



department for
**culture, media
and sport**

Video games classification: a consultation

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Section 1 – Introduction

- 1.1 On 6 September 2007 the Prime Minister announced an independent review to help children make the most of new internet and video game technologies while protecting them from inappropriate or harmful content in these rapidly developing environments. The Review was headed by clinical psychologist Dr Tanya Byron.
- 1.2 Children and young people have faster, easier and more immediate access to online information and video games than ever before. The Childwise Monitor Report 2008¹ showed, for instance, that 47% of boys aged 7-10 used the internet to play video games. Only 1% of young people aged 8-17 in the 2008 Ofcom submission to the Byron Review² reported no access to the internet at all. Though video games and the internet can provide fantastic new learning opportunities, parents and carers worry about children being safe in an environment they often have little experience of themselves. The Government wants to work with parents, children the industry and all stakeholders to see what more can be done to respond to the new challenges presented.
- 1.3 Dr Byron's objectives were to review the evidence on the risks to children's safety and wellbeing through exposure to harmful or inappropriate material on the internet or in video games. She was tasked with assessing the effectiveness and adequacy of existing measures to help parents understand and manage the risks of access to inappropriate content and to make recommendations for improvements or additional action. The Review gathered current evidence and investigated activities being carried out in relation to children's online and gaming behaviour. It then examined the effectiveness of the existing classification systems and other mechanisms and analysed the scientific evidence available about the risks and benefits to children of exposure to different materials. Parents, children, industry and many other interested parties were asked for their views on the subjects.
- 1.4 The Byron Review 'Safer Children in a Digital World' was published on 27 March 2008. Part of her findings focussed on changes to the current video game classification system.
- 1.5 This consultation document sets out Dr Byron's recommendations on the reform of the video game classification system and seeks views on the future structure and operation of this system, laying out four different options for reform of the system. Government is consulting across England, Wales, Scotland and Northern Ireland on this document (please note an impact assessment is available at www.culture.gov.uk). It will also take into account the Report of the House of Commons Culture, Media and Sport Committee *Harmful content on the Internet and in video games*, published on 31 July 2008.³
- 1.6 It is clearly important to take account of children's age when considering the impact of content in video games. Of particular relevance is children's limited ability to distinguish reality from fantasy. This is more relevant as games become more and more realistic – *Call of Duty* is nothing like *Donkey Kong*, *Pac-Man* or other games parents may remember playing as children. There are a number of mechanisms currently in place to minimise and manage any potential risks to children and young people, and to help ensure that children play video games that are age appropriate.

¹ Childwise (2007-2008) Monitor Report: Children and their Media. Available to order at www.childwise.co.uk

² Ofcom (2008) Ofcom's submission to the Byron Review. Available at www.ofcom.org.uk/research/telecoms/reports/byron

³ Tenth Report, Session 2007-08, (HC 353-I). Available at www.parliament.uk

POLICY BACKGROUND

The current classification system

- 1.7 Currently there are both statutory and voluntary classification systems for video games in the UK. Console manufacturers will not allow games to be played on their machines if they have not been “age rated” by one of the two classification authorities. Dr Byron states that both systems are highly regarded, though they differ significantly in their approach.
- 1.8 The statutory⁴ classification system i) gives an age-related classification rating and content advice in the form of a short sentence and ii) is enforced at the point of sale. This statutory classification system is run by the British Board of Film Classification (BBFC), the same body that age rates all films released in the UK. The BBFC also has the power to refuse to classify certain games. The non-statutory information labelling system set up voluntarily by the video games industry also awards an age classification and gives parents information about the content of games in the form of pictograms. This voluntary ratings advice is called the Pan European Game Information (PEGI) system.
- 1.9 Video games can be played both on and offline. Regulating the sale of PC discs and console games purchased from retailers is well-established. However, games from *Nintendogs* to *World of Warcraft*, once purchased, have some kind of online content, with additional features and interaction with other players enhancing the gaming experience. Some games, such as *Call of Duty IV*, have whole sections that exist solely online, and this way of gaming is growing in popularity. Classification of online gaming presents particular challenges because i) its very nature means the games cross international boundaries which raises wider issues of enforcement, ii) online games evolve through User Generated Content and Player Generated Content, and iii) they raise issues such as cyber bullying and inappropriate conduct/contact and excessive gameplay. Purely online games could fall outside any statutory classification system. Some games played online have mechanisms and features for monitoring and reporting inappropriate behaviour and information about how to reduce risks to children and young people, including parental management. There are also voluntary classification systems (PEGI Online and *BBFC.online*) that games manufacturers can sign up to. Given that a lot of video games involve online elements, and that this is likely to increase over the next few years, the way each of the options presented in this paper would translate to online gaming is important so that a coherent and workable system can be developed for classification of online games.

The British Board of Film Classification (BBFC)

- 1.10 Under the Video Recordings Act 1984, video games that depict gross acts of violence, towards humans or animals, human sexual activity, human genital organs, certain bodily functions or certain criminal activity must be classified by the BBFC before being released in the UK.⁵ The Act provides that it is an offence to supply such a game to anyone below the age limit, punishable by a fine of up to £5000 or up to 6 months in prison, or both. The BBFC ratings process involves independent examiners sampling every level of a game by playing them, taking account of both the context and tone of the game and the specific game play itself. An age classification is then allocated based on issues of potential harm and offence in the context of the game. The BBFC’s judgement about what is or isn’t appropriate is based on extensive public consultations they run in the UK every few years.
- 1.11 The BBFC also has the power to remove harmful material from games. In the most extreme cases, where this would not suffice, it has the option not to classify a game, making it a criminal offence under the 1984 Act to sell/supply the game in the UK. It can do this if it judges that the game content

⁴ Contained in the Video Recordings Act 1984

⁵ So must those which contain film or video content (for instance in the form of trailers) which is not an actual part of the game because of the BBFC’s responsibility for classifying all film. In these cases following a voluntary agreement between PEGI and the BBFC the whole game comes to the BBFC for classification regardless of whether the game itself falls under the statutory remit.

may cause harm to potential users or, through their behaviour, to society. The maximum punishments for supplying unclassified material are up to two years in prison, an unlimited fine or both.

