

Title: Video Recordings Act exemptions PIR No: Unpublished Original IA/RPC No: DCMS052 Lead department or agency: Department for Digital, Culture, Media and Sport Other departments or agencies: NA Contact for enquiries: Rob Gillespie, DCMS Robert.gillespie@culture.gov.uk or 020 7211 2854	Post Implementation Review
	Date: 01/12/2017
	Type of regulation: Domestic
	Type of review: Non-statutory
	Date measure came into force: 01/10/2014
	Recommendation: Keep
RPC Opinion: NA	

1. What were the policy objectives of the measure?

In 2012, in response to concerns raised about the suitability of certain unclassified content, particularly music videos, Government commissioned a review of the appropriateness of video genre exemptions. The independent Bailey Review of the Commercialisation and Sexualisation of Children (2011), recommended the exemptions were removed. Government followed the advice of the Bailey Review and raised the classification threshold for exemptions. This was designed to increase the amount of classified titles, but with products likely to be suitable for general audiences remaining exempt.

2. What evidence has informed the PIR?

For this PIR, we collected data from key stakeholders (industry and regulators) on relevant markets. This data was used to assess the effect of the legislation and whether there had been any negative outcomes.

Questionnaires were also sent to film publishing companies to explore whether implementation of the law had impacted firms. Questions were asked about key changes to their associated costs and the benefits of introducing and complying with the new regulation.

3. To what extent have the policy objectives been achieved?

There is an implicit improvement in the quality of information provided to the general public. The updated law mandates that information, related to the age suitability of the product, is shown where previously no information was currently shown.

The impact of this law was smaller than predicted in the IA. Due to changes in the industry (a decline in physical media), fewer additional titles required classification than it was thought at the time of implementation. As a result of this, costs to the video production industry were lower than forecast in the IA.

Sign-off for Post Implementation Review: Chief economist/Head of Analysis and Minister

I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.

Signed: [Click here to enter text.](#)

Date: [Click here to enter a date.](#)

Further information sheet

Please provide additional evidence in subsequent sheets, as required.

1. What were the policy objectives of the measure?

This PIR assesses the implementation of the 2011 changes to the Video Recordings Act exemptions.

The Video Recordings Act 1984 governs the circumstances under which DVDs and other hard copy video works must be submitted to the British Board of Film Classification for classification (age rating). The VRA exemptions was initially used to exclude certain types of video works from requiring an age rating, unless they include adult-type matters such as sex, gross violence or criminal behaviour. The exemption applied to video works in the genres of:

- education or instruction,
- music,
- sports and recreational activities,
- religion

In 2012, in response to concerns raised about, particularly, the suitability of certain music content, Government commissioned a review of the appropriateness of the exemptions. The independent Bailey Review of the Commercialisation and Sexualisation of Children (2011), recommended the exemptions be removed. Government followed the advice of the Bailey review and raised the classification threshold for exemptions. This was designed to increase the amount of classified titles, but with products which were likely to be suitable for general audiences remaining exempt.

This PIR finds the outcome of the law change, in relation to costs, to be similar to those forecast in the original IA. However, it finds the shift away from physical media consumption to online delivery of content may have reduced costs but also reduced the additional information provided to the consumer by this legislation. This PIR recommends keeping legislation in place.

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Questionnaires were also sent to film publishing companies to explore implementation of the law had impacted firms. Questions were asked about key changes with their associated costs and benefits of introducing and complying with the new regulation.

Questionnaires were not used to consult consumers in the general public as it was thought consumers would not have had enough relevant knowledge of both the pre- and post-legislative labelling regimes to effectively judge its effect. Given that challenge, for any consumer group to gain the correct level of understanding, they would first have to be briefed on the current classification regime, the previous exemptions and be shown clips of works that were previously claiming exemption that now require classification. It would not have been sufficient to simply ask consumers if they support classification of music, sport, religious and educational works because these headings give no real insight into the nature of the content.

The cost of consumer research did not appear justifiable given the low numbers of works affected by the change. It would also have been very difficult to identify a statistically significant survey group able to provide meaningful feedback. These low numbers make it a serious challenge to identify any consumer that understands the updated exemption law.

3. To what extent have the policy objectives been achieved?

This policy had one main objective, to improve guidance on the suitability of video entertainment content for the purpose of increasing protection to minors and other vulnerable groups from potentially harmful content. In the original IAs, these benefits were wholly taken as societal and without any monetised benefits. Therefore it is not possible to provide any quantitative evidence on whether benefits were as large as forecast.

