

## **RE: Public Consultation on Draft Film Act B.E. ... (Draft Reviewed by the Council of State)**

### **1. In what capacity are you involved with or affected by the enforcement of the Draft Film Act B.E. ...?**

*This submission is made on behalf of the Asia Video Industry Association (AVIA), AVIA is the trade association for the video industry and ecosystem in Asia Pacific. It serves to make the video industry stronger and healthier through promoting the common interests of its members. AVIA is the interlocutor for the industry with governments across the region, leading the fight against video piracy, as well as publishing reports and hosting industry conferences. It aims to support a vibrant video industry for the benefit of all stakeholders.*

### **2. Do you agree with Chapter 1: National Film Industry Promotion Committee under this Draft Act? (Sections 7-16) (Defining the composition and powers and duties of the Committee)**

*AVIA is supportive of the creation of a Committee that aims to boost cultural development and foreign investment, and which highlights the importance of the industry to the national agenda. However, AVIA recommends that the government ensures the roles and responsibilities of this Committee are clearly defined and are complementary with the work of existing bodies so as to avoid any potential regulatory overlap between the Committee and pre-existing bureaucratic processes. A lack of clarity and transparency has the risk of posing additional regulatory burdens, creating uncertainty and becoming a disincentive for businesses to invest in Thailand. AVIA urges the Government to provide clarifications around the roles and responsibilities of the Committee, and to obtain the industry players' feedback on potential regulations/laws prior to implementation.*

### **3. Do you agree with Chapter 2: Film Industry Promotion Policy under this Draft Act? (Sections 17-19)**

*We agree that all films, whether Thai or foreign films, benefit from promotion, but note that promotion should be left to the market and film owners to determine how best to promote individual films. An internally competitive market is crucial to attracting investment, enabling legitimate businesses to grow, strengthening best business practices, boosting the Thai economy, and promoting Thai culture to a global audience. Conversely, strict regulations on marketing and promotion of films (Thai or foreign) will unnecessarily hinder the growth of the industry.*

### **4. Do you agree with Chapter 3: Foreign Film Production in the Kingdom under this Draft Act? (Sections 20-27) (Defining requirements for foreign film production applications in the Kingdom)**

*We support the proposed framework that simplifies the process for foreign film production while maintaining regulatory oversight. However, we urge the removal of criminal penalties for unintentional breaches of Section 24 and recommend addressing non-compliance through administrative measures only. This approach supports investment, encourages voluntary compliance, and aligns with international best practices.*

### **5. Do you agree with Chapter 4: Film Exhibition and Distribution under this Draft Act? (Sections 28-41) comprising Part 1: Film Content Rating Classification (requiring self-regulating certifiers to classify film content appropriateness according to Ministerial announcements) and Part 2: Film Exhibition and Distribution Business Operations (requiring business operators to file notifications instead of applying**

**for licenses)**

*AVIA recommends a self-rating classification system without the need to obtain self-regulating certification/registration for the Online Curated Content (OCC) / Video on Demand industry.*

*We are aligned with the government on the importance of providing content ratings to customers so that they are empowered to make informed viewing decisions. This is why most, if not all, established international OCC services operating in Thailand invest heavily in building robust ratings systems and continue to refine them. OCC services use age-based film rating scales which are similar to Thailand's current age-based rating system. The current self-rating practice has proven robust and effective and should be allowed to continue. Furthermore, in AVIA's Self Governance Framework for OCC services, the provision of clear content ratings and other content advisory messages are highlighted as key elements. We believe that the current self-rating practise is not only delivering results in terms of creating a safe viewing experience but also creates room for companies to innovate and create a better customer experience.*

*We understand the intention behind Section 35, which requires films to display the content suitability rating and related content indicators consistent with what is submitted to the central registrar under Section 34.*

*We advise against implementing display requirements. OCC services already have display requirements in place that are clear and suitably meet the needs of customers. Setting fixed display requirements will impose unnecessary technical burdens on OCC services that would not improve the customer experience. However, if such display requirements are implemented, we recommend that they be light-touch and that the Government provides clear guidance on whether these indicators are required only at the start of the film or throughout the entire screening. We strongly advise against requiring these indicators to appear during the full runtime, as doing so would significantly disrupt the viewing experience and undermine audience engagement.*

