



Video Games Consultation Questions

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.

How to use the form

Type **inside the shaded areas** which will expand automatically to accommodate your answers

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

The British Video Association (BVA) doesn't wish to comment on the advantages or disadvantages for the games industry of either the BBFC or PEGI, administered through the VSC in the UK.

However, we have serious concerns that the consultation has prompted submissions which recommend solutions for the games industry which create unintentional operational difficulties for the video industry not foreseen when the four options envisaged in the consultation were suggested.

Video publishers frequently release titles on DVD and increasingly on Blu-ray Disc which contain games as bonus features in the value added material (other bonus features may include "the making of...", director's

cuts, biogs and/or interviews with of the stars, alternative endings, outtakes, a digital copy of the feature to download onto another device, and on-line extras to download onto Blu-ray Disc). DVD games are another form of simple interactive product released by video publishers, usually in the form of quizzes, such as "Who wants to be a Millionaire?" These products are not considered to be true video games by the games industry, by retailers or by gamers.

There were 9,839 video titles released in 2007, only three of which were released on VHS cassette and 20 on UMD. So over 99% of video titles are released on DVD and high-definition disc (now only Blu-ray Disc).

The BVA (which represents over 90% of UK video distributors) is unaware of any video title released to date which contains PEGI rated material; the BBFC classifies all non-exempt material under the Video Recordings Act, including games, in an informal agreement with PEGI.

The video industry is very keen that this situation should continue. The BVA and its members have had 28 years of experience working with the BBFC since the introduction of the Video Recordings Act and the working relationship and service has never been better than it is today. Distributors consulted who have games publishing divisions (eg Warners and Disney) support the recommendation that the BBFC should classify games content for release on video titles, while interactive content released primarily as a games title continue to be classified by PEGI.

Option 1 fails to address the question of how games/interactive content intended for video releases is classified and creates a problem for video publishers of U and PG video works.

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

Option 1 would require two different classifying bodies to examine works for release on DVD and Blu-ray Disc at U and PG. This would create unacceptable additional costs and time delays. Games content is sometimes sent to UK video companies at the last minute as one element of the assets ancillary to the feature and an obligation to send this content to a new and more expensive examiner would be extremely unwelcome. In addition, PEGI would not be examining the game in the context of the whole work, so would not be able to consider the contents of the video title from a video viewer's perspective or the appropriateness of the game for the intended audience.

Option 1 could also create confusion over decisions about the nature of interactive bonus material which in PEGI's eyes might merit a lower rating than the BBFC would consider suitable for release at 12 or higher, and vice

versa. This could lead to lack of consumer confidence in the age ratings given to the very type of content the Byron Review intends to regulate more tightly.

It would probably raise the marginal costs to small independent distributors which would make the title uncommercial and result in the reduction of bonus material on future video releases.

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

For the publishers of video works rated 12 and above this option would not pose any difficulties.

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

(i) the consumer?

Reduction in value for DVD and Blu-ray purchasers of children's and family video titles.

Potential confusion over age ratings.

DVD games could be confused with true video games.

The consumer has confidence in the BBFC symbols and classification system and uses consumer advice to make purchasing and viewing decisions.

(ii) the games industry?

(iii) the retail industry?

Reduction in value for DVD and Blu-ray customers buying children's and family video titles.

Potential confusion in age rating labels.

Retailers completely understand the BBFC classification symbols and their legal obligations not to supply to underage children under the VRA. In 1985 the BVA set up the Video Standards Council to act as the video industry's non-statutory watch-dog and a retail training programme was developed to ensure retailers were aware of their liabilities under the VRA. Due to its acceptance by the courts as evidence of due diligence in retail staff training, there is a high level of awareness of the BBFC age ratings, but this doesn't apply to anywhere near the same level with the PEGI ratings, as the Byron Review revealed. The video industry therefore feels that retailers would not benefit from having an additional liability of enforcing PEGI ratings for video product, which are less well understood.