- 1.12 The BBFC classification system has a complaints procedure for members of the public and an appeals system for game publishers and developers. In practice, BBFC refusal to classify a game has only happened three times since 1984. In the case of a potential reject, the BBFC and games developer or publisher will start a dialogue about the game so, for example, changes can be made to the game and complete rejection avoided. However, if the BBFC refuse to classify a game legal proceedings with their associated costs can ensue. This occurred in the case of a toned-down version of *Manhunt 2* where developers won an appeal to the Videos Appeal Committee (VAC). The VAC consists of a panel of seven independent members appointed by the BBFC to review their decisions. The BBFC successfully contested the VAC decision in the High Court through judicial review proceedings which sent the game back to the VAC with instructions to re-take their appeal decision but applying the proper legal test. The final outcome was that the VAC upheld its original decision by a majority of 4 to 3. The toned-down game may be released in the UK with an 18 certificate.
- 1.13 The BBFC ratings for video games are the same as those for DVDs/videos, with one age certificate (18, 15, 12, PG, U) and a written description of the content of the game, e.g. 'contains moderate violence', 'contains strong language, sex and violence and drug references' on the packaging. It also offers several short paragraphs of extended consumer advice on the content of individual games, for parents on its websites.
- 1.14 The BBFC has classified online games. Its new voluntary co-regulation scheme – *BBFC.online* – applies to games supplied via download rather than to games played online, but this could be extended to online games in future. However, games played purely online do not fall within the remit of the Video Recordings Act 1984.

The Pan European Game Information (PEGI) system

- 1.15 The majority of games are rated under the Pan European Game Information (PEGI) system. Under this voluntary European-wide⁶ self-regulatory system, games producers begin the rating process by self-certifying the content of games by completing a detailed questionnaire. As PEGI is applied in most European countries the ratings have to account for the different sensitivities of all participating countries. This means that the ratings given reflect a much wider spectrum of views than a national system, catering for just UK sensitivities, might do. The UK administrators for PEGI are the Video Standards Council (VSC), whose stated aim is to promote high standards within the video and video games industries. There is no statutory basis to this ratings system and so the ratings act as guidelines to parents and children rather than a legal framework. There is no legal sanction (for example, penalty by way of an offence) for selling a PEGI-rated game to a child below the appropriate age. However, if a coder deliberately gives false information concerning a game or is grossly negligent they can be asked to pay a fine and a possible ban from using the PEGI system can follow. If a games manufacturer wishes to appeal a decision it can do so through the PEGI appeal system. This consists of an independent appeal panel.
- 1.16 PEGI automatically assigns age ratings for children's games at 3+ and 7+ based on the self assessment questionnaires provided by game developers and the Netherlands Institute for the Classification of Audiovisual Media (NICAM) then retrospectively carries out a random check of those games. Details of how PEGI assigns ratings and carries out examinations can be found in the PEGI Handbook for Coders, a Word version of which is available on the consultation webpage.

⁶ The PEGI handbook for coders and contacts states that PEGI applies in the following European countries: (even if not all of these countries have legislation in place): Austria (partly), Czech Republic, Finland, Hungary, Belgium, Denmark, France, Cyprus, Estonia, Greece, Italy, Spain, Iceland, Latvia (legislation based on PEGI), Malta, Ireland, Lithuania, the Netherlands, Norway, Slovak Republic, Sweden, Poland, Slovenia, Switzerland, Portugal (legislation based on PEGI), Luxembourg, United Kingdom

In the UK, any games considered to be 18+ under the PEGI system are referred to the BBFC. To allow purchasers to make informed choices and try to take more account of national attitudes and sensitivities, PEGI pictograms also appear on all games to illustrate the type of content, (for instance 'sexual content' or 'violence') as well as their age ratings. Dr Byron states that the meaning of some PEGI pictograms is felt to be unclear. PEGI states that the pictograms are currently under review by PEGI with the aim of making them more meaningful to consumers, possibly involving the use of explanatory text.

- 1.17 PEGI is widely supported by games manufacturers because PEGI ratings are recognised across a large market rather than just one country. If games publishers wish to join the voluntary PEGI scheme, they must sign up to a Code of Conduct requiring them to display the correct age ratings and pictograms and to advertise responsibly and to submit to scrutiny by the PEGI Enforcement Committee. PEGI prohibits games from carrying the advertising of material that cannot be lawfully accessed, due to age, by the anticipated player. If manufacturers breach this code, the PEGI Enforcement Committee can order corrective action, impose fines or ban members. Because PEGI is voluntary, it is not country specific, so while the system is widely recognised it has no legal status.
- 1.18 PEGI Online was developed to cope with the increasing number of online games. It also affords a degree of protection, so far as this is possible, over the websites that provide these games⁷. PEGI states it is working on developing a robust online system, for example, they are developing a system that would allow parents to restrict online gameplay to PEGI-approved sites and then only to pre-set age levels. Currently, the PEGI Online logo appears on those websites that have been checked by the VSC and found to comply with minimum safety standards to protect minors and their privacy. The Online descriptor also appears on the boxes of hard copy games which allow online gameplay as a warning to parents that the game allows connection to the internet. PEGI Online currently recognises BBFC classifications on its website where there is no PEGI rating⁷.

THE BYRON REVIEW RECOMMENDATIONS

- 1.19 Dr Byron had three main recommendations relating to the classification and labelling system applying to video games:
- i) She recommended that future reforms of the age classification system should incorporate an extension to include video games which would otherwise receive a 12+ PEGI rating.
 - ii) She recommended games below a 12+ rating should continue to be exempted from statutory classification.
 - iii) She recommended a hybrid classification system in which BBFC logos appear on the front of all games, with PEGI continuing to rate 3+ and 7+ games, with their equivalent logo across all age ranges appearing on the back of all boxes.
- 1.20 The proposal developed using the evidence from the Byron Review is that there needs to be statutory classification of all games for ages 12+ or higher, with PEGI continuing to rate all 3+ and 7+ games. This system will work best if BBFC and PEGI come to an agreement on their logos and age classifications so that a more integrated approach can be adopted. In Dr Byron's proposal, Government would extend the statutory powers of the BBFC to cover games from 12+, bringing it into line with the classification system used for films and building on parental awareness and understanding of what those ratings mean.

