Title: **Cinema Advertising**	Impact Assessment (IA)
IA No: DCMS053	**Date: 25/04/12**
Lead department or agency: Department for Culture, Media and Sport (DCMS)	**Stage: Consultation**
	Source of intervention: Domestic
Other departments or agencies: Department for Health, Department for Education	**Type of measure:**
	Contact for enquiries: Simon White, DCMS, 0207 211 6531

Summary: Intervention and Options

RPC:

Cost of Preferred (or more likely) Option				
Total Net Present Value	**Business Net Present Value**	**Net cost to business per year** (EANCB on 2009 prices)	**In scope of One-In, One-Out?**	**Measure qualifies as**
£m -0.28	£m -0.28	£m -0.03	Yes	OUT

What is the problem under consideration? Why is government intervention necessary?

Under the Licensing Act 2003, all cinema advertising has to be submitted to the British Board of Film Classification (BBFC) for age rating before they can be shown at the cinema. In addition to this statutory process, all cinema advertisements also remain fully subject to the Advertising Standard Authority's non-broadcast Committee of Advertising Practice (CAP) Code and the pre-clearance procedures required under industry self-regulation to ensure compliance with the CAP Code. Government is consulting on removing the current requirement for the BBFC to age rate cinema advertisements. Government intervention is needed as any change in this regulation would require a change in legislation.

What are the policy objectives and the intended effects?

To strike the right balance between reducing regulatory burdens on the cinema advertising industry by removing what amounts to the 'double regulation' of cinema advertising while also ensuring that consumers, in particular children, do not see advertisements containing content that would be inappropriate to the age rated film being screened, and that suitable consumer safeguards are maintained through the application of the CAP Code to all cinema ads.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

- Option 0 - Do nothing and leave the current regulatory regime untouched
- Option 1 – remove the requirement for all cinema advertisements to be submitted to the BBFC for age rating before they can be shown at the cinema.

Option 1 is Government's preferred option at this stage.

In relation to Option 1 it would be for non-broadcast advertising regulators, the Committee of Advertising Practice (CAP), the Advertising Standards Authority and the Cinema Advertising Association to decide what constraints there should be by way of their own regulatory Codes and guidance, subject to their assessment of evidence of harm.

Will the policy be reviewed? It be reviewed. **If applicable, set review date:** /

Does implementation go beyond minimum EU requirements?						
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	**Micro** **YES**	**< 20** **YES**	**Small** **YES**	**Medium** **YES**	**Large** **YES**	
What is the CO2 equivalent change in greenhouse gas emissions? (Million tonnes CO2 equivalent)			**Traded:** **N/A**		**Non-traded:** **N/A**	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible MINISTER [signature] Date: 26 April 2012

Summary: Analysis & Evidence

Policy Option 0

Description: **Do Nothing – keep existing regulations.**

FULL ECONOMIC ASSESSMENT

Price Base Year 2009	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: -2.80

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low				
High				
Best Estimate			0.3	2.80

Description and scale of key monetised costs by 'main affected groups'

- Payments to BBFC c£70,000 p.a.
- Cost of CAA c£ 56,000 p.a.
- ASA levy of c£184,000 p.a.

Other key non-monetised costs by 'main affected groups'

- Disincentive for use of cinema advertising
- Cumbersome process for pre-vetting of cinema advertising time consuming

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low				
High				
Best Estimate				

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

-Two systems of consumer/child protection

Key assumptions/sensitivities/risks | **Discount rate (%)** 3.5

BUSINESS ASSESSMENT (Option 0)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: -0.33	Benefits: 0	Net: -0.33	Yes	Zero net cost

Summary: Analysis & Evidence

Policy Option 1

Description: Remove the statutory requirement for all cinema advertisements to be submitted to the BBFC for classification before they can be shown at the cinema. This is the Government's preferred option.

FULL ECONOMIC ASSESSMENT

Price Base Year 2009	PV Base Year 2010	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -2.42	High: 2.21	Best Estimate: -0.28

COSTS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low				
High				
Best Estimate	negligible		0.25	**2.42**

Description and scale of key monetised costs by 'main affected groups'

- Cost of CAA c£ 56,000 p.a.
- ASA levy of c £184,000 p.a.
- BBFC payments of c£70,000 p.a. included up to, but not including, 2013.

Other key non-monetised costs by 'main affected groups'

- Removal of one method of child protection.

