



**Department for Culture, Media
and Sport**

**Consultation on Exemptions to the Video
Recordings Act and on Advertising in Cinemas**

An IPA response

May 2012

Consultation on exemptions to the Video Recordings Act and on advertising in cinemas

The IPA welcomes this opportunity to submit views on the above.

About the IPA

The Institute of Practitioners in Advertising (the "IPA") is the trade association and professional institute for UK advertising agencies. Our 241 corporate members are primarily concerned with providing strategic advice on marketing communications, including creating and/or placing advertising. Based throughout the country, they are responsible for over 85% of the UK's advertising agency business and play a pivotal role in advising the nation's companies on how they should deploy their total marketing communications spend of £42 billion.

Scope of our response

While the consultation paper breaks down into two distinct parts:

- exemptions to the Video Recordings Act
- and*
- advertising in cinemas

our interest, experience and expertise is restricted to the last of these only and we have therefore restricted our comments to the current dual regulation of cinema advertising .

Questions

General Questions

Q A.1 What is your view on the current system of regulating cinema advertising?

The IPA has consistently pressed for simplification in the current media regulatory regime for cinema.

As early as 2002, we wrote to the Cabinet Office highlighting:

- That the existence of two separate bodies regulating advertising in the same medium (ie cinema) was fundamentally wrong and led to the real risk of "double jeopardy";
- That of the two regulatory bodies, the CAA offered the public, rigorous and extremely thorough protection, backed up by effective sanctions;

- That, by contrast, the role of the BBFC was essentially an historical accident, that it was ill-suited to the task it was asked to perform - and that it added nothing to the value of the regulatory process;
- That it unnecessarily complicated the ability of cinema, as a small medium, to attract business - and imposed barriers in both time and cost to advertisers wishing to use that medium.

Q A.2 Do you consider that the current system which involves both the BBFC and CAA is placing an unnecessary dual burden on industry?

Yes. For the reasons given above, it renders the placing of advertising more complicated and expensive than in other media, with no real benefit to the public.

No other UK medium is subject to dual regulation – television, which dwarfs cinema revenue suffers no such disadvantage - and yet, unlike cinema, it is available in almost 100% of UK homes, every day.

Q A.3 What is your assessment of any extra costs involved from this dual system?

Extra costs from this dual system will arise from the following areas:

- The basic fee charged to agencies by the BBFC to review submitted materials;
- The time spent by agency personnel submitting and then following up on clearance from the two bodies.

We believe the figure of £72,000 supplied by the BBFC is broadly accurate in terms of the monies spent by agencies to have their commercials certificated in 2011.

In addition, agency staff will spend a considerable time submitting advertising, chasing for responses and then having commercials amended to feature whatever certificate the BBFC has awarded.

It is difficult to put cost on this, but clearly the hours spent by staff will have a value and that value is currently being wasted as a result of needing to meet the needs of an overcomplicated bureaucratic process.

Q A.4 Do you consider that the current system which involves both the BBFC and CAA is beneficial?

We do not believe there are any benefits accruing from the dual regulation of cinema by the BBFC and CAA.

Q A.5 Is there any evidence to suggest that removing the BBFC requirement to age rate adverts shown in cinemas will result in a reduction in consumer and child protection?

We are not aware of any evidence to suggest that the removal of the BBFC requirement to age rate ads shown in cinemas would result in a reduction in consumer and child protection.

As the consultation document itself has indicated, the vetting process operated by the CAA is extremely rigorous and more appropriate to advertising than that applied by the BBFC.

For Part A Option 0 (No change) :

Q A .6 What is your overall assessment of whether this option would :

- *Achieve the objectives of ensuring consumer and children protection*

As noted above, while the current setup offers the public, a level of protection , it does so in a very inefficient, costly and unnecessarily complicated fashion.

- *Work in practical terms*

While the present system works, it does so to the unnecessary cost of advertisers and to the business detriment of the cinema industry, whose "peripheral" nature to most media schedules will mean that any unnecessary complications can easily cause advertisers to shy away to use less fussy alternatives.

