

**A submission from CARE to the DCMS Consultation on
Exemptions to the Video Recordings Act
and on Advertising in Cinemas**



Introduction

CARE is a well-established mainstream Christian charity providing resources and helping to bring Christian insight and experience to matters of public policy and practical caring initiatives. CARE is represented in the UK Parliaments and Assemblies, at the EU in Brussels and the UN in Geneva and New York. CARE is a company limited by guarantee registered in England and Wales at 53 Romney Street, London, SW1P 3RF, Company No: 3481417, Charity No: 1066963, Scottish Charity No: SC038911

Response to consultation questions on Part B

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.

N/A

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.

N/A

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?

N/A

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.

N/A

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

We cannot speak to micro businesses, however, the proposals could have an impact on charities that produce educational material to use in their work, or for churches that record talks or services and sell these to their congregation.

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?

N/A

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?

More should be done to ensure that adult content which would receive an 18 or R18 rating from the BBFC is put behind robust age verification processes so that online videos or images that are not suitable for children cannot be accessed by children. While granularity of content for differing ages might prevent such filtering at different ages, there is a clear demarcation of 18 and R18 type content which no under age person should have access to.

ISP level filtering would be one way to empower parents in that direction. CARE supports a blanket filter on adult content unless an adult subscriber – whose age is verified by the ISP or mobile phone operator – “opts-in” to access adult content.

However, we also believe that companies who host content which is intended for an adult audience should place all of their content behind a robust age verification process such as those commonly used by gambling websites.

While CARE recognises that social networking will always negate the effectiveness of classic mechanisms of age verification, we would like to see content hosts encourage adults and teenagers to look out for younger people who access content by encouraging them to provide community feedback and ratings.

Mechanisms such as these already exist for flagging inappropriate content or content that breaks copyright regulations. Why not also provide a mechanism to rate a video which might include something above what would be considered “PG” under the BBFC rating system rather than simply “flagging” content generally inappropriate or in breach of web community guidelines.

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 there is a problem with some age inappropriate content being available without a mechanism to help parents make decisions about what they want their children to see. This should be addressed.

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

N/A

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

In comparison with the other options we do not see any advantages to this option.

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

- consumers
- industry
- enforcement agencies

N/A

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

N/A

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

We do not believe it is proportionate as it does not deal with the problem.

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

N/A

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

N/A

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?

CARE does not consider this a workable option. It goes beyond what we would consider to be proportionate. The majority of titles produced for wide audiences and sold in the UK do not include content that should have to be reviewed by the BBFC. It would be unnecessarily burdensome, particularly for smaller production companies.

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

We do not believe there are advantages.

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

N/A

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

- consumers
- industry
- enforcement agencies

N/A

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

N/A

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

We do not believe it is proportional.

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

N/A

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?

N/A

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

N/A

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 is CARE's preferred option in conjunction with elements of Option 3 and with the caveat that the threshold should be lowered, but that different criteria (than those used for the video games market) should be used to establish whether a work should be classified under the VRA by the BBFC. These criteria should also be publicly consulted on.

For example, of the eight categories listed in this consultation, only one relates primarily to the major concerns the Bailey Review and other reviews had, which was about sexualised content. This only relates to depictions of such content rather than the content of lyrics. While we believe that violent imagery should be something considered under the new regulatory regime, the emphasis given to violence under the video games regulatory regime (appropriately so) does not suit the motion video arena.

Furthermore, we strongly disagree with the last point: "words or images that are intended or likely, to any extent, to cause offence, whether on the grounds of race, gender, disability, religion or belief or sexual orientation or otherwise."

This would lower the threshold to a matter of taste and personal opinion rather than objective and measurable standards. It could also lead to making the issue a matter of indirect censorship rather than free expression with age restrictions for the sale of a product, as cost under BBFC-led age rating could be prohibitive for niche markets where freedom of expression is most endangered.

While it is clear that "to cause offence" is a well defined legal term, it does put the threshold rather lower than CARE feels comfortable with because, in this case, almost anything could be considered as likely to cause offence as it is a subjective category.

It should be noted that video games are classified under a self-regulatory mechanism through PEGI which, while setting the standards, does not review each game before it goes on the market but rather, trusts industry-wide self-regulation to ensure that standards are kept by all involved. Therefore, video games producers and distributors do not need to pay the BBFC.

Because the BBFC would charge for their services, the cost to niche market producers may well be prohibitive, particularly for religious groups or charities that provide video material for educational use to a relatively small audience, e.g. the recording of a sermon on a DVD for congregants to buy. If the sermon were to include content which might cause offense to a person of another faith or none, sending the DVD to be rated by the BBFC would be unnecessarily restrictive and time consuming. As an example, if a Christian church recorded a hymn sung by the congregation wherein the lyrics called Jesus the Son of God, this could be understood by Muslims to be blasphemous and therefore offensive, requiring that the BBFC rate the recording. The same problem could hold true for the sale of recordings of theatre productions that deal with, for example, tensions or questions regarding religious or sexual identity.

Additionally, to put the threshold so low detracts from the intentions of the Bailey Review and other reviews, the main concern of which was sexualisation and violent content that could be prohibitive to the healthy development of children. Lowering the threshold may also, unintentionally, impact negatively on cultural and social diversity by reducing children's exposure to and engagement with material such as that produced for religious education which, whilst not intended as offensive, may be deemed so.

For this reason we agree that the threshold for exemption should be reviewed, but believe that it should not lead to unnecessary and disproportionate regulation that might lead to indirect censorship due to the prohibitive cost of gaining a classification from the BBFC.

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

Yes, the possibility of the bar being set too low. As explained above.

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

The key advantage to this option is that products which contain content recommended for review by Reg Bailey (or at least content likely to relate to issues raised in the Bailey Review) and not otherwise subject to BBFC rating will now be covered. This remedies the disparity of the BBFC providing an age category rating, for example, for sexual or violent content in the context of standard motion pictures and not doing the same for other content such as music videos.

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

- consumers
- industry
- enforcement agencies

It would protect and help educate consumers. We cannot speak for the industry in general, but if the threshold was set at the right level we believe that religious and educational or music and sports material would not need to have a BBFC rating and therefore would change nothing for producers of such material.

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

Setting the bar to the right level is crucial. We also believe that, in conjunction with Option 3, the opportunity for a more comprehensive approach to support parents as they bring up their children would be ideal.

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

Yes.

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

N/A

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

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?

In conjunction with Option 2, where the bar is set at the right level, we believe additional self-regulatory 'parental advisory' schemes would be of benefit to support parents as they bring up their children.

Under the principle that more information is good as long as it is not confusing to consumers, we believe that responsible companies will benefit from showing customers they take social responsibility seriously.

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

As long as the parental advisory schemes are not confusing and do not hinder the proper working of the BBFC rating system we do not see a problem with such schemes working in conjunction with Option 2.

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

Any advice that helps parents make decisions about the suitability of a product for their children is beneficial.

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

- consumers
- industry
- enforcement agencies

As long as it does not confuse consumers we believe it is a good addition to Option 2.

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

The Parent Port website could be used to help educate parents about what different schemes exist and how they function. Links to the website could be put on products sold in the UK.

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

Combined with Option 2, with the bar set at the right level, we believe it would be a good addition and proportionate to the aims set out under the Bailey Review.

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

N/A

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

N/A

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CARE Public Affairs Team