In consulting key stakeholders it was also felt it was unrealistic to use a survey to ask the general public on their opinion of the law change. This is in part because of the low numbers of works affected by the change and the low profile of the changes in the eyes of the general public. The low numbers will make it a serious challenge to identify a group of consumers that understands the updated exemption law.

These problems being stated, there is an implicit improvement in the quality of information provided to the general public. The updated law mandates that information, related to the age suitability of the product, is shown where previously no information was currently shown.

The overall impact of this law was smaller than predicted in the IA. Fewer additional titles required classification than it was thought at the time of implementation. As a result of this, costs to the video production industry were lower than forecast in the IA.

Moving forward, as more content moves towards an online only distribution model, thereby no longer falling under the purview of the legislation, the amount of additional information on age guidance provided by the legislation may decrease and so will its costs to industry. (Protection of minors from inappropriate online content is the subject of other policy measures and is not under consideration here.)

4. What were the original assumptions?

a. The number of additional titles requiring classification

At the time of the IA, the number of titles specific to each genre was not known with absolute certainty. The IA data, provided by the BPI and BVA, on the number of videos in each genre did not include all products available on the UK market. There was therefore, some doubt that the initial IA would be able to accurately forecast the number of titles which would no longer be exempt.

As the data was incomplete a proxy was used to estimate the number of titles. Data from the video game sector was used as the proxy, however, this was not ideal as the products and markets were possibly very different (for example a far higher proportion of video games were already classified, than was the case for the video genres in question). Unfortunately, no supplementary information was obtained during the IA consultation to improve the robustness of this assumption.

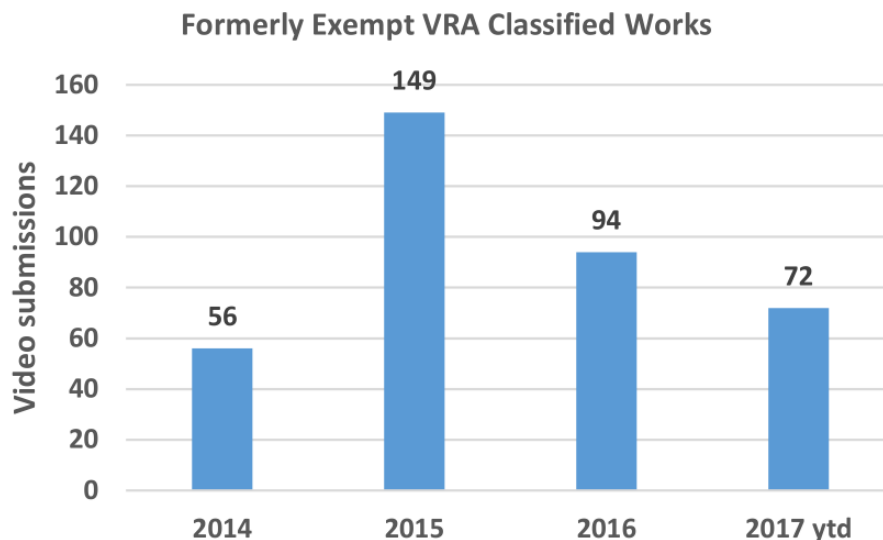
The estimated number of new titles in each category per year was:

- Music: 299
- Sports: 131
- Special interest: 297

Total Estimated: 727 titles per year

The total number of additional titles the IA predicted which would need to be classified per year was 727. In reality the BBFC reported the number of additional titles classified under the VRA which previously might have legitimately claimed exemption as being much lower, only 371 over the previous 4 years.

Chart 1 – Formerly Exempt VRA Classified Works



Source: BBFC (October 2017)

It is entirely possible that some of these works would have been submitted to the BBFC anyway, on a purely voluntary basis. However, there is no way of establishing what each company's hypothetical intent might have been in respect of each of these works had the law remained unchanged. What we can say is that, by virtue of their having been classified 12 or above, is they could not have legitimately claimed exemption after 2014 in a way they might before the change to the law.

Actual Total: An average of 99.66 per year (for years with complete data)

- A far smaller number of additional titles per year that predicted being classified, only 13.7%.
- In effect meaning, a smaller impact than expected, but also lower costs.

b. Constant submissions each year

The IA assumed that the number of additional submissions would remain constant each year. In reality there are a few things to say about these figures:

(i) The law change only applied to video works released onto the market from October 2014 so it is not surprising that the figure is low for 2014. That said, the figure for 2014 is higher than might be expected for a three month period. We believe this may be because some companies, who were aware their works would be released from October onwards, were getting them classified in time for the deadline, meaning that works submitted earlier in the year also contribute to the overall figure.

