

Video Games Classification a Consultation

A response from mediawatch-uk

Introduction

mediawatch-uk welcomes the Government's consultation on Video Games Classification because there are clearly a number of important regulatory issues that need to be resolved. We believe the rapid growth of this global industry, reportedly worth £1.52 billion in 2007, is another example of consumer technology running ahead of regulation and accordingly some very real problems have arisen as a consequence.

For example, Trading Standards officers in Wales found that youngsters are using online auction sites to buy games intended for adults and that 9 out of 10 vendors sold software to underage children. Of 44 purchases attempted 38 traders sold games to children (*The Times* 25/6/2008). In addition to this an Office of Communications' survey, published in May 2008, found that two thirds of 12 to 15-year-olds said that violence in games affected their behaviour.

With violent crime and antisocial behaviour among the young causing widespread alarm it is not unreasonable to suggest that these findings require urgent remedial measures be taken, not least, by the games industry itself.

Policy Background

It is helpful for the government to set out in the Policy Background the challenges presented by online gaming and we believe the appropriate solution to these challenges lies in the direction of an International Agreement or Treaty that would include clear advice on unacceptable content particularly with regard to "senseless violence". Given that the trade in computer games is international and the Internet knows no boundaries, we believe that democratic agreement must be reached internationally through the most appropriate forum.

We suggest that the European Parliament would be a good starting point given that the European Commission has

already formulated the Audio Visual Media Services Directive, which includes requirements on content (Article 22).

Article 22

1. Member States shall take appropriate measures to ensure that television broadcasts by broadcasters under their jurisdiction do not include any programmes which might seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence.

2. The measures provided for in paragraph 1 shall also extend to other programmes which are likely to impair the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical measure, that minors in the area of transmission will not normally hear or see such broadcasts.

Not the BBFC

We are not convinced that the Department for Culture Media and Sport should give too much weight to the British Board of Film Classification's public consultations. From our first hand experience, these public consultations are badly advertised, promoted and poorly attended and do not adequately represent public attitudes as a whole. Moreover, the Video Recordings Act 1984 established a Video Appeals Committee (VAC) to consider appeals only from industry representatives enabling BBFC decisions to be reviewed and overturned. We are aware, following a successful appeal by pornographers in respect of 'R18' material, that the BBFC adopted a more permissive approach to such material in order simply to avoid further litigation! The assertion that the BBFC has the "power to remove harmful material from games" (1.11) although true has been very seriously weakened by the VAC when the appeal from the makers of the game *Manhunt II* was upheld. The Board itself said that this "represented a significant increase in the extent of sadistic violence in video games". (A Report page 9). The notion of "causing harm to potential users or, through their behaviour, to society" evidently was not considered as sufficiently important. The Ofcom findings above provide sufficient grounds for an immediate reversal of this obstinate and outdated attitude.

Complaints procedures

It may be true the British Board of Film Classification's classification system has a complaints procedure for members of the public but this is seldom used. The BBFC's Annual Report for 2007 acknowledged it receives "few complaints" (page 16).

(We note that the Board received in excess of 700 complaints about the decision to refuse a certificate to *Manhunt II* which evidently "polarised opinion". The Board's analysis is interesting: "The complaints against the decision ranged from the concerned and considered, to the abusive and incoherent. There were campaigns organised by some gaming websites against the decision." We can sympathise with the BBFC having experienced ourselves the latter reactions from "gamers" after making reasonable and measured comments about a new extremely violent game entitled *MadWorld!*)

This suggests that people either do not know about the "complaints procedure" or have no confidence in it. This is hardly surprising because the BBFC uses poorly defined descriptions of content. For example, it is said that games may contain "moderate" violence or "strong" language, sex and/or violence. These terms are far too vague and mean simply what the Board wants them to mean. Accordingly, it is very easy for complaints from the public to be rejected. For members of the general public who may have a grievance about content such terms are meaningless and should be abandoned in favour of proper descriptions of content, such as, what swear words are used and how many there may be, what violence, what sexual conduct, whether explicit or implied, etc.

Inconsistent

It is clearly inconsistent but not surprising that online games do not fall within the remit of the Video Recordings Act 1984. This law should be amended forthwith so that they are. The mere fact games are online should not be a reason for not amending the law.

PEGI ratings

We note also there