⁷ Upon joining PEGI Online companies must sign up to a code of conduct. It is intended that websites approved and signed up to PEGI Online will only carry games properly age rated under the PEGI system or games that have been properly rated under another recognized system e.g. BBFC or USK.

1.21 The Government has accepted the findings of the Byron Review recognising the strength and cogency of the evidence presented. This means that there are a number of elements that are considered essential to any future game classification regime. Dr Byron expressed a clear preference for the proposed hybrid classification system, because she felt this was the best way of guaranteeing sufficiently rigorous classification at 12+ to safeguard children. Therefore this option starts as the Government's preferred choice. However, her remit was solely child safety and while this is the most important consideration she acknowledged that there were other options and considerations, and recommended that we consult widely before coming to a definite conclusion on games classification, not least because of the difficulties of finding one system that meets all the criteria and works on and offline. We are keen to see evidence of the benefits of the alternative options set out in the consultation paper, and any others not set out here, in order to consider the full range of options available. However, we are unlikely to proceed with an option that offers significantly less effective protection to children than the approach set out by Dr Byron.

Essential elements of a new classification system

1.22 Dr Byron's Review recommended the nine essential elements of any new classification system for video games. All options included in this document and any others proposed will be evaluated on how closely they adhere to these essential elements. The essential elements are outlined below.

- A) **There must be a trustworthy, uniform and clear set of symbols or labels to categorise the age ratings with accompanying descriptors which explain game content.**
- B) **There must be the power to refuse to certify certain titles so they cannot be sold (or supplied⁸) in the UK.**
- C) **There must be a statutory basis to the video game classification system from the age of 12 onwards.**
- D) **There should continue to be a non-statutory system up to the age of 12.**
- E) **Any system must be flexible and future proof.**
- F) **The system must work for the games industry.**
- G) **The system must support retailers.**
- H) **The system must reflect the evidence on potential harm.**
- J) **Government and industry must take into account how the system will translate into online gaming.**

- A) **There must be a trustworthy, uniform and clear set of symbols or labels to categorise the age ratings with accompanying descriptors which explain game content.**

1.23 There are currently two different systems which run in tandem and Dr Byron's research has concluded that parents and children find this confusing. Currently, games can have one of two different age classifications from the two classifying bodies. Research also found a lack of familiarity with the PEGI pictograms. Dr Byron states that given the system was only set up in 2003 this may come as no surprise (see paragraph 7.24 of Dr Byron's Review). Once we have decided on the right classification system we will work with the industry to communicate widely on the symbols and labels to be used.

⁸ The words "(or supplied)" are not included in Dr Byron's Review but are included here to reflect the wording of the Video Recordings Act.

B) There must be the power to refuse to certify certain titles so they cannot be sold in the UK.

1.24 The Byron Review found that the public supported the fact that a game could not be legally sold or supplied in the UK if it is judged that the game content may cause harm to potential viewers or, through their behaviour, to society. However, she did say that this element may be reviewed when parents become more confident about using the classification system⁹.

C) There must be a statutory basis to the video game classification system from the age of 12 onwards.

1.25 Dr Byron examined developmental studies which showed that children of different ages and stages of development interact differently with computer games. She was particularly concerned about advances in game technology in terms of realism, and found that in games for those over 12 there is a move to content that needs more sophisticated evaluation which parents may want to assess before deciding on its suitability for particular children. Therefore she recommended the statutory basis for classification be changed to include all games suitable for young people aged 12 and above. The Review found that only putting 'adult' games on a statutory footing would be insufficient to inform parents and protect children. Industry and retailers support a system, which would increase awareness of and confidence in age ratings and make staff training easier. Dr Byron advises public consultation on what constitutes a game suitable only for those over 12, but envisages it would broadly reflect the existing ratings. Introducing a statutory age rating at 12 would have several benefits, including aligning the video classification system with that of film (important in an ever-converging media world)¹⁰.

D) There should continue to be a non-statutory system up to the age of 12.

1.26 The Review found no evidence of risk in terms of voluntary classification below 12, in fact it found that games could lead to deeper learning, and help children develop a sense of self. The Review also noted that children of this age are unlikely to buy their own games. She was eager to stress the benefits to children of playing video games, such as the *Thomas the Tank Engine* game targeted to help autistic spectrum children read emotions.

E) Any system must be flexible and future proof.

1.27 Games are changing fast and the ratings system must be able to adjust quickly to reflect any new risks these changes bring.

F) The system must work for the games industry.

1.28 The Government does not want to place a disproportionate regulatory burden on the industry.

G) The system must support retailers.

1.29 The classification system must be authoritative so that retailers are encouraged to sell games age-appropriately.

H) The system must reflect the evidence on potential harm.

1.30 The Byron Review found evidence in developmental studies that statutory classification at age 12 is necessary. Any new system must show that this is robust enough to protect young people from unsuitable content.

⁹ Paragraph 7.22 of the Byron Review Report says "I fully appreciate the view of those who disagree with 'banning' video games and believe that adults should be free to choose what games they play, so long as existing laws applicable in the UK, such as the Obscene Publications Act are not contravened. However, at this moment in time, when parental awareness of the risks and use of the classification system needs improving, and given the lack of effective control of such games in many households, it is important to maintain the ability of the state to intervene in this way and promote the debate. This may be something that gets reviewed when we feel more confident about how parents are using the classification system."

¹⁰ Films classified by the BBFC at 12 or above are covered by the statutory age rating under the Video Recordings Act which means it is an offence to sell or supply a film rated 12 to anyone below that age.

J) Government and industry must take into account how the system will translate into online gaming.