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?
It's not practicable.
Q7: How do you think this system will last into the future?
Not future proof. Will discourage video distributors from using new technology to enhance value and viewing experience for customers of DVD and Blu-ray Discs and BD Live (where consumers can download bonus material from websites)
Q8: Do you think this option would work in the online environment?
(i) If so, what would be the benefits?
No
(ii) If not, what would be the problems and do you have any solutions?
Will discourage video distributors from using new technology to enhance value and viewing experience for customers of BD Live (where consumers can download bonus material from websites)
Q9: Is there any other information that you think Government should take into account when considering the monetary costs of this option?
Were video distributors obliged to submit video works to two classification bodies where a game was included, examination fees would double. For example, a feature length video work costs on average £1,000 to have examined by the BBFC. The inclusion of a PEGI rated game, according to PEGI's fees published in June 08, would add between €1,000 and €1,500. (We understand PEGI's fees are about to be increased.)
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?
Our retail customers would find the labelling issue makes their statutory obligations not to supply to underage children more difficult to carry out.

See above.
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]
Distributors are not the best judge of this. The decision should be research based. Any games material for use on video titles classified by the BBFC at any age would be covered by the existing system and would continue to meet the needs and expectations of consumers, who, research indicates, understand and rely on BBFC classification as a reliable indication as to the suitability of the content for relevant audiences.

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?
The BVA has no remit to comment on how games released as stand alone entertainment products are classified.

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?
Option 2 would make operational matters for video distributors very straight forward as there would be no conflict of labelling, classification criteria, no increase in time or cost of classification and the symbols used are very well known and trusted by the video and film viewing public.
Q18: How do you think this system would work for the following key stakeholders:
(i) the consumer?
(ii) the games industry?
The BVA understands that ELSPA does not support Option 2.
(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?

This system would only work for the £1.63 billion games industry. It would create serious problems for the £2.65 billion video industry. All video publishers use interactive content as bonus material on video works and they would be seriously disadvantaged by the adoption of Option 3 as currently outlined. See also answer to Q1.

Q31: What are the key flaws with this option and how could it be adapted to overcome them?

Option 3 would require two different classifying bodies to examine works for release on DVD and Blu-ray Disc. This would create unacceptable additional costs and time delays. Games content is sometimes received by UK video publishing companies late in the production/authoring process as one element of the assets ancillary to the feature and an obligation to send this content to a new and more expensive examiner would be extremely unwelcome. It would raise the marginal costs to small independent distributors, making titles with games content uncommercial and result in the reduction of bonus material on future video releases.

The video industry does not wish the BBFC to become de-designated to classify interactive elements of the video industry's content. The PEGI system is not compatible with video classification under Option 3 because it will not examine the game in the context of the whole video work so will not be able to judge the suitability of the game for the intended audience.

Video publishers and distributors have a good working relationship with the BBFC, have spent years developing systems that allow issues to be discussed and resolved in a timely fashion, have invested in BBFC On-line to extend the consumer-trusted advice and classification symbols to

internet services that offer video titles to the public and are content with the system that ensures that a third party is responsible for making decisions about the suitability of its content for UK audiences, based on decades of experience and consumer feedback through research and consultation processes.

If the BBFC were to retain its role under Option 3 as the only designated body for ALL content on works intended to be supplied primarily as video works, including DVD games, on physical and digital platforms, the video industry would not oppose this option being adopted for the games industry.

Q32: What are the key advantages with this option and why?

For the video industry there are none.

Q33: How do you think this system would work for the following key stakeholders:

(i) the consumer?

Consumers bought 250 million videos in 2007 and rented 98 million videos from rental stores and on-line. Research shows they understand and trust the BBFC classification system and rely on its consumer advice to guide their decisions on the suitability of video works for viewing by children, and as adults. There is less understanding of the PEGI ratings, particularly by parents, as the Byron Review demonstrated, and this is one reason for the video industry's objection to PEGI ratings being used on video releases.

We believe investment is necessary to roll out a comprehensive awareness building campaign to generate a similar level of understanding of PEGI symbols.

(ii) the games industry?

(iii) the retail industry?

Q34: What suggestions do you have to improve the system for any of the key stakeholders?