BENEFITS (£m)	Total Transition (Constant Price)	Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Negligible		0	**0**
High	Negligible		59	4.64
Best Estimate	Negligible		0.27	**2.14**

Description and scale of key monetised benefits by 'main affected groups'

- Increased gross advertising receipts of £0.30m p.a.

Other key non-monetised benefits by 'main affected groups'

- Less cumbersome process for pre-vetting of cinema advertising

Key assumptions/sensitivities/risks | **Discount rate (%)** | 3.5

- Advertising increases according to WARC forecasts until 2012. Static in real terms thereafter.
- BBFC costs estimated by BBFC. Static in real terms after 2011.
- Removal of BBFC classification increase cinema advertising by a maximum of 10% pa in real terms after 2013. Compromise estimate is 5% after 2013. 95% of this increase is assumed to be transferred from other advertising modes.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:	In scope of OIOO?	Measure qualifies as

Costs: -0.28	**Benefits: 0.25**	**Net: -0.03**	Yes	OUT

Evidence Base (for summary sheets)

BACKGROUND

The British Board of Film Classification (BBFC) age rates cinema films, trailers and also adverts submitted for theatrical release (cinema exhibition) on the initiation of the local authorities who license cinemas under the Licensing Act 2003. Accordingly the BBFC determines the appropriate age rating for the film, trailer, advert – and this in turn determines how the screening is controlled in cinemas to restrict the audience viewing that material according to the BBFC age rating. Under this system cinema advertisements are currently submitted to the BBFC for an age rating before they can be shown at the cinema together with a feature film.

In addition to this statutory classification process, cinema advertising in the UK is strictly controlled through a system of mandatory self-regulation which is administered by the Advertising Standards Authority (ASA).

BBFC's role

The BBFC is an independent, private, not for profit company which classifies films and video works based on published Classification Guidelines. This is primarily to fulfil its role as designated classifications body under the Video Recordings Act. The BBFC's guidelines are the result of extensive public consultation (the BBFC sought the views of 20,000 people during each of its two most recent Guidelines consultations in 2005 and 2009.)

The BBFC also age-rates cinema adverts according to these guidelines which reflect public opinion and the risk of potential harm to the viewer.

The protection of children is central to the BBFC Guidelines and its 'U', 'PG' '12A', '15' and '18' classifications. In its classification decisions, the BBFC considers whether the material, either on its own, or in combination with other content of a similar nature, may cause any potential harm at the category concerned.

This includes not just any harm that may result from the behaviour of potential viewers, but also any 'moral harm' that may be caused by, for example, desensitising a potential viewer to the effects of violence, degrading a potential viewer's sense of empathy, encouraging a dehumanised view of others, suppressing pro-social attitudes, encouraging anti-social attitudes, reinforcing unhealthy fantasies, or eroding a sense of moral responsibility. Especially with regard to children, harm may also include retarding social and moral development, distorting a viewer's sense of right and wrong, and limiting their capacity for compassion.

To age rate each cinema advertisement the BBFC charges a handling fee of £100 per submission plus £7.00 per minute of content. In addition, the BBFC charges 75% of the standard fee for advice viewings and a set fee of £100 for script conversation.

CAP Code and CAA's role

In addition to the system described above for a BBFC age rating for cinema adverts, all cinema advertisements have to comply with the non-broadcast Committee of Advertising Practice (CAP) Code, enforced by the ASA, which ensures that advertising is legal, decent, honest and truthful while also considering the environment in which the commercials will be shown.

The CAP Code requires advertisers to adhere to rules on consumer protection and social responsibility (ensuring ads, amongst other things, are not misleading, harmful or offensive and that children are suitably protected). Ads must also be socially responsible. These broad principles apply regardless of the product being advertised.

In addition, the CAP Code contains specific rules for certain products and marketing techniques. These include rules for alcoholic drinks, health and beauty claims, children, medicines, financial products, environmental claims, gambling, direct marketing and prize promotions. These rules add an extra layer of consumer protection on top of consumer protection law and aim to ensure that UK advertising is responsible.

The CAP Code therefore contains strict rules to ensure children and young people, in particular, are suitably protected. They are designed to prevent children from being enticed into moral, physical or psychological harm, and reflect the norms of society with regard to what is appropriate for children to see and hear.

The rules prevent ads from undermining parental authority or placing unfair pressure on children to buy products. Ads addressed to children must not actively encourage them to pester their parents and must make clear that adult permission is required if a prize or incentive might cause conflict between a child's desire and a parent's authority. Equally, such ads must not tend to make children feel inferior or lacking in duty or loyalty if they do not buy a product. The rules also mean that ads cannot depict or encourage children to engage in dangerous behaviour or talk to strangers.