- 1.31 Government and stakeholders must act early to ensure that in designing an online system we prevent the difficulties created by the ad hoc system which has evolved for games played using consoles or PC discs. Wider consideration must be given to the practicality of mirroring each system in an online environment and what is required by a proper system of online classification including, for example, a rigorous initial classification and diligent self-moderation.

SUMMARY OF THE FOUR OPTIONS

The following four options present different approaches to a future video games classification system. There is also a fifth option that has been left deliberately open for respondents to provide their individual views. We have set out in each option possible issues for further thought and discussion.

Option 1 – Hybrid Classification System

- 1.32 The BBFC would rate all games that are only suitable for players over the age of 12, with PEGI continuing to rate all 3+ and 7+ games. The BBFC logos would appear on the front of all boxes, with the PEGI logos on the back.
- 1.33 The BBFC would extend its statutory powers to cover games from 12+, bringing it into line with the classification system used for DVDs/videos and building on parental awareness and understanding of what those ratings mean. This system will work best if BBFC and PEGI come to an agreement on their logos and age classifications so that a more integrated approach can be adopted.

Option 2 – Enhanced BBFC System

- 1.34 The BBFC would act as the sole statutory classifications body for all video games, applying its ratings from U to 18. It would retain its power to refuse to classify games it feels are potentially harmful based on its public consultations.

Option 3 – Enhanced PEGI System

- 1.35 A UK-based organisation (possibly the Video Standards Council) would be the designated statutory classification body for video games, applying the PEGI ratings which would be enforceable in law. The VSC (or other UK body chosen) would need to sign up to this new role and any other legislative duties required of it. All video games would be rated using the PEGI system and the only role for the BBFC would be in classifying film content which is not integral to the game.¹¹

Option 4 – Voluntary Code of Practice

- 1.36 There would be no changes made to the legislation so BBFC and PEGI would continue to classify games as they currently do. The current system of dual classification and labelling would continue to exist. The Government would then ask retailers and suppliers to sign up to a voluntary Code of Practice to secure adherence to the classification system when selling/supplying video games to children aged 12 or above, even though a statutory offence would not be committed if they broke the Code. This Code of Practice would focus on classification, consumer protection, and consumer education and it would follow the guidelines outlined in the Review. There would be no extension to the statutory basis of the classification system to 12+ games but this proposal would aim to achieve compliance by voluntary means and an agreed system of good practice.

¹¹ This would differ from the voluntary agreement currently operated by PEGI and BBFC referred to earlier in footnote 5

Section 2 – Proposals for consultation

POLICY OPTIONS

- 2.1 The following options are measured against Dr Byron's essential criteria, looking at the implications for boxed (physical discs) games first, and then the implications for online games. When considering the options it is important to consider what methods of enforcement, if any, would be appropriate to ensure that this can work in practice.
- 2.2 The Government wants key industry stakeholders and regulators to respond constructively and co-operatively to the consultation process and provide helpful responses to the options set out below. Such an approach will help the Government in reaching a pragmatic and workable solution in order to fulfil the ultimate aim, namely, the protection of children.

Option 1: Hybrid Classification System

The proposal

The BBFC would rate all games that are 12+ or higher, evaluating content and context. PEGI would continue to rate all 3+ and 7+ games. The BBFC logos would appear on the front of all boxes, with the PEGI logos on the back.

This system will work best if BBFC and PEGI come to an agreement on their logos and age classifications so a more integrated approach can be adopted. New legislation would extend the BBFC's remit to classify games from 12+, bringing the system into line with the classification system used for DVDs/videos which is widely understood.

A) There must be a trustworthy, uniform and clear set of symbols or labels to categorise the age ratings with accompanying descriptors which explain game content.

- 2.3 Dr Byron proposed that BBFC symbols continue to appear on the front of all game boxes with PEGI symbols on the back, for all age ratings. This would build on the BBFC labels – which are currently more widely recognised in the UK- while also introducing parents, children and game buyers to the PEGI logos used in the rest of Europe and for online games.
- 2.4 Currently the PEGI and BBFC age ratings do not use exactly the same ages: for instance, the BBFC uses 15, as for film ratings, while PEGI uses 16. The PG and U age ratings roughly correspond to age 8 and age 4 which differs from PEGI's 7+ and 3+. However, in other European countries (Portugal is one example), the PEGI system has been flexible enough to alter the exact age used to comply with local laws.
- 2.5 PEGI and the BBFC rate games in different ways. Age ratings given by one system do not necessarily translate to ratings by the other. If games are to carry both the BBFC and the PEGI ratings on the front and the back of the box respectively this could lead to different age restrictions appearing on the outside of the same game causing confusion to parents. One way to deal with this problem

would be to have both age appropriateness labels on boxes where the two classification authorities have reached the same conclusion, but only the BBFC symbol where the two disagree. The PEGI pictograms would still be on the back of the box ensuring a certain level of consistency. There would also be the option of having the PEGI age rating on the actual disc inside the box. A further discussion about the criteria used to decide a 12+ rating is at the end of this document.

B) There must be the power to refuse to certify certain titles so they cannot be sold in the UK.

2.6 The BBFC has all the systems and processes in place to deal with this already and would retain its power to refuse to classify certain titles. The public consultations carried out by the BBFC in drawing up its guidelines are important in ensuring that the rules for what should be refused are in line with what is publicly acceptable.

C) There must be a statutory basis to the video game classification system from the age of 12 onwards.

2.7 Under the hybrid system the Government would extend the statutory classification powers of the BBFC to include all games receiving 12, 15 and 18 ratings.

D) There should continue to be a non-statutory system up to the age of 12.

2.8 PEGI would continue to classify games for younger children.

E) Any system must be flexible and future proof.

2.9 The video games industry, as with all digital technologies, is currently in the middle of rapid changes and development. Although we can regulate for now, where games are mostly sold over the counter, it is not quite clear what direction the industry will move. It could move towards the greater convergence of film and game content, whereby the BBFC with its dual role may be better placed to decide on classification. Alternatively, video games could be increasingly marketed and supplied online and this raises problems of enforcement.

F) The system must work for the games industry.

