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Sent: 31 July 2012 15:26
To: AdsExempt
Subject: Consultation on Exemptions to the Video Recordings Act and on Advertising in Cinemas
Attachments: CONSULTATION QUESTIONS ON PART B.doc; CONSULTATION QUESTIONS FOR PART A.doc

Dear Sir/Madam,
Please find enclosed a response to the consultation on Exemptions to the Video Recordings Act and on Advertising in Cinemas on behalf of the West of Scotland Age Restricted Sales Forum. The forum includes Trading Standards representatives from 13 local authorities in the West of Scotland. All members of the group were asked for their comments.

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CONSULTATION QUESTIONS FOR PART A

When answering any questions please provide your reasons and any relevant evidence to substantiate your views, wherever possible.

General Questions

Q A.1 What is your view on the current system of regulating cinema advertising?
It is an area that appears to be well regulated.

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 if the CAA offers the same protection and covers more areas than the BBFC system then having both systems would seem burdensome

Q A.3 What is your assessment of any extra costs involved from this dual system?
£70k is very small sum as opposed to £185 million gained in advertising revenue.

Q A.4 Do you consider that the current system which involves both the BBFC and CAA is beneficial? Please provide your reasons?
No, duplication is not necessary.

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?
Please provide details.

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
- work in practical terms

Q A.7 What are the key disadvantages of this option in your view? Could this option be adapted to overcome any problems?
Unnecessary duplication but only has a small cost implication

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

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

- consumers
- industry
- enforcement agencies

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

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

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

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

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
- work in practical terms

This would be a more pragmatic solution, less time consuming and as the CAA system covers areas not covered by BBFC classification then this would offer more protection for young people.

Q A.15 What are the key disadvantages of this option in your view? Could this option be adapted to overcome any problems?

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

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

- consumers
- industry
- enforcement agencies

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

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

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

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

CONSULTATION QUESTIONS ON PART B

When answering any questions please provide your reasons and any relevant evidence to substantiate your views where ever possible.

General questions

Q B.1 To what extent do you think material that might be unsuitable for children is available in unclassified hard copy videos? Please provide any evidence to support your view.

Some extent. Although the vast majority of unclassified work will be suitable for children, there will be some work e.g. in the music category for example which parents may not wish their children to see. Many music videos are overtly sexual (although these are mostly distributed through television and online) and some live performance videos (which still tend to be released on physical media) may contain bad language or adult themed lyrics. An example of which is a live concert of the popular singer Adele which contains some swearing.

Q B.2 Do you consider that some producers are not submitting works to the BBFC for classification when, in fact, their work does not meet the existing criteria for exemption? If so, please provide any evidence for your view.

Failure to meet the existing criteria for exemption would mean the work contained actual sex, full nudity or gross violence. Unclassified works containing explicit material have previously been seized by Trading Standards Officers. It is thought that these works mostly originated from outside the UK.

Q B.3 What measures do producers have in place for assessing the content of potentially exempt video works? How are decisions taken by producers on the exempt status or otherwise of video works?

Q B.4 Are there significant numbers of music, sports and educational products on the UK market which are not identified in published market data? If so, please supply evidence.

Q B.5 Is there any evidence to suggest that producers currently claiming the exemptions would include micro businesses?

7 The UK Government introduced a three-year freeze on new domestic regulation for businesses with fewer than 10 employees – micro businesses – on 1 April 2011. Waivers from this moratorium can be considered on a case by case basis and must be cleared by the Cabinet's Reducing Regulation Committee and the Economic Affairs Committee

Q B.6 For videos offered online, how frequently do individual products carry advice about their age-suitability or the nature of their content? How helpful are classifications and labels applied online?

Q B.7 What more can be done to help parents determine whether specific online video content is, or is not, suitable for their children to see?

Encourage producers to use the voluntary schemes available such as BBFC online to classify or label works. If it is established that a problem still exists, legislation could be amended to include online content.

Questions on Options

Part B Option 0 (no change) :

Q B.8 What is your overall assessment of whether this option would work, and why?

This option would not work as it has been identified that there are video works exempt from classification available which may not be suitable for children. This problem would continue.

Q B.9 Are there any key disadvantages to this option in your view? Could this option be adapted to overcome any problems?

The problem of exempted works being unsuitable for children will still exist.

Q B.10 What are the key advantages to this option in your view?

The key advantage is that there would be no need to amend the legislation. Also, there would be no additional burden on business or enforcement agencies.

Q B.11 How do you think this option would work for the following key stakeholders:

- consumers

Many consumers do not have an issue with the current classification system. That would remain unchanged. However, some consumers have identified a problem with some exempted works being unsuitable for children. These consumers would be unhappy at the status quo remaining.

- industry

Producers would rather there was no change to the current set up.

- enforcement agencies

There would be no additional work for enforcement agencies if there was no change to the current system.

Q.B 12 Is there anything that would improve this option for any of the stakeholders?

Q B.13 Is this option a proportionate way of achieving regulatory control?

Q B.14 Are there any other data, facts, figures or information you think that Government should take into account when considering this option?