Furthermore, in recent years, the advertising rules surrounding specific products such as food and alcohol have been significantly tightened in response to public concerns about childhood obesity and underage drinking. As an example, the CAP Code includes specific rules that alcohol adverts may only be screened with films where 75% of the average audience is likely to be 18 years-of-age or older.

In terms of enforcing these controls, the ASA has a range of sanctions available for non-broadcast advertising to ensure advertisers comply with the CAP Code, including:- adverse publicity; advising members to withhold services from non-compliant advertisers or denying access to advertising space; CAP trade associations and professional bodies withdrawing members trading privileges offered to their members and, in exceptional cases, expelling advertisers from membership.

To ensure cinema adverts are compliant with the CAP Code, the cinema advertising industry funds a self-regulating body, the Cinema Advertising Association (CAA) to pre-clear all cinema commercials. The CAA uses a Copy Panel to undertake this pre-clearance, which includes ensuring that advertisements are shown only with films that are considered age-appropriate. The CAA's Copy Panel can ask for changes to be made to ads, can restrict screening to feature films carrying specific BBFC age ratings, or they can refuse clearance.

Compliance with CAP Code rules on alcohol is overseen by the CAA's Alcohol Film Panel. The CAA also supervises the self-imposed rule that no cinema advertising reel should carry more than 40% of alcohol commercials in terms of the duration of that entire advertising reel. In addition, members endeavour to assemble the advertising reels in such a way that alcohol commercials do not run sequentially. Those two 'rules' do not feature in the CAP Code; the CAA believe they constitute examples of the cinema business going further than is mandatorily required by the CAP Code.

Additional CAA controls - restricting the screening of cinema commercials

The CAA Copy Panel approves commercials under the CAP codes in light of the likely audience. Adverts acceptable for older children might not be acceptable for younger ones, similarly some ads may be appropriate only for teenagers and adults, whilst others may only be suitable for adults alone.

In addition, cinema advertising is sold on the basis of the films it is booked to accompany. As a result, the CAA has two pre-clearance systems in place to enable them to restrict the screening of an advert to ensure it plays before an age-appropriate audience. The CAA Copy panel:-

- can restrict a commercial to screening with films of a certain BBFC age rating category and above. This may be for the protection of children, or on the grounds of public expectations as to the content of the advertising in general.
- take into account the genre of the film the advertisement is to accompany and the audience it is likely to attract: a 'U' certificate documentary on global warming will be seen by a very different audience to the 'U' certificate *Arthur Christmas*.

Whilst a BBFC age rating category covers a broad band of material, the CAA Copy Panel have said that they adopt a cautious approach to all commercials in relation to the certificates of films they are allowed to accompany. This is particularly the case as audiences will have actively chosen to see a specific film however extreme it may be (based on expectations of the particular genre at the given classification and on the Consumer Advice and Extended Classification information provided by the BBFC). However, in contrast, the audience will not have chosen to see the accompanying commercials.

The CAA will only give final approval when the Copy Panel considers that a completed advertisement complies with all aspects of the CAP Code. As a final check, all advertisements are screened for CAA Copy Panel approval in their final theatrical form, prior to their exhibition. This ensures that only the approved version of the commercials are shown on cinema screens.

Advertising regulation, as administered by the ASA, is funded by advertisers through a £1 levy on every £1000 spent on display advertising in cinema, press, magazines, outdoor and on the internet.

PROBLEM UNDER CONSIDERATION

Under the Licensing Act 2003, cinema advertisements are currently submitted to the British Board of Film Classification (BBFC) for an age rating before they can be shown at the cinema together with a feature film.

In addition to this statutory age rating process, all cinema advertisements also remain fully subject to the Advertising Standard Authority's non-broadcast Committee of Advertising Practice (CAP) Code and the pre-clearance procedures required under industry self-regulation to ensure compliance with the CAP Code.

The Government is considering removing the current requirement for the BBFC to age rate cinema advertisements in the Licensing Act but we have an open mind and want to consider the full range of views on this issue. Based on requirements of the existing self-regulatory regime for non-broadcast, it would be for the cinema advertising regulators, the Committee of Advertising Practice (CAP), the Advertising Standards Authority and the Cinema Advertising Association to decide what constraints there should be by way of their own regulatory Codes and guidance, subject to their assessment of evidence of harm.

RATIONALE FOR INTERVENTION

The rationale for the existing legislation covering cinema advertising is to ensure that consumers, in particular children, do not see advertisements containing content that would be inappropriate to the classified film being screened. However, the BBFC restricts its age rating considerations to issues of potential harm, offence and legality outside advertising rules. It does not consider the wider advertising controls which require ads to be legal, decent, honest and truthful, as well as specific rules that cover areas such as advertising to children, alcohol and gambling, the environment and financial products - as set out in the CAP Code.

The cinema industry takes the view that BBFC age rating of ads, currently required by the Licensing Act, has created a system of double pre-clearance which has resulted in cinema advertising being the only medium that has two different bodies involved in scrutinising commercials before they are shown – the BBFC and the Cinema Advertising Association.

Industry has indicated that they believe this 'dual system of clearance' can cause confusion, in many cases creates duplication of effort, and results in additional expense whilst not enhancing consumer protection.

<u>Policy objective</u>
To strike the right balance between reducing regulatory burdens on the cinema advertising industry by removing what amounts to the 'double regulation' of cinema advertising while also ensuring that consumers, in particular children, do not see advertisements containing content that would be inappropriate to the classified film being screened, and that suitable consumer safeguards are maintained through the application of the CAP Code to all cinema ads.

OPTIONS CONSIDERED

- **Option 0 -** Do nothing and leave the current regulatory regime untouched

- **Option 1** – amend the Licensing Act to remove any requirement for the BBFC to have a role in age rating cinema advertisements before they can be shown at the cinema.

Option 1 is Government's preferred option at this stage.

In relation to Option 1 it would be for non-broadcast advertising regulators, the Committee of Advertising Practice, the Advertising Standards Authority and the Cinema Advertising Association to decide what constraints there should be by way of their own regulatory Codes and guidance, subject to their assessment of evidence of harm.

COSTS AND BENEFITS OF EACH OPTION (INCLUDING ADMINISTRATIVE BURDEN)

Option 0 - Do nothing

<u>Costs</u>
Keeping the existing statutory framework will continue to place additional financial and administrative burdens on the cinema advertising industry because each advert currently has to be submitted for age rating to the BBFC. This requirement has a direct cost to the cinema advertising industry in annual fees paid to the BBFC.

On average current cost are: -

- Payments to BBFC c£70,000 p.a.
- Cost of CAA c£ 56,000 p.a.
- ASA levy of c£184,000 p.a.

These have been used to calculate the cost of the current regime; over 10 years this produces a cost of £2.80m in NPV terms, which represents a direct cost to business of £0.33m (equivalent annual)

Industry sources have also raised concerns about the speed with which cinema ads can be cleared under the BBFC system which they believe, coupled with the fees paid to the BBFC, acts as a major disincentive for advertisers and agencies who might want to use cinema for their campaigns. This is particularly the case with smaller brands and agencies that may not have the revenue or resources to undertake this ‘dual clearance’ process, resulting in a less plural market in cinema advertising.

Industry has indicated that this situation considerably reduces the advertising revenues flowing into the cinema industry, with a range of advertising categories (such as the retail sector) less likely to use cinema advertising due to price driven, time sensitive messaging.

<u>Benefits</u>
The current legislation aims to provide suitable safeguards so that consumers, in particular children, do not see advertisements containing content that would be inappropriate to the age rated film being screened. Keeping the requirement on the BBFC to age rate adverts shown in cinemas could prevent any reduction in consumer and child protection.

Option 1

Costs

Removing the requirement for the BBFC to age rate adverts shown in cinemas might result in a reduction in consumer and child protection. However, industry bodies and the advertising regulators believe the existing advertising clearance system, underpinned by the Advertising Standard Authority's non-broadcast advertising code (CAP Code), is robust enough to ensure there are no gaps in relation to consumer and child protection and that suitable safeguards will be maintained.

Removing the requirement on the BBFC should not have a significant impact on the BBFC, which is a not-for-profit organisation, as this would result in them not having to resource this regulatory function. There would be no additional costs to the CAA or to the ASA, as their regulatory functions will remain the same.

Removing the BBFC's requirement reduces the cost to £2.42m in PV terms, and represents a direct saving to business.

The potential benefits to the cinema advertising sector of increased revenue from greater use of the medium may be partially offset by a reduction in advertising revenues in other media.

