ the labelling requirements commence,—
- (a) a specified CVoD provider may apply to the Chief Censor for approval of a system to be used to rate and label the provider's commercial video on-demand content; and
- (b) the Chief Censor may approve the ~~provider's use of the self-rating system for use by the provider~~ if the Chief Censor is satisfied that use of the system will enable the provider to meet the requirements of **section 46DA** (as inserted by **section 7** of the Films, Videos, and Publications Classification (Commercial Video on-Demand) Amendment Act **2019**) when that section commences.
- (2) The Chief Censor may approve a ~~provider's use of a self-rating system for use by a provider~~ subject to any terms and conditions that the Chief Censor considers are necessary for the purposes of **subclause (2) (1)(b)**.
- (3) If regulations have been made that prescribe the information that must be contained in an application for approval of a self-rating system under **section 46E**, or the fee that is payable when making an application, the application under **subclause (1)(a)** must contain the information and be accompanied by the fee.
- (4) An approval given in accordance with this clause must be treated as an approval under **section 46E** (as inserted by **section 7** of the Films, Videos, and Publications Classification (Commercial Video on-Demand) Amendment Act **2019**) from the date on which that section comes into force.

**Schedule 2**  
**New Schedule 4 inserted**

**s 10**

**Schedule 4**  
**Specified CVoD providers**

**ss 2, 150A**

Alphabet Inc., a company registered and based in the United States of America  
Amazon.com, Inc., a company registered and based in the United States of America  
Apple Inc., a company registered and based in the United States of America  
Microsoft Corp, a company registered and based in the United States of America  
Netflix, Inc., a company registered and based in the United States of America  
Sky Network Television Limited, a company registered and based in New Zealand  
Sony Corporation, a company registered and based in Japan  
The Walt Disney Company, a company registered and based in the United States of America