Q B.15 Are there any other observations or representations you wish to make? Please provide details here.

Option 1 (remove exemptions for music, sports, religious and education video works) :

Q B.16 What is your overall assessment of whether this option would work, and why?

This option is not proportionate as it would require primary legislation. It would be extremely burdensome and costly for producers as it would require the classification of many works which are completely innocuous.

Q B.17 Are there any key disadvantages to this option in your view? Could this option be adapted to overcome any problems?

The key disadvantage would be the extra cost and burden on business.

Q B.18 What are the key advantages to this option in your view?

The key advantage is that it would be certain that all works unsuitable for children carried an appropriate age rating.

Q B.19 How do you think this option would work for the following key stakeholders:

- consumers

Consumers could buy with confidence knowing that if they follow the age rating on the product, their children will be safe from unsuitable content.

- industry

This would be the least palatable option for business due to the additional time and cost for producers having all their work classified.

- enforcement agencies

Although there would be a new piece of legislation to enforce, this would not impact greatly on enforcement agencies.

Q.B 20 Is there anything that would improve this option for any of the stakeholders?

Q B.21 Is this option a proportionate way of achieving regulatory control?

No, the number of exempted works which may contain unsuitable material is a very small proportion of the works produced. So having all works classified would not be proportionate.

Q B.22 Are there any other data, facts, figures or information you think that Government should take into account when considering this option?

Q B.23 This option could remove the potential for some video games that are primarily concerned with music, sports, religion and education to claim exemption. What evidence is there that there are significant numbers of such products? What might be the impact on them of this option?

Q B.24 Are there any other observations or representations you wish to make? Please provide details here.

Option 2 (lower the existing statutory thresholds for exemption so that more products are subject to classification):

Q B.25 What is your overall assessment of whether this option would work, and why?

This option would be the most suitable. Applying a lower threshold similar to those definitions mentioned in the Digital Economy Act relating to the classification of video games would ensure that unsuitable material is classified.

Q B.26 Are there any key disadvantages to this option in your view? Could this option be adapted to overcome any problems?

Key disadvantages are that legislation would have to be amended and that producers would have more works to be classified at an extra expense to them.

Q B.27 What are the key advantages to this option in your view?

Key advantages are that all works that are not suitable for children will carry an classification to inform parents of the content. Those works which do not contain any of the material listed in the revised definitions need not be classified.

Q B.28 How do you think this option would work for the following key stakeholders:

- consumers

Consumers will be fully informed of works which may not be suitable for children.

- industry

Producers will benefit from the fact that not all works have to be classified unlike under option 1.

- enforcement agencies

Although there would be a new legislation to enforce, this would not impact greatly on enforcement agencies.

Q.B 29 Is there anything that would improve this option for any of the stakeholders?

Q B.30 Is this option a proportionate way of achieving regulatory control?

Yes. Only those works which contain any of the material listed in the revised definitions need to be classified, meaning the majority of currently exempted works will continue to be so.

Q B.31 Are there any other data, facts, figures or information you think that Government should take into account when considering this option?

Q B.33 Are there any other observations or representations you wish to make? Please provide details here.

The definitions listed in the Digital Economy Act relating to video games could be used as a template for video works. However, some of the terms used e.g. "characters" relate only to video games. It is suggested the following definitions:

"depictions of violence towards human or animal characters, whether or not the violence looks realistic and whether or not the violence results in obvious harm",

and,

"depictions of violence towards other characters where the violence looks realistic"

be replaced by a single new definition:

"depictions of violence towards humans or animals or representations of humans or animals whether or not the violence results in obvious harm"

Option 3 (a voluntary, self-regulatory 'parental advisory' scheme) :

Q B.34 What is your overall assessment of whether this option would work, and why?

This option would mean that many more works carried a warning and would be preferable to the status quo but the warning is less specific than a bbfc classification and it is a voluntary scheme with no enforcement option.

Q B.35 Are there any key disadvantages to this option in your view? Could this option be adapted to overcome any problems?

Disadvantages would be that the scheme is voluntary and requires the good will of the producer. Also, industry would have to set up the scheme perhaps using the music industry's scheme as a template.

Q B.36 What are the key advantages to this option in your view?

No new legislation would have to be produced. Consumers would be more informed than they are currently.

Q B.37 How do you think this option would work for the following key stakeholders:

- consumers

Consumers would be more informed and could choose whether or not to allow children access to works with the advisory label. The advisory labelling would, however, not be as specific as a bbfc classification which clearly suggests an age the content is suitable for.

- industry

There would be a burden on industry to initiate the scheme but would be less burdensome than regulation.

- enforcement agencies

There would be no impact on enforcement agencies as the regime has no statutory backing.

Q.B 38 Is there anything that would improve this option for any of the stakeholders?

Q B.39 Is this option a proportionate way of achieving regulatory control?

Yes, it would mean only those works which contained certain material would be labelled with the parental advisory mark.

Q B.40 Are there any other data, facts, figures or information you think that Government should take into account when considering this option?

Q B.41 Are there any other observations or representations you wish to make? Please provide details here.

