



DCMS CONSULTATION ON EXEMPTIONS TO THE VIDEO RECORDINGS ACT AND ON ADVERTISING IN CINEMAS - RESPONSE FROM THE CINEMA EXHIBITORS' ASSOCIATION

The Cinema Exhibitors' Association (CEA) is the trade body for UK cinema operators, representing well over 90 per cent of the domestic market by screenage and market share. Its membership ranges from the largest circuit companies to the smallest single screen owner-operated sites. It encompasses commercial companies as well as those in the supported sector, including local authority-funded cinemas, specialised cinemas and mixed arts venues.

In this response to the above consultation – set out in more detail on the attached - we limit our comments to the issues set out in Part A, relating to the regulation of advertising in cinemas.

The background to our position on these issues is the current digital revolution being experienced by the cinema sector, both in the UK and across the globe. In embracing digital cinema, the industry is moving away from long-standing 35mm technology, which while it has served the sector extraordinarily well, has also imposed limitations in terms of flexibility and responsiveness. While digital technology is not without its challenges, one of the key benefits it brings cinemas is the ability to programme content in a much more imaginative way, one which recognises the different wants and needs to different audiences.

In order to maximise the benefits of this change, the industry has had to revisit a number of areas of practice, and to look again at the fitness for purpose of a number of pieces of regulation.

The position around the regulation of onscreen advertising is one of these areas, with the current 'dual regulation' position now acting as a significant potential brake on further development of legitimate commercial activity. **The proposal within the consultation paper for the requirement for BBFC classification of cinema advertisements to be removed (Part A, Option 1) is one which not just the CEA but also the Cinema Advertising Association and BBFC itself strongly support.** It would lead to a more flexible and appropriate regulatory regime without the loss of any of the existing safeguards around public and child protection.

We strongly urge Government to make this change as soon as possible.

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

The current system – whereby both the BBFC and the CAA regulate cinema advertising according to similar but slightly different benchmarks – has worked well to the extent that a high level of public protection has been maintained.

However, with the advent of digital cinema technology, the sector is for the first time technologically able to engage with the fast turn-around nature of the modern advertising world. That being the case, the limitations of the system – brought about by the dual nature of regulation – have now become an active brake on the further development of legitimate commercial activity in this area.

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?

Increasingly, this is the case. The need to submit advertisements to two separate bodies, and to await their agreement before content can come to screen, places an unnecessary obstacle in the way of the key screen advertising agencies.

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

The current dual system undoubtedly involves additional costs – as noted in the consultation paper, the average BBFC classification cost for an advertisement is around £111. However it is the increasing cost of income foregone which now weighs most heavily here.

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

There are no material benefits to the current system of dual regulation over and above that which might appropriately be provided by a single process.

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.

It is the CEA's absolute conviction that were the case for the CAA Copy Panel to be solely responsible for the classification of cinema advertising accepted, the public would not perceive any change either in their cinema experience or in the levels of public protection brought to bear.

The cinema audience will not suddenly be presented with commercials it felt inappropriate to be seen with a particular certificate of film. Not only are higher restrictions (compared to those arrived at by the BBFC) regularly imposed on commercials by the CAA Copy Panel, but under this option the Advertising Standards Authority, which oversees the interpretation of the CAP Code, would continue as now to respond to public complaints, to monitor the proper application of the Code, and in the event of investigation, to issue ASA Council decisions to the advertiser and the CAA Copy Panel.

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**

In that current levels of public and child protection would be maintained, then the answer to the first question is obviously 'yes', but as noted above, continuing with the current approach would have a significant and increasingly negative impact on the ability of cinema advertising to compete with other more flexible and responsive platforms.

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

See above.

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

n/a

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

- **consumers**
- **industry**
- **enforcement agencies**

In the immediate term, in that there is no change in the current regime, then consumers should see no difference. However the increasing inability of the sector to compete with other platforms for advertising revenue would mean that cinema audiences would see an increasingly narrow range of adverts and other brands and agencies looked elsewhere.

The resultant impact on the cinema industry – which relies heavily on advertising revenue for viability – would be significant, particularly for those smaller operators who survive on the smallest of margins.

There would be no material impact on enforcement agencies.

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

There is nothing which would improve this option for any of the stakeholders in that it is the *status quo* option.

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

The dual regulation currently in place is a disproportionate response given the option that exists of identifying a single body for the classification of cinema advertising.

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

n/a

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

n/a

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?**

As noted above, were the case for the CAA Copy Panel to be solely responsible for the classification of cinema advertising accepted, the CEA believes that levels of public protection would remain unchanged.

In practical terms, the proposal to move to one regulator is a more straightforward and logical one.

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

There are no disadvantages to this option.

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

This is the common sense option, introducing a single point of regulation while maintaining current levels of public and child protection, and at the same time enabling the cinema advertising industry to be more competitive with other platforms and to realise greater revenue for its clients.

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

- **consumers**
- **industry**
- **enforcement agencies**

As noted above, the public should perceive of no difference under this new regime.

The benefits for the industry are as stated.

There would be no material impact on enforcement agencies.

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

n/a

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

This option is both proportionate and logical.

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

n/a

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

n/a