Retailers are familiar with the BBFC symbols and classification system. See answer to Q4 iii

Q35: Do you think this system addresses the evidence on potential harms raised by the Byron review and if not why not?
Yes, providing the BBFC retains its status as the designated body for video works and their entire contents. The BBFC has had a statutory duty to consider the harm not only to viewers, but also to potential viewers, so is best placed to consider potential harm of all the content in a video work.
Q36: How do you think this system will last into the future?
see below
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?
<p>PEGI on-line is not suitable for interactive video works which are not released as games. Given that the BBFC now offers an on-line classification system for British distributors and e-tailers may be licensed to use the same system to give confidence to on-line users of video with interactive content (film, TV and independently produced content) which mirrors the system in the physical world, the BVA believes the BBFC On-line will continue to act as a mark of authority and represent a symbol of trust for consumers of video-on-demand and download- to-own titles.</p> <p>If European harmonisation of video classification were ever to come about, the situation may need reviewing, but as films are bought and licensing deals are carried out on a territory by territory basis, the lack of European harmonisation does not seem to the BVA to be relevant.</p> <p>BD Live, a Blu-ray disc that allows viewers to download additional content to the disc, which can also be up-dated and refreshed, from the internet, to be launched in the UK next year. This content could be made available from sites anywhere in the world and may include interactive content - technology is still being developed for this format. Where video publishers wish content to be made available on UK sites, the BBFC On-line system can be used, if appropriate. It is yet to be decided how this will affect marketing and packaging of BD Live product, but the video industry does not wish to be inadvertently constrained by an unfamiliar and expensive system being imposed upon it which could create unforeseen problems in the future for publishers of interactive video content.</p>
Q38: Is there any other information that you think Government should take

<p>into account when considering the monetary costs of this option?</p>
<p>BBFC games examination fee is £300 handing charge per game and £6 per minute. The PEGI examination fee per game is €1,000 or €1,500 fast track fee. We understand PEGI fees are about to be increased. Since games used as bonus material, ancillary to the feature of a video work, tend to be significantly shorter than games designed as stand alone works, the PEGI fees for viewing such material are unacceptably high.</p>
<p>Q39: Who do you think would be the right body to take on the role of statutory classifier of video games and why?</p>
<p> </p>
<p>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?</p>
<p> </p>
<p>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?</p>
<p> </p>
<p>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]</p>
<p>Yes, regardless of whether the linear content is integral to the game or vice versa, where the work in question is released by a video distributor as a video work intended for a video consumer and the game is ancillary to the main feature, the BBFC should be the sole examiner and classifying body.</p>
<p>Q43: Do you think PEGI should rate the game content, while the BBFC rates the film/video content and why?</p>
<p>(i) If so, should both symbols be on the box?</p> <p>No. A video work should be classified and labelled as such. See above.</p>
<p>(ii) In the event of different age ratings, should only the higher symbol prevail?</p> <p>No, linear footage in a product marketed as a game should be viewed by PEGI as ancillary content.</p>

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?

As far as the video industry is concerned, this option would be acceptable. There may be benefits to the video classification system that could be shared with the games sector.

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?

Retains the status quo, therefore no additional costs, time delays or labelling issues for the video industry.

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

(i) the consumer?

Status quo - consumers are currently being consulted by the BBFC on their views of its classification guidelines. Some minor changes are expected to be implemented.

(ii) the games industry?
(iii) the retail industry? The BVA understands that retailers are content with the current BBFC classification system, for reasons outlined above.
Q49: What suggestions do you have to improve the system for any of the key stakeholders?
The BVA believes that public consultations, as carried out by the BBFC, allow greater sensitivity to consumer expectations and allow classification guidelines to be up-dated in accordance with shifting public tastes and demands. Parents' views can be accounted for, as well as the views and understanding of younger audiences of the symbols, etc. The BBFC and the BVA also periodically carry out consumer research into the way the public uses the consumer advice system and this enables modifications to be made if necessary. We would commend regular public consultation to other rating bodies.
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?
Probably, if public education/awareness campaigns were mounted to address the issue of the lack of public understanding and retail enforcement of the PEGI system.
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? PEGI on-line seems to work for cross border gamers and could be applied to any stand alone games content.
(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?
Yes
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?
Yes
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.