2.10 This would only differ from the current system in that more titles would be rated by the BBFC. We look to the BBFC and the games industry to provide feedback about how this could work.

G) The system must support retailers.

2.11 The Entertainment Retailers Association remain supportive of Dr Byron's suggestions and have stated that retailers will support any system provided that it is clear, and properly communicated to, (and understood by), the consumer. PEGI and the BBFC would need to work together to prevent consumer confusion.

H) The system must reflect the evidence on potential harm.

2.12 By introducing the new statutory age of 12 this system allies itself closely with the evidence Dr Byron found during her Review. Again, the ability of the BBFC to reflect UK sensitivities is important here.

J) Government and industry must take into account how the system will translate into online gaming.

2.13 As per Dr Byron's recommendation, if this proposal was selected the same division of labour would apply to the online environment. The BBFC would rate everything at 12+ and PEGI everything below that age. Both sets of symbols would then be used on the PEGI Online system. As with the classification of boxed games, this option would require a joined up approach between the BBFC and the PEGI systems. There are potential difficulties with games websites hosted elsewhere in Europe, outside the UK, that may only wish to carry the PEGI symbols.

- 2.14 It is likely that the PEGI Online rating will become a major European online classification standard in future, which could leave parents confused if the main symbols found in the UK are BBFC and they are buying a game from a non UK source. However, if a hybrid system were introduced in the UK parents would already have experience of both sets of symbols.
- 2.15 Government considers that it should be possible to develop further the effectiveness of the online classification system. We look to the BBFC and PEGI to consider this issue and inform us how they think this could be achieved.

Option 2: Enhanced BBFC System

The proposal

The BBFC would act as the statutory classifications body for all video games, applying its ratings from U to 18. It would retain its power to refuse to classify games it feels are potentially harmful based on its public consultations.

- A) There must be a trustworthy, uniform and clear set of symbols or labels to categorise the age ratings with accompanying descriptors which explain game content.**
- 2.16 This option would mean only one set of symbols for all video games. This would be simpler for consumers and the industry alike in the UK but could be complicated by differences across Europe if games are purchased elsewhere. **We are interested to know whether there is evidence that might support or disprove this.** The advantage of the BBFC labels is that they are already widely understood by parents in the context of film classification. This makes the system clearer than a hybrid. It also takes into account UK sensitivities because the BBFC bases its judgement on UK public values. An advantage of this system is it would avoid the problem of separating out film from game content as the same body would be assessing both against similar criteria.
- B) There must be the power to refuse to certify certain titles so they cannot be sold in the UK.**
- 2.17 The BBFC has all the systems and processes in place to deal with this already and would retain their power to refuse certain titles. The public consultations carried out by the BBFC in drawing up their guidelines are important in ensuring that the rules for what should be refused are in line with what is publicly acceptable.
- C) There must be a statutory basis to the video game classification system from the age of 12 onwards.**
- 2.18 The BBFC would extend its statutory remit to classify all video games suitable for children aged 12 and upwards.
- D) There should continue to be a non-statutory system up to the age of 12.**
- 2.19 The BBFC would also take on the role of classifying games for the under 12s. This would require an expansion of its current role.
- E) Any system must be flexible and future proof.**
- 2.20 This system has the advantage of being consistent in terms of film and video game convergence. However, the system in the UK would differ from that being used in many European countries and elsewhere.

F) The system must work for the games industry.

- 2.21 Some in the games industry could be concerned about extra costs for signing up to the BBFC system for all games as most developers are likely to continue to take part in the voluntary PEGI system. The games industry and the BBFC would need to cooperate closely to make sure the transition to the new system was as smooth as possible.

G) The system must support retailers.

- 2.22 This system would allow retailers to follow staff training and practices already in place for the sale of DVD/videos under current legislation. The Entertainment Retailers Association has stated that retailers will support any system provided that it is clear and properly communicated to, (and understood by), the consumer.

H) The system must reflect the evidence on potential harm.

- 2.23 By introducing statutory rules from 12+ this option follows Byron's recommendations. It also includes the ability to allow for national sensitivities as its guidelines take into account the results of its public consultations.

J) Government and industry must take into account how the system will translate into online gaming.

- 2.24 *BBFC.online* is currently only used for downloads, not for purely online games. To translate this system to an online environment BBFC would have to extend its coverage to online games. BBFC could continue to work with PEGI Online, with the BBFC rating appearing on sites in the UK. The international nature of online gaming means this would be difficult to enforce for non-UK sites.
- 2.25 For online games, using only recognised BBFC logos could empower parents to make decisions in unfamiliar online territory. However, the BBFC scheme is in its early stages. PEGI Online is already established in the countries already mentioned in footnote 6. **We would be interested in evidence to demonstrate whether that creates additional burdens to online games developers and whether this could be confusing to parents.** Online developers might welcome the extra trust placed by parents in the BBFC's well-known classification system and sign up for that reason.
- 2.26 For online gaming, trials have shown industry support for a voluntary rating scheme. To be effective this would have to include as many developers as possible.

Option 3: Enhanced PEGI System**The proposal**

A UK-based organisation (possibly the Video Standards Council) would be the designated statutory classification body for video games, applying the PEGI ratings which would be enforceable in law. The VSC (or other chosen UK body) would need to sign up to this new role and any legislative changes required. All video games would be rated using the PEGI system. If video games also contain film content which is not integral to the game, the film content will be classified by the BBFC. This would mean amending the Video Recordings Act 1984 to designate the new chosen body, in place of the BBFC, as the statutory video games classification body.

A) There must be a trustworthy, uniform and clear set of symbols or labels to categorise the age ratings with accompanying descriptors which explain game content.

- 2.27 This option would mean only one set of symbols for all video games which would be simpler for consumers and the industry alike across Europe. The PEGI system is currently reviewing its

pictograms to make them more meaningful. This is essential for this option to work as the current pictograms are not well understood or known by UK consumers. This could be remedied with a publicity and education campaign.

However, the BBFC retain the role of classifying film and video content so boxed games that contain both will need two symbols. Question 43 in this document refers to this issue.

