

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

DCMS consultation 2012

**Response of
The Trading Standards Institute**

July 2012

About The Trading Standards Institute

The Trading Standards Institute is the UK national professional body for the trading standards community working in both the private and public sectors.

Founded in 1881, TSI has a long and proud history of ensuring that the views of our broad church of Members are represented at the highest level of government, both nationally and internationally.

We campaign on behalf of the profession to obtain a better deal for both consumers and businesses.

We are also a forward-looking social enterprise delivering services and solutions to public, private and third sector organisations in the UK and in wider Europe.

We run events for both the trading standards profession and a growing number of external organisations. We also provide accredited courses on regulations and enforcement which deliver consistent curriculum, content, knowledge outcomes and

evaluation procedures, with the flexibility to meet local authority, business and operational needs.

In compiling this response, TSI has canvassed the views of its Members and Advisers. The response has been composed by TSI Operations and Policy Director Andy Foster. If you require clarification on any of the points raised in the response, please do not hesitate to contact Andy at email andyf@tsi.org.uk.

TSI does not regard this response to be confidential and is happy for it to be published.

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Trading Standards Institute response – July 2012

The Trading Standards Institute welcomes the opportunity to respond to this consultation which marks an important development in this area of law.

Our members are responsible for the enforcement of video recordings and video labelling laws across the UK.

In brief TSI wishes to express our support for the Government's proposal in this area, namely:

- (i) that cinema advertisements should be subject to pre-release scrutiny by one body, not two, and that that body should be the CAA (*Identified as Part A, Option 1 in the consultation*)
- (ii) that the threshold for exemption be lowered so that the BBFC would classify all works which could be of harm to children. Although the media and political focus has been on music videos, the Government's preferred option would encompass all current categories of video works exempt from classification: that is music, sports and religious and documentary titles. (*Identified as Part B, Option 2 in the consultation*).

The main reasons we support the lowering of the threshold are:

- There is clear public concern about unsuitable content in DVDs which may presently be supplied to children without any legal restriction.
- There is a risk that children may be harmed by exposure to certain kinds of presently unregulated DVD content.
- BBFC ratings are well understood and trusted by the public. We believe the BBFC should be classifying such content.

– The key advantage of the Government’s preferred Part B Option 2 is a greatly improved level of child protection.

The BBFC, along with the BPI (British Phonographic Industry), BVA (British Video Association), ERA (Entertainment Retailers’ Association) and VSC (Video Standards Council), support an exemptions threshold which would bring the following potentially harmful content within the BBFC’s regulatory ambit: strong violence; explicitly sexualised behaviour, including nudity; racist, homophobic or other discriminatory behaviour or language; imitable dangerous behaviour, including drug and other substance misuse; and repeated use of strong language.

This content covers all the core concerns for parents and society in general and addresses the issues identified by Reg Bailey in his report: *Letting Children be Children – The Report of an Independent Review of the Commercialisation and Sexualisation of Childhood.*

Part B, Option 2 also has the advantage of informing and therefore empowering parents if currently exempt products contain material that they would consider harmful for their children. We understand that in some cases parents wrongly assume that exempt material is in fact within the BBFC’s regulatory ambit. This means that they are not aware of the need to monitor such material in order to protect their children.

The fact that some exempt material is classified by responsible distributors, while some is labelled ‘E’ in a manner that looks like a BBFC classification, only adds to parents’ confusion in our view

We consider that both the Government’s preferred options are sensible and proportionate.

In addition we are also aware that in anticipation of the VRA consultation, the BBFC, BPI, BVA, VSC and ERA have agreed a proposal to lower the threshold, along with accompanying guidance for video distributors.

We support the proposal, a copy of which is on the next page as **Annex 1**.

ANNEX 1: JOINT PROPOSAL BY BBFC, BVA, BPI, VSC AND ERA

A joint BBFC, BVA, BPI, VSC and ERA proposal that any works being distributed in future in exempt genres containing the content described below should be classified under the Video Recordings Act and an age-appropriate classification decision given, along with bespoke consumer advice to empower consumers and protect children from potentially harmful content.

Strong violence

Strong violence means a focus on the depiction of realistic violence, whether real or simulated, including an emphasis on injury or blood. Of particular concern are depictions of strong violence which feature an enhanced focus on violence through for example slo-mo replays of violent moves and any potentially dangerous combat techniques which may be copied. It includes depiction of the aftermath of violence, including self-mutilation, scarification, DIY surgery and self-harm. It includes depictions of violent acts in which the "victim" is consenting to those acts. It also includes material which may stimulate or encourage strong violence, including verbal references which may promote or glamorise violence or present violence as a normal solution to problems. It includes depictions of strong violence involving animals where a human agent is involved (eg arranged animal fights). It includes any portrayal of sexualised or sexual violence.

Explicitly sexualised behaviour, including nudity

This includes images which involve genital, buttock or breast nudity which are designed to titillate and arouse. It includes topless dancing, including lap and pole dancing. It includes strong images of simulated human sexual activity.

It includes strong, explicit verbal descriptions of human sexual activity.

It does not include natural breast or buttock nudity in a non sexual context.

Racist, homophobic or other discriminatory behaviour or language

Racist language includes derogatory terms and dialogue relating to race which criticise an individual or a group of individuals on the grounds of, or by making reference to, race. Homophobic language includes derogatory terms and dialogue relating to sexual orientation which criticise an individual or a group of individuals on the grounds of, or by making reference to, sexual orientation. Other discriminatory language includes derogatory terms and dialogue relating to issues such as gender or disability which criticise an individual or a group of individuals on the grounds of, or by making reference to, these matters.

Imitable dangerous behaviour, including drug and other substance misuse

This includes content featuring drug and alcohol misuse. Of particular concern are verbal or visual depictions which glamorise, normalise or otherwise promote such misuse, especially if the misuse is carried out by a figure with significant appeal to children or young people. Depictions of drug misuse which offer instructive detail are also of particular concern.

It also includes verbal or visual depictions of tobacco use which glamorise or otherwise promote tobacco use, particularly where tobacco is being used by a character or characters with significant appeal to children or young people. Also of concern are depictions of tobacco use which suggest its use is normal for children or young people.

This content also includes potentially dangerous behaviour which is presented as safe or fun or attractive and can be relatively easily imitated by children or young people.

Repeated use of strong language

Strong language means: fuck and its variants, motherfucker, cocksucker and cunt.

It does not include infrequent (i.e. fewer than five uses in a feature length work) use of strong language.

BBFC/BVA/BPI/VSC/ERA

July 2012

