

## RESPONSE TO THE DEPARTMENT FOR CULTURE, MEDIA AND SPORT

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

## **About Family Education Trust**

For over forty years, Family Education Trust has conducted research into the causes and consequences of family breakdown. By means of its publications and conferences, and through its media profile, the Trust seeks to stimulate informed public debate on matters affecting the family and the welfare of children and young people, based on reputable research findings.

Family Education Trust is a registered charity and has no religious or political affiliations.

## **General questions**

**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.**

While videos and DVDs of an educational nature or concerned with sport, religion or music are ordinarily exempt from classification, section 2 of the Video Recordings Act 1984 (VRA) states that this exemption does not apply to works that, to any significant extent, include content depicting human sexual behaviour, acts of gross violence or human genital organs. For this reason, a number of music videos have been given 15 or 18 ratings due to sexual content, strong language or the violent nature of the lyrics.

We are concerned, however, that the producers of some sex education materials have claimed the exemption notwithstanding the fact that the videos and DVDs have included content depicting human genital organs and sexual behaviour. For example, the Channel 4 *Living and Growing* DVD which has been used widely in primary schools throughout

the UK has aroused considerable concern among parents for a number of years on account of its cartoon animations of sexual activity.<sup>1</sup> This particular DVD has now been withdrawn from sale, but only after it was brought to the Schools Minister, who agreed with parents that the content was 'shocking'.<sup>2</sup>

Another sex education resource containing explicit sexual content that is widely-used in primary schools is the *Sex and Relationship Education Whiteboard Active Pack*, part of the BBC Active Whiteboard Active PSHE series. This resource contains full-frontal nudity and computer-generated depictions of sexual intercourse. Like the Channel 4 *Living and Growing* series, this resource is currently not classified.<sup>3</sup>

**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.**

Yes.

In our view, the resources referred to in our response to Question B.1 do not meet the existing criteria for exemption, yet they have not been submitted for classification. We are concerned that the producers of sex education materials are misusing the exemption criteria with the result that children are being subjected to inappropriate material.

We support the proposal of Andrea Leadsom MP, who has suggested the BBFC should be required to give age ratings to sex education videos. As the Schools Minister Nick Gibb has stated: 'It is important that parents have the right to decide on what is appropriate for their children in these sensitive matters.'<sup>4</sup> If such ratings were given it would be far easier for parents and schools to determine what is and what is not appropriate.

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<sup>1</sup> Paul Bracchi, 'Casual sex and 'bad touching': Guess what your eight-year-old is learning at school these days', *Daily Mail*, 28 November 2011 <http://www.dailymail.co.uk/news/article-2066401/Casual-sex-bad-touching-Guess-year-old-learning-school-days.html> (accessed 26 July 2012)

<sup>2</sup> 'Channel 4 sex education film for schools is withdrawn after parents protest', *Mail on Sunday*, 15 July 2012 <http://www.dailymail.co.uk/news/article-2173755/Channel-4-sex-education-film-schools-withdrawn-parents-protest.html> (accessed 26 July 2012); 'Living and Growing DVD', Channel 4 Shop statement dated 7 July 2012 <http://shop.channel4learning.com/?page=shop&pid=1707> (accessed 26 July 2012).

<sup>3</sup> Sex and Relationship Education Whiteboard Active Pack, <http://www.pearsonschoolsandcolleges.co.uk/Primary/PSHE/BBCActiveCD-ROMs/BBCActiveWhiteboardActivePSHE/ISBN/InteractiveCD-ROMs/SexandRelationshipEducationWhiteboardActivePack.aspx> (accessed 26 July 2012)

<sup>4</sup> Nick Gibb MP, letter to a parliamentary colleague, 31 January, 2012.

### **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?**

In order to protect children from accessing unsuitable content online, internet service providers should be required to adopt network-level filters to automatically block material that would be classified as suitable only for adults. Under this scheme, parents and other users over the age of 18 would be entitled to opt-in to view adult material with strict age verification, but parents would have much greater peace of mind, knowing that their children could safely surf the internet without risk of exposure to pornographic material or video content that includes strong language or violence.

## **Questions on Options**

### **Part B Option 0 (no change) :**

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

The consultation paper rightly recognises that: ‘In the early 1980s when the VRA was originally drafted and enacted it is unlikely that legislators would have envisaged the kinds of material now contained in some video works in the categories that are exempt from age rating’ (para 5.23).

This point gets to the crux of why the current rules on exemption are failing to protect children. They are simply out of date and need tightening in order to cater for changed circumstances in which a large amount of inappropriate material is frequently incorporated into products that are marketed as educational videos. Given the current climate and the tendency of producers of sex education materials to treat the exemptions as absolute and not submit their productions for classification, it would be irresponsible to maintain the *status quo*.

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

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

In our view, this option is both unnecessary and impractical. The majority of exempted videos and DVDs do not contain potentially offensive content. There is therefore no need to require all the producers of music, sports, religious and education videos to submit their products for classification to the BBFC.

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

Given that the majority of exempted videos do not contain offensive content, we believe this option represents a disproportionate response.

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

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

We agree with the government's proposals as outlined in sections 2.15, 5.22 and 5.54 of the consultation paper. In our view, this represents by far the best option as it avoids the unnecessary regulatory burden while acknowledging that there is a small number of currently unclassified videos which give rise to concern.

We are particularly concerned that sex education videos are generally not being submitted for classification. It is important that such resources should carry certificates so that parents are given some indication as to the appropriateness of their content and can make an informed choice as to whether they are suitable for their children.

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

Yes. It is proportionate and avoids being unduly censorious or burdensome. It avoids the two extremes presented by options 0 and 1, the first of which advocates continuing with a system that has failed to protect children and the second of which would force the producers of perfectly innocent videos such as those educating children in English, maths, history and phonics, to submit their products for classification.

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

We would like to emphasise the importance of ensuring that videos and DVDs used in sex education classes are submitted for classification.

The Video Recordings Act 1984 states that educational works are not exempt from classification if, to any significant extent, they include content depicting human sexual behaviour or human genital organs. However, as noted in our response to Question B.1 above, resources such as the Channel 4 *Living and Growing* series and the *Sex and Relationship Education Whiteboard Active Pack*, both of which include sexually explicit material, do not carry an age-rating and yet they are in widespread use in primary schools.

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

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

As the consultation document notes, this approach has been taken by the music industry since 1995 to label music videos containing content considered inappropriate for children. While the practice of labeling certain products as 'Explicit' or with the warning 'May cause offence' is helpful and should undoubtedly continue, age ratings provide a greater safeguard against young people being exposed to unsuitable material. Parental advisory warnings should be used in conjunction with ratings rather than as a substitute for them.

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