

BBFC RESPONSE TO OFCOM CONSULTATION ON ITS DRAFT ANNUAL PLAN 2012/13

Executive Summary

The BBFC's partnership with industry for on demand content brings expert, trusted ratings and content advice to the online space. This effective, low cost, self-regulatory regime dovetails well with ATVOD's present co-regulatory regime. However, any change to ATVOD must not impact negatively on BBFC/home entertainment industry self-regulation for audio visual content distributed online.

Background

Who we are

The BBFC is an independent, private, not for profit company which classifies film, packaged media and online content. Its primary aims are to protect children and other vulnerable groups from harm through its decisions and to empower consumers through content information and education. It operates under both co-regulatory and self-regulatory classification regimes, basing its decisions on transparent and trusted Guidelines that reflect public opinion and the risk of harm. It is accountable to Parliament.

Drawing on the trust and experience the BBFC has gained through its core classification work, it increasingly works in partnership with the digital industries to run best practice, self-regulatory labelling regimes for online content (moving image and web pages) and other content not caught by existing legislation.

As well as offering graded levels of content classification via its trusted U to R18 symbols, its decisions, policy guidelines and metadata are used on networks running Tibboh's internet filtering technology.

Strategic Purpose 4: Future Content Regulation

The BBFC's expertise lies in the area of content regulation. It will therefore restrict its comments to this section of the Ofcom consultation document.

The BBFC has significant expertise in the area of content regulation and labelling. It has been classifying films since 1912; videos (including video games) since 1984; and online content since 2008. During that time, it has classified and labelled more than 200,000 works for physical and online distribution. BBFC decisions around the suitability of content are context-sensitive and reflect evolving UK public opinion, as well as relevant UK law. As a result they are understood and trusted. Independent research from June 2011 demonstrated that 82% of parents prefer to download video works if they carry a BBFC rating. 2009 research showed that the public agrees with the BBFC's decisions well over 90% of the time.

The BBFC agrees with Ofcom that the area of online on-demand services will continue to pose significant challenges and it is therefore right to review the effectiveness of existing regulatory structures in this area.

Since 2008, the BBFC has been classifying and labelling content in the online space, under a voluntary, self-regulatory regime set up in partnership with the home entertainment industry. The BBFC's self-regulatory service applies trusted standards and methodology and provides consumers with content advice for digital

content. All of the major studios are either members or pending members of the service, together with several large aggregator platforms (see annexe 1, below). The Government has indicated its support for this service.

In 2010, BBFC.online accepted its first Internet Service Provider member. It contracted with Tibboh (<http://www.tibboh.co.uk>) to power its network-based internet filter with an adapted set of the BBFC's Guidelines. The BBFC also provided staff training to allow Tibboh's in-house team to adjudicate on decisions where a user or website owner has appealed against a site classification and is retained to offer a final level of escalation and adjudication.

BBFC.online demonstrates that self-regulation can work in the online world without the need for extension of the current statutory regime, at least for now. Research evidence suggests that the majority of the public assumes that VOD already comes under the BBFC's regulatory oversight and positively prefer to purchase downloads from sites using BBFC classifications. The industry has accepted this consumer expectation and has voluntarily taken steps to ensure that the protections offered by BBFC classifications are offered online. Key therefore to the success of BBFC.online are consumer recognition and industry support.

The BBFC and ATVOD

The BBFC understands that Ofcom will be carrying out a review of ATVOD in 2012/13.

The BBFC enjoys a positive and constructive relationship with ATVOD. For example, ATVOD is a member of the BBFC's Consultative Council which brings together senior figures from a wide range of customer and expert bodies and from local government and the devolved administrations.

Because both bodies are active in relation to on demand content regulation, there is practical cooperation underlying the ATVOD/BBFC relationship. Because the BBFC is the acknowledged UK expert in the area of adult content (both 18 and R18, legal and illegal) a number of other media regulators and content providers seek our advice and input in relation to their work. These include ATVOD. As it has done since its creation, ATVOD uses BBFC R18 standards as the benchmark for requiring material to be inaccessible to children on those UK-based VOD services which fall to be regulated under the Audiovisual Media Services Directive.

The corollary to this is that ATVOD does not require to be placed behind access controls any material passed by the BBFC at 18, the assumption being that such content would not "seriously impair the development" of children.

Therefore content owners and aggregators which provide material classified between U and 18 by the BBFC can be satisfied that ATVOD will allow them to provide that on demand material without interference.

The BBFC's relationship with ATVOD ensures that in relation to content owners and aggregators who use the BBFC's online classification services, the existing regulatory mechanisms work effectively.

If Ofcom decides to change how ATVOD works or decides that different regulatory architecture is desirable, the BBFC strongly urges Ofcom not to do anything which would interfere with the existing, effective regulatory architecture designed, set up and run by the BBFC and the home entertainment industry. The suite of online

content rating and advice services offered by the BBFC is backed by real expertise in child protection; is supported by industry and Government; and is trusted, understood and used by the public, parents in particular. It offers a one stop shop for industry which – the adult industry apart – has voted with its feet and makes extensive use of these classification services. Imposing new architecture which might increase the cost to BBFC.online members of providing online services to consumers would be unnecessary.

BBFC
January 2012

Annexe 1: BBFC.online members (as of 16 January 2012)

Content Owner Members

2Entertain
Artificial Eye
AV Pictures
BFI
Darker Enterprises
Deadmeat Productions
Element Pictures
Entertainment One
European Drama Network Ltd
Harmony
Hit! Entertainment
Independent Film Company
ITV Studios
Lions Gate
Momentum
Network Sound & Media
Paramount Pictures
Revolver
Studio Canal (Optimum)
The Movie Partnership
Twentieth Century Fox
Universal Pictures
Veritas GB Ltd
Walt Disney
Warner Brothers

Aggregator Members

BlinkBox/Tesco
TalkTalk
BT Vision
Netflix
Curzon On Demand
PictureBox
Tibboh Internet Services