*Given that OCC services are already conscientiously self-rating, and commit to engaging the government to discuss about their ratings practices and/or receive specific ratings feedback, we question the need for a self-rating certification/registration with the government. In addition, we advise against requiring all OCC services to use a standardised classification system in Thailand. As most OCC services are regional/international by nature, imposing a different and unique set of requirements in Thailand could cause significant challenges. The current self-rating practise provides operational certainty and a shorter time-to-market for content, and encourages the growth of creativity, innovation and high-quality programming in the content industry. It certainly improves the ease of doing business in Thailand, improves the efficiency of content distribution, and also supports the export of Thai content to international markets.*

*Should a self-rating system be introduced, we strongly urge the Government to remove the requirement to notify the Central Registrar prior to dissemination of content. If necessary, AVIA recommends that the Government allows flexible, periodic notification post-dissemination of content (e.g. quarterly notification), rather than requiring notification ex-ante. Having this flexibility is essential to accommodate the scale and operational realities of OCC platforms.*

*We wish to use this opportunity to point out that OCC services are curated libraries of professionally produced content. In addition to age ratings, OCC services already provide a variety of controls to*

*prevent children from accessing age-inappropriate content, such as through “kids profiles”, parental PIN controls, and password settings.*

*AVIA is only in a position to comment on the Online Curated Content (OCC) industry. In this respect, we highly recommend against introducing a licensing and/or registration process, as it is not a globally accepted practice and will have a deterrent effect on the industry development.*

**6. Do you agree with Chapter 5: Competent Officers under this Draft Act? (Sections 42-45) (Defining the powers and duties of competent officers)**

*We note the defined scope of powers granted to competent officers. However, we have concerns that the authority to search residential and business premises, or any locations suspected of non-compliance, as well as to seize or confiscate films, is broad and far-reaching.*

*Thailand already has well-established enforcement powers under the Criminal Procedure Code. It empowers authorities to obtain warrants for searches and to seize items connected to criminal offenses. These provisions ensure searches and seizures are conducted under strict judicial oversight and are limited to cases with reasonable suspicion and warrant requirements.*

*Introducing overlapping provisions in the Film Act risks duplicating enforcement mechanisms, creating legal uncertainty, and undermining the protections afforded by Thailand’s criminal justice system. We recommend that search and seizure powers be confined to existing frameworks, only authorized through judicial warrants, and not expanded via the Film Act. This approach would maintain enforcement rigor while preserving legal clarity, proportionality, and industry confidence.*

**7. Do you agree with Chapter 6: Administrative Measures under this Draft Act? (Sections 46-51) comprising Part 1: Administrative Measures for Foreign Film Production in the Kingdom and Part 2: Administrative Measures for Film Exhibition and Distribution**

*AVIA recommends clear details on the compliance period and advises that revocation should not result from a single mistake. Providing adequate time for response and corrective action encourages fairness and helps maintain trust in the self-rating system.*

*We understand that in cases where self-certifiers under Section 33 rate film content suitability inconsistently with Sections 30 or 31, or fail to notify ratings under Section 34, competent officers may order corrections within a reasonable specified time. Failure to do so, may result in the central register revoking self-certifier registration.*

*This approach supports the sustainable growth of the Thai film industry by promoting a cooperative regulatory environment that balances effective oversight with opportunities for education and improvement.*

**8. Do you agree with Chapter 7: Appeals under this Draft Act? (Sections 52-57) comprising Part 1: Appeals of Competent Officer Orders and Part 2: Appeals of Foreign Film Committee Orders**

*AVIA supports the right of appeal and clear procedures against administrative orders and committee decisions. Transparent and accessible appeal mechanisms are essential to ensure procedural fairness and maintain regulatory accountability.*

*However, the transfer of appeal authority to the Permanent Secretary for Culture, as proposed in Section 54, raises concerns. We recommend retaining the Committee for Monitoring and Supervising the Content*

*Rating. This committee with private sector representatives provides an important system of checks and balances, fostering trust and collaboration between regulators and the film industry.*