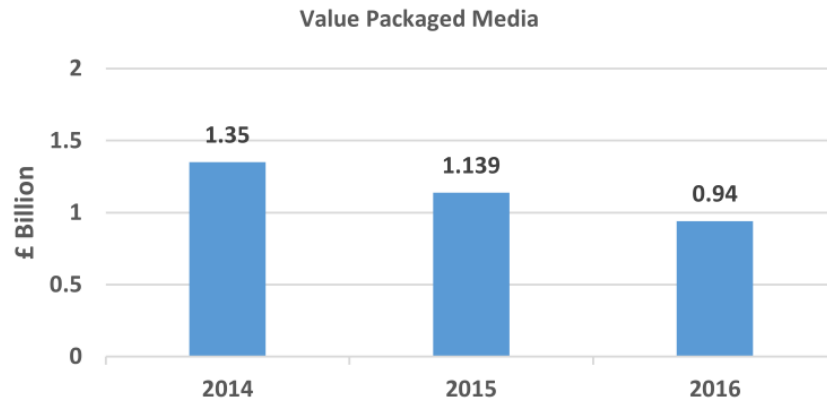
(ii) The figure for 2017 is low but only represents works classified up to the end of September 2017.

The original IA asserted that, in the future, consumers could change their consumption patterns away from physical media and towards receiving content via digital distribution. However, the IA did not factor this into the analysis.

Consumption has shifted to digital distribution. Futuresource Consulting report that the packaged DVD market is shrinking. Over the reporting period the value has fallen by an

average -18% Compound Annual Growth Rate (CAGR) (from £1.35 billion to £940 million)¹. Since this law only affects content which is released physically, the BBFC could see a fall in the number of titles submitted on an ongoing basis. This will only happen if video production companies move to digital only distribution methods. This would further reduce the impact of the law but also its costs.

Chart 2 – Value Packaged Media



Source: FutureSource Consulting (May 2017)

c. Costs

The original IA estimated the costs based on the assumptions below.

The IA estimated **submission costs** to publishers, for BBFC classification, to be £473.40 per submission. This calculation was based on the BBFC's flat £75 administration fee, plus a variable fee based on the length of the product, charged at £6 per minute of content. At the time of the IA the BBFC provided information on the average running length of a submission in 2011, 66.4 minutes ($£75 + (£6 \times 66.4) = £473.40$).

The IA also factored in additional **administrative costs** incurred by requiring producers to submit additional titles to the BBFC. These were costs related to preparing submissions, and or in time delays created by waiting for the classification decision to be made. Whilst the administrative costs of preparing a single submission to the BBFC were not available, the BVA provided an indication of the kind of costs incurred by some of their members who are currently routinely submitting works to the BBFC for classification. The BVA estimated the additional administrative cost was per unit of £40 ($473.40 + £40 = £513.40$). **This gave a total predicted cost of £513.40 per submission**

Total additional classification fees were therefore estimated in the IA to be in the region of £0.4 million per year ($727 * £513.40 = 0.37m$). Over ten years the cost of the preferred option has a present value of approximately £2.9 million. No other impact are quantified in the impact assessment (see explanations below), and so this figure represents the net present value of the preferred option.

In reality, the average running time of the 371 works in question, from October 2014 to September 2017, was 109 minutes. At the current BBFC tariff this would average out to a **cost of £746.02 per unit submitted**. The cost per unit, multiplied by the 371 additional titles gives a total cost, over the 36 month reporting period, of £277k. This works out to roughly £0.092 million per year.

Over the same period BBFC classification fees fell by 2.2% in real terms as a result of the annual fee calculation of RPI -1%.

¹ [Video Insights – UK](#), Futuresource Consulting (May 2017)

Costs were lower than expected, with only roughly 25% of the costs forecast realised by industry. IA forecast cost = £0.37m per annum. Actual costs were only £0.092m per annum.

5. Were there any unintended consequences?

When stakeholders were asked whether there had been any unintended consequences they unanimously agreed there had been not.

6. Has the evidence identified any opportunities for reducing the burden on business?
(Maximum 5 lines)

No.

7. For EU measures, how does the UK's implementation compare with that in other EU member states in terms of costs to business?

This was a UK specific law. By no longer exempting these titles the UK is coming closer in line with other EU member states.