Benefits

Removing the requirement to submit cinema adverts to the BBFC for age rating would result in direct financial savings for the industry (estimate figures for the year 2011 indicate approximately £72,000 was paid to the BBFC in fees for this service) as well as a reduction in administrative burdens providing copies of ads to the BBFC.

This would also make matters simpler for industry, reducing the additional time constraints resulting from the need to get both BBFC and CAA clearance of ads. The cinema industry may also attract new sources of revenue, potentially stimulating further innovation in the sector, as a result of reducing regulation in this area. Industry sources have provided figures indicating, at the top end, a difference of £31.5m (an increase of 17%) between actual and potential revenue from cinema advertising based on 2010 Nielsen figures - resulting from the lead times needed for clearance. We have assumed a maximum increase of 10% and a compromise estimate of 5% beginning in 2013. Moreover, we have assumed that 95% of this increase will be attracted from other forms of advertising. We hope to gain more information on the potential scale of increased revenue through consultation.

This produces benefits based on 0%, 5% and 10% increase in revenue. A 10% growth would lead to average annual benefits of £0.59m with a PV of £4.64m over 10 years. Whereas a 5% growth will lead to average annual benefits of £0.27m with a PV £2.14m over 10 years.

With the additional revenue and removal BBFC requirements, the direct cost to business is £-0.03 in option 1 compared to £-0.33m in option 0. Therefore a direct saving to business and qualifies as in OUT.

RISKS AND ASSUMPTIONS

Total cinema advertising revenue is assumed to increase according to WARC forecasts until 2012. After 2012, it is assumed to remain constant in real terms. This implies that total cinema advertising revenue in current prices will continue to increase for the foreseeable future in line with inflation.
ASA costs payable by cinema advertisers are assumed to be 0.001 of cinema advertising revenues in accordance with industry information. In 2010, based on annual cinema advertising revenue figures, cinema advertising attracted a levy of approximately £184,000. In addition, the annual cost of the CAA is assumed to be approximately £56,000 p.a. in 2010 and to remain constant in real terms thereafter.

BBFC costs of classifying cinema advertising are assumed to remain constant in real terms after 2011.

Removal of BBFC age rating of cinema advertising is assumed to increase total cinema advertising revenue by 5% (compromise estimate) in 2013 and thereafter. However, 95% of these increased revenues are assumed to come from reductions in other forms of advertising.

Any or all of these assumptions might under-or over-state the true magnitude of the variables involved. For example, if either cinema advertising receipts or the impact from the removal of BBFC age rating are lower or the costs of ASA regulation and industry support for CAA functions are higher than assumed, then the net benefit of the preferred option will be significantly lower than estimated. It is not possible to compute the magnitude of this risk.

DIRECT COSTS AND BENEFITS TO BUSINESS CALCULATIONS (FOLLOWING OIOO METHODOLOGY)

The preferred option is an out. The direct cost to business is £-0.03 in option 1 compared to £-0.33m in option 0. Therefore a direct saving to business as the cost to business has fallen by around £0.29m (equivalent annual).

WIDER IMPACTS

It is likely that this measure will particularly benefit small independent cinemas. These form 60% of all sites. In 2005, it was found that between 2% and 9% of annual cinema turnover was composed of advertising revenues. Hence, any increase in cinema advertising is likely to impact particularly favourably on small cinemas.

The viability of cinemas is important for the vibrancy of local communities and stimulus to local culture. They are especially important in encouraging the evening economy and footfall which may enhance safety and security.

Micro Organisations
Micro organisations could potentially be in scope as currently cinema advertisements have to be submitted to the CAA and the BBFC, regardless of the status of the business responsible for the content. The regulatory regime is in place to protect children and consumer rights and exempting any organisations could undermine this protection. However, any micro organisations that were in scope would benefit from a reduced financial and administrative burden under the option to remove the requirement to submit ads to the BBFC.

Statutory Equality Impact Tests
We have considered the potential impact of these proposals on protected groups under the Equality Act 2010. After initial screening it has been deemed that no significant impact is anticipated in any case.

Other specific impact tests
Other specific impacts tests have also been considered including Legal Aid, Sustainable Development, Carbon Assessment, Other Environment, and Rural Proofing. Again, after initial screening it has been deemed that no significant impact is anticipated in any case.

IMPLEMENTATION PLAN

It is planned that the public consultation on regulation of cinema advertising will be launched in Spring 2012, run jointly with a consultation on Video Recordings Act exemptions. The consultation will run for 12 weeks and it would be expected that Government will announce its response in Autumn 2012.