*We encourage the inclusion of clear and reasonable timelines and procedures for providing argument and evidence within the appeal process. Defined timeframes help ensure that appeals are resolved efficiently, providing certainty to all parties and preventing unnecessary delays or prolonged uncertainty.*

*This approach reflects successful international practices, such as Malaysia's Content Forum, which manages rating disputes through a transparent, consultative process involving multiple stakeholders. The forum encourages voluntary resolution before enforcement, supporting a cooperative regulatory environment.*

*Implementing such mechanisms will strengthen confidence in Thailand's film rating system and contribute to the sustainable development of its film industry by balancing regulatory oversight with industry participation.*

**9. Do you agree with Chapter 8: Administrative Fines under this Draft Act? (Sections 58-60) (Administrative fines refer to requiring offenders to pay administrative penalties instead of criminal punishment)**

*AVIA notes that both administrative and criminal penalties are proposed. For the purposes of the online curated content industry we would note that administrative measures are preferred in order to encourage investment, protect creative freedom, and align with international standards.*

*However, the proposed fine range is broad (THB 50,000–1,000,000) and lacks clarity regarding which offences correspond to specific penalties. This wide range could lead to inconsistent enforcement and uncertainty for industry participants.*

*We recommend clearly defining the offences that fall under each fine category to ensure proportionality and fairness. Clear guidelines will help avoid undue burdens on smaller entities and support a consistent regulatory approach.*

**10. Do you agree with Chapter 9: Criminal Penalties under this Draft Act? (Sections 61-64) (Criminal penalties relating to foreign film production in the Kingdom)**

*AVIA notes that both administrative and criminal penalties are proposed. For the purposes of the online curated content industry we would note that administrative measures are preferred in order to encourage investment, protect creative freedom, and align with international standards.*

*AVIA strongly recommends removing criminal penalties. Such penalties send a message that may discourage investment and restrict creative freedom, which can hinder the growth of the film industry. Adopting a corrective rather than punitive regulatory approach aligns with international best practices and supports a more welcoming environment for foreign productions and industry development.*

*However, the comments above should not be taken to apply to those who pirate and distribute film and tv content illegally, where criminal sanctions should remain. These sites worsen the market for legitimate sites and adversely affect the rest of the cultural sector. As such, it is imperative to have an effective deterrent measure, so such sites should face enforcement action (after due process).*

**11. Do you agree with the Transitional Provisions under this Draft Act? (Sections 65-73)**

*No comment. AVIA is only commenting on parts of the draft Film Act that directly impact the online curated content industry.*

**12. Do you agree with the Fee Schedule at the end of this Draft Act? (Maximum fee rates)**

*No comment. AVIA is only commenting on parts of the draft Film Act that directly impact the online curated content industry.*

**13. Other opinions or suggestions (if any)**

*Whilst AVIA doesn't solely represent the film industry, we note that the Cabinet-approved draft included a proposal to introduce a Thailand Film Industry Council, with the noted private sector involvement, has been removed from this current draft. AVIA strongly urges that the proposal to introduce a Thailand Film Industry Council should be re-introduced to the Act. Having a Film Industry Council established under the Thai Film Act is to be welcomed, as long as the Council's role is clearly set out as outlined in the draft Film Act, i.e. purely a body that provides "opinions and recommendations to the government" without any legislative or regulatory powers.*

*A transparent platform where the private sector can actively participate in considering legislative/regulatory changes is crucial, as it would help to ensure that the voices of industry stakeholders are represented and considered in the policymaking process. This collaborative approach would help to lead to a more balanced and effective regulatory approach that meets industry needs and keeps to the overarching key principle of promoting a favourable business environment. The Council has the potential to foster stronger partnerships between the government and the private sector, driving sustainable growth and innovation within the Thai film industry, and further Thai soft power globally. A Film Industry Council would offer a structured platform for regular dialogue between government and industry, helping to ensure that regulations reflect evolving market needs and the realities of the creative economy. Removing the Council risks weakening long-term collaboration. As can be seen in other markets, open, transparent and light touch, streamlined regulations supported by a collaborative approach in the form of a Film Industry Council will support sustainable growth, enhance Thailand's film industry competitiveness and cultural influence, increase the amount of investment into the sector and position the film industry as a key driver of Thailand's soft power ambitions.*