B) There must be the power to refuse to certify certain titles so they cannot be sold in the UK.

2.28 There would need to be the ability to refuse titles using the PEGI system, which does not currently exist. The VSC (or other UK body chosen) would need to have the statutory power to refuse certain titles in the same way as the BBFC currently does. This would mean the body acts as a classifier in its own right and not merely as an agent for PEGI. It may also have to take on an appeals function for publishers (in a similar model to the BBFC's current system) and ensure that the ratings and decisions it makes are in line with public opinion (in a similar way to the BBFC's public consultations feeding into the development of its guidelines). There is also the question of whether the VSC would have the resources to take on this role.

C) There must be a statutory basis to the video game classification system from the age of 12 onwards.

2.29 The current PEGI system has no statutory basis so the VSC or other UK body chosen would have to be prepared to take on board the statutory responsibility for classifying all games rated at 12+ and the necessary legislative changes that would be required to establish this new role and system.

D) There should continue to be a non-statutory system up to the age of 12.

2.30 PEGI would continue to rate games under the age of 12.

E) Any system must be flexible and future proof.

2.31 PEGI uses the same symbols on and offline, and is also adopted across many countries in Europe, so worldwide developers may seek PEGI endorsement in order to gain access to large markets. The video games industry is in the middle of rapid change and development; it is likely that games will move increasingly online, where a single ratings system would be a distinct advantage for consumers, game developers and retailers.

F) The system must work for the games industry.

2.32 The games industry has indicated strong support for this system, and most games would be PEGI rated anyway to sell in many other European countries. However, boxed products which contain both video game and film type content would have to be classified by both the PEGI and BBFC systems.

G) The system must support retailers.

2.33 This system would mean different classifications for films and video games with potential confusion over boxed products that contain both. The Entertainment Retailers Association have stated that retailers will support any system provided that it is clear, and properly communicated to (and understood by) the consumer.

H) The system must reflect the evidence on potential harm.

2.34 Dr Byron said both BBFC and PEGI classification methods broadly reflected the risk of potential harm. However, it might be argued that a system designed to apply across a wide variety of European countries would not fully reflect the national sensitivities of the UK public. This could be addressed through the systems that would need to be put in place by the UK statutory body.

J) Government and industry must take into account how the system will translate into online gaming.

- 2.35 PEGI Online is the method for rating online games in many European countries so this proposal has already been translated into the online environment. An advantage of this system for the future is as games develop more quickly, regulating them through a voluntary body ensures industry support. In a communication on 22 April 2008, the European Commission stated that 'PEGI appears to have achieved good results and PEGI Online is also a promising initiative, making PEGI a good example of self regulation in line with the better regulation agenda'.
- 2.36 As is the case for boxed games, the online games industry are likely to support this proposal because it is recognised across most countries in Europe and so gives access to bigger markets. **It would be helpful to know whether this has a bearing on whether games developers based outside Europe¹² such as those in Japan or US will access the UK market and to what extent this option would affect them.** PEGI Online is already developing its filtering service which could help parents feel safe to let children of younger ages play online in a safe environment.
- 2.37 This would go some way towards avoiding the issues created by having two games classification systems at present in an online environment, although there is still a question mark over the divide between games and film and who is responsible for rating them.

Option 4 – Voluntary Code of Practice

The proposal

There would be no changes made to the legislation so BBFC and PEGI would continue to classify games as they currently do. The current system of dual classification and labelling would continue to exist. The Government would then ask retailers and suppliers to sign up to a voluntary Code of Practice¹³ to secure adherence to the age classification system when selling/supplying video games to children aged 12 or above, even though a statutory offence would not be committed if they broke the Code. This Code of Practice would focus on classification, consumer protection, and consumer education and it would follow the guidelines outlined in the Review. Retailers are likely to adhere to an industry-wide Code of Practice. There would be no extension to the statutory basis of the classification system to 12+ games but this proposal would aim to achieve compliance by voluntary means and an agreed system of good practice.

A) There must be a trustworthy, uniform and clear set of symbols or labels to categorise the age ratings with accompanying descriptors which explain game content.

- 2.38 The current system of dual classification and labelling would continue to exist, so the current issues highlighted by Dr Byron would still occur. There would be no change to the labelling system but retailers would be encouraged to sell games in accordance with their age classification not just the statutory age ratings. However, the Code would be backed up by further consumer information and best practice by retailers and industry, so there would be greater awareness among game buyers of the two different systems and how they work.

B) There must be the power to refuse to certify certain titles so they cannot be sold in the UK.

- 2.39 This would continue to operate as currently through the BBFC.

¹² This includes servers hosted outside Europe as well as companies coming in to Europe and setting up online games services here.

¹³ It should be noted that the VSC already operates a Code of Practice applicable to its membership and supported by a range of training and display material. Members of the Entertainment Retailers Association subscribe to the Code and VSC estimate that retailers responsible for selling approximately 90% of video games have subscribed.

C) There must be a statutory basis to the video game classification system from the age of 12 onwards.

2.40 This system would not provide a statutory basis for classification of games suitable for children aged 12 and over. However, by issuing a voluntary Code of Practice, retailers could send a strong message to parents about the importance of the ratings system. Without the statutory powers called for by Dr Byron, though, parents and some suppliers might not take a voluntary Code of Practice seriously.

D) There should continue to be a non-statutory system up to the age of 12.

2.41 The current system of non-statutory classification for games suitable for children up to the age of 12 would continue.

E) Any system must be flexible and future proof.

2.42 This is a voluntary system and as such it is flexible and could react faster to media convergence and new developments in technology than a system based on legislation. However, lack of statutory underpinning could mean this system is not enforceable. The movement to games being sold on the Internet, where retailers can be based in any country and would not have to abide by any UK Code of Practice, may mean this system is not well future proofed.

F) The system must work for the games industry.

2.43 The games industry would continue to have games classified as now. A Code of Practice including publicity about the classification system could be welcomed by them as it would bring attention to the fact they act responsibly when getting games classified.

G) The system must support retailers.