This risk is likely to be exacerbated by the digitisation of cinema – the exploitation of whose benefits could be held back by the difficulties imposed by the current dual vetting procedures.

Q A.7 What are the key disadvantages of this option in your view? Could this option be adapted to overcome any problems?

The key disadvantages of the system have been spelt out earlier:

- Dual regulation of any medium - with its inherent risk of double jeopardy - is fundamentally wrong;
- The BBFC adds nothing beneficial to the protection of the public, is needlessly expensive and by complicating the process of placing advertising can act as a deterrent to companies considering using the medium.

Q A.8 What are the key advantages to this option in your view?

The only possible advantage that might accrue from the existence of two regulators would be that the public was rendered "extra safe" as a result.

However, this is not the case in this instance since:

- The BBFC's vetting criteria are neither as relevant nor as appropriate as the CAA's and, as a result, it brings little, if any, additional value to the process;
- If dual regulation were desirable, it should equally apply to cinema's considerably bigger media rivals – TV, radio and the internet – all of which are perfectly adequately policed via a single day-to-day regulator.

Q A.9 How do you think this option would work for the following key stakeholders:

• *Consumers*

Since this is the status quo, clearly consumers would notice no difference.

• *Industry*

The dual regulatory process would continue to hamper the development of the cinema industry, while advertisers would suffer the additional cost and complexity of the current setup.

• *Enforcement agencies*

The enforcement agencies would continue to operate as at present.

Q A.10 Is there anything that would improve this option for any of the stakeholders?

No

Q A.11 Is this option a proportionate way of regulating cinema adverts?

No – it significantly disadvantages advertising on the cinema versus advertising appearing on TV, radio or the internet.

Q A.12 Is there any other information you think that Government should take into account when considering this option?

No

Q.A.13 Are there any other observations or representations you wish to make?

No

For Part A Option 1 (remove the requirement for the BBFC to have a role in age rating cinema adverts)

Q A.14 What is your overall assessment of whether this option would :

- *Achieve the objectives of ensuring consumer and children protection*

As indicated elsewhere, we believe the regulatory criteria applied by the CAA are significantly more rigorous and appropriate to advertising than the BBFC's.

As such, we are confident that the BBFC can be removed from the mix with no additional risks to the consumer or children.

- *Work in practical terms?*

The removal of the BBFC would eliminate a needless, costly and irrelevant stage from the pre-vetting of cinema commercials.

The result would be a smoother, faster and, to advertisers, more attractive clearance system more in line with the rest of the media in the UK.

Q A.15 What are the key disadvantages of this option in your view?

There are no meaningful disadvantages to this option.

Consumers would continue to be protected to the highest level.

Cinema would no longer be discriminated against by having more complex and expensive regulation than its competitors.

Q A.16 What are the key advantages to this option in your view?

(See earlier responses in this paper)

Q A.17 How do you think this option would work for the following key stakeholders:

- *Consumers*

Consumers would notice no difference as they would continue to benefit from the CAA's regulatory activities.

- *Industry*

The cinema industry would no longer feel itself discriminated against through historical accident – but instead enjoy a more level playing field with its media competitors .

This, in turn, would make it more attractive to advertisers, for whom cinema's clearance process is currently over complicated and costly.

- *Enforcement agencies*

The sanctions available to the ASA are more than adequate for ensuring advertiser compliance.

Q A.18 Is there anything that would improve this option for any of the stakeholders?

No

Q A.19 Is this option a proportionate way of regulating cinema adverts?

Yes. The new setup would bring cinema into line with regulatory procedures adopted across all other UK media.

Q A.20 Is there any other information you think that Government should take into account when considering this option?

No

Q.A.21 Are there any other observations or representations you wish to make?

The exceptional nature of the dual regulation of cinema has been the subject of debate for many years. Its unfairness has been self-evident and its detrimental impact on the attractiveness of cinema advertising, undeniable.

Despite the efforts of the cinema and advertising industries, however, correction of this anomaly has proved stubbornly difficult to achieve.

The DCMS is thus to be congratulated for progressing this initiative and, hopefully, seeing it through to an outcome of benefit to all parties: the consumer, the cinema industry and advertisers.