2.44 **The system requires retailers to implement the Code on the ground so their views would be particularly welcome here.** Many retailers already use best practice as laid out in the VSC Code of Practice and so this may not be a significant change for them.

H) The system must reflect the evidence on potential harm.

2.45 The voluntary Code of Practice would strengthen the current system and emphasise the importance of age limits. However, because it is a voluntary code it may not affect the behaviour of video game buyers without the statutory backing for 12+.

J) Government and industry must take into account how the system will translate into online gaming.

2.46 This proposal, run by retailers in the UK, might be difficult to translate to online gaming because of the international nature of both the games sales market and the online gaming market. There may be no real incentive for a non-UK retailer to sign up to the Code.

Option 5: Other Approaches

2.47 The Government has set out the four options above to focus responses to this consultation. However we are interested in hearing about any alternative solution. These could either be an amendment to one of the existing options or a completely new option. Any solution will be measured against the key elements outlined by Dr Byron and must comply with both EU and human rights legislation. There must be a UK body as the statutory authority. Any alternative solution must demonstrate widespread support from key stakeholders.

Section 3 – Consultation questions

You are invited to comment on any aspect of this consultation document. However, you may find it useful to refer to the questions below, which cover the main points on which we would particularly welcome views. Please be as specific and detailed as possible in your response.

The consultation will run from 31 July 2008 to 20 November 2008

How to respond

Consultation responses can be made online at: gamesclassification@culture.gov.uk or you can send your hard copy to:

VIDEO GAMES CLASSIFICATION
DEPARTMENT FOR CULTURE, MEDIA AND SPORT
2-4 COCKSPUR STREET
LONDON SW1Y 5DH

Option specific questions

The Government seeks answers to particular aspects of the specific options put forward in the consultation document.

Option 1 Hybrid classification system

The BBFC would rate all games that are 12+ or higher, with PEGI continuing to rate all 3+ and 7+ games. The BBFC logos would appear on the front of all boxes, with the PEGI logos on the back.

This system will work best if BBFC and PEGI come to an agreement on their logos and age classifications so that a more integrated approach can be adopted. The BBFC would extend its statutory powers to cover games from 12+, bringing it into line with the classification system used for DVDs/videos and building on parental awareness and understanding of what those ratings mean.

Q1: What is your overall assessment of whether this option would work and why?

Q2: What are the key flaws with this option and how could it be adapted to overcome them?

Q3: What are the key advantages with this option and why?

Q4: How do you think this system would work for the following key stakeholders:

(i) the consumer?

(ii) the games industry?

(iii) the retail industry?

Q5: What suggestions do you have to improve the system for any of the key stakeholders?

Q6: Do you think this system addresses the evidence on potential harms raised by the Byron review and if not why not?

Q7: How do you think this system will last into the future?

Q8: Do you think this option would work in the online environment?

(i) If so, what would be the benefits?

(ii) If not, what would be the problems and do you have any solutions?

Q9: Is there any other information that you think Government should take into account when considering the monetary costs of this option?

Q10: Do you think having different age classifications on the front and back of the box is a significant problem? If so, do you think the solution offered here is the right one or can you suggest an alternative?

Q11: Do you think this option would be more or less costly to the games industry and if so what evidence do you have of this?

Q12: What are the likely implications (including costs) for games producers of having a classification system that does not automatically translate across to some other European countries?

Q13: It would be helpful to have your views on whether this option would affect games developers based outside Europe, such as those in Japan or US; namely, how this option might affect them and the extent, if any, to which it may affect them.

Q14: What do you think should be the determining factors or characteristics in deciding whether a game becomes subject to statutory classification at 12+? [see following section]

What are the criteria for deciding on a 12+ game?

Dr Byron recommends that statutory classification should be extended to include games rated 12+ and above. She arrived at this conclusion through her review of the research on child development, which shows that younger children have less ability to distinguish between fantasy and reality than more mature children. She also found both parents and children were worried and confused about gaming classification, and feels a system from 12+ backed by the law would give parents, children and retailers more confidence in the system, as well as protecting children from potentially harmful material. Children themselves gave evidence about trying to explain to their parents why younger siblings (particularly little brothers) should not play age-inappropriate games.

The review says the definition of what would constitute a 12+ game in law would have to be considered through public consultation but could broadly reflect the existing ratings. Dr Byron's example is that 12+ could incorporate games with more graphic violence, some nudity in a sexual context and some bad language.

The BBFC 12 classification for DVDs/videos says:

- Mature themes are acceptable but their treatment must be suitable for young teenagers.
- The use of strong language must be infrequent. Racist abuse is of particular concern.
- Nudity is allowed, but in a sexual context must be brief and discreet.
- Sexual activity may be implied. Sex references may reflect what is likely to be familiar to most adolescents but should not go beyond what is suitable for them.
- Violence must not dwell on detail. There should be no emphasis on injuries or blood. Sexual violence may only be implied or briefly and discreetly indicated.
- Dangerous techniques (e.g. combat, hanging, suicide and self-harming) should not dwell on imitable detail or appear pain or harm free. Easily accessible weapons should not be glamorised.
- Sustained moderate threat and menace are permitted. Occasional gory moments only.
- Any misuse of drugs must be infrequent and should not be glamorized or instructional.

These are refined still further when the BBFC classifies video games because of the likelihood of greater offence emerging through interactivity, including the different ways gamers may play games.

The PEGI 12+ classification can include:

- Violence of a slightly more graphic nature than 3+ and 7+, if it is towards fantasy characters (any violence towards human looking characters or recognizable animals should still be non-graphic).
- Nudity of a slightly more graphic nature than 3+ and 7+ (but still must not show genitalia).
- Some words amounting to sexual innuendo (but not in a form that is considered 'bad language').
- Mild bad language, which falls short of sexual expletives.
- Obvious innuendo of sexual activity even though the couple cannot be seen or clearly seen.

Option 2 – Enhanced BBFC system

The BBFC would act as the statutory classifications body for all video games, applying its ratings from U to 18. It would retain its power to refuse to classify games it feels are potentially harmful based on its public consultations.

Q15: What is your overall assessment of whether this option would work and why?
Q16: What are the key flaws with this option and how could it be adapted to overcome them?
Q17: What are the key advantages with this option and why?
Q18: How do you think this system would work for the following key stakeholders:
(i) the consumer?
(ii) the games industry?
(iii) the retail industry?
Q19: What suggestions do you have to improve the system for any of the key stakeholders?

Q20: Do you think this system addresses the evidence on potential harms raised by the Byron review and if not why not?

Q21: How do you think this system will last into the future?

Q22: Do you think this option would work in the online environment?

(i) If so, what would be the benefits?

(ii) If not, what would be the problems and do you have any solutions?

Q23: Is there any other information that you think Government should take into account when considering the monetary costs of this option?

Q24: Do you think this option would be more or less costly to the games industry than both the current system and the hybrid system and if so what evidence do you have of this?

Q25: Which of the following options do you think would work best in the online environment and why?

(i) BBFC symbols recognised as part of PEGI Online; or

(ii) BBFC.online (separate from the PEGI system)

Q26: What are the likely implications (including costs) for games producers of having a classification system that does not automatically translate across to some other European countries?

Q27: This option could be complicated by differences across Europe if games are purchased elsewhere. We are interested to know whether there is evidence that might support or disprove this. (Please refer to Paragraph 2.16)

Q28: We would be interested in evidence to demonstrate whether this option creates additional burdens to online games developers and whether this could be confusing to parents. (Please refer to Paragraph 2.25)

Q29: It would be helpful to have your views on whether this option would affect games developers based outside Europe, such as those in Japan or US; namely, how this option might affect them and the extent, if any, to which it may affect them.

Option 3 – Enhanced PEGI system

A UK-based organisation (possibly the Video Standards Council) would be the designated statutory classification body for video games, applying the PEGI ratings. The VSC (or other UK body chosen) would need to sign up to this new role and any legislative changes required. All video games would be rated using the PEGI system and there would be no role for the BBFC in classifying video games.

Q30: What is your overall assessment of whether this option would work and why?
Q31: What are the key flaws with this option and how could it be adapted to overcome them?
Q32: What are the key advantages with this option and why?
Q33: How do you think this system would work for the following key stakeholders:
(i) the consumer?
(ii) the games industry?
(iii) the retail industry?
Q34: What suggestions do you have to improve the system for any of the key stakeholders?

Q35: Do you think this system addresses the evidence on potential harms raised by the Byron review and if not why not?

Q36: How do you think this system will last into the future?

Q37: Do you think this option would work in the online environment?

(i) If so, what would be the benefits?

(ii) If not, what would be the problems and do you have any solutions?

Q38: Is there any other information that you think Government should take into account when considering the monetary costs of this option?

Q39: Who do you think would be the right body to take on the role of statutory classifier of video games and why?

Q40: Do you think the body given in answer to Q39 would be able to set up the systems required to carry out this statutory function and why? But if not, why not?

Q41: Do you think this option would be more or less costly to the games industry than both the current system and the hybrid system and if so what evidence do you have of this?

Q42: Do you think the BBFC should continue to rate all content (games and video) of discs which contain film or video content not integral to the game and why? [please refer to footnote 5 in answering this question]

Q43: Do you think PEGI should rate the game content, while the BBFC rates the film/video content and why?

(i) If so, should both symbols be on the box?

(ii) In the event of different age ratings, should only the higher symbol prevail?

Q44: It would be helpful to have your views on whether this option would affect games developers based outside Europe, such as those in Japan or US; namely, how this option might affect them and the extent, if any, to which it may affect them. (Please refer to Paragraph 2.36)

Option 4 – Voluntary Code of Practice

There would be no changes made to the legislation so the BBFC and PEGI would continue to classify games as they currently do. The Government would ask retailers and suppliers to sign up to a voluntary Code of Practice to secure adherence to the classification system when selling or supplying video games to children aged 12 or above, even though a statutory offence would not be committed if they broke the code. This Code of Practice would focus on classification and consumer protection and would follow the guidelines outlined in the review. If tougher measures were called for, this could be backed up with statutory legislation calling on the industry to consult and agree on a Code of Practice, breach of which could then be taken into consideration during a prosecution.

Q45: What is your overall assessment of whether this option would work and why?

Q46: What are the key flaws with this option and how could it be adapted to overcome them?

Q47: What are the key advantages with this option and why?

Q48: How do you think this system would work for the following key stakeholders:

(i) the consumer?

(ii) the games industry?

(iii) the retail industry?

Q49: What suggestions do you have to improve the system for any of the key stakeholders?

Q50: Do you think this system is sufficient to reflect the evidence on potential harms raised by the Byron review and if not why not?

Q51: How do you think this system will last into the future?

Q52: Do you think this option would work in the online environment?

(i) If so, what would be the benefits?

(ii) If not, what would be the problems and do you have any solutions?

Q53: Is there any other information that you think Government should take into account when considering the monetary costs of this option?

Q54: Do you think industry would sign up to such a code?

Q55: Would this incur any additional costs to industry (games or retail) and can you provide evidence of this?

Q56: Do you think that this would work in practice on the ground?

Q57: It would be helpful to have your views on whether this option would affect games developers based outside Europe, such as those in Japan or US; namely, how this option might affect them and the extent, if any, to which it may affect them.

Criteria for consultation

This consultation follows the Cabinet Office *Code of Practice on Consultation*. In particular, we aim to:

- consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy;
- be clear about what our proposals are, who may be affected, what questions we want to ask and the timescale for responses;
- ensure that our consultation is clear, concise and widely accessible;
- ensure that we provide feedback regarding the responses received and how the consultation process influenced the development of the policy;
- monitor our effectiveness at consultation including through the use of a designated consultation co-ordinator; and ensure our consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The full text of the code of practice is available at: www.berr.gov.uk/files/file44364.pdf

Confidentiality of information

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, among other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information,

we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties.

We can also provide documents
to meet the specific requirements
of people with disabilities.
Please call 020 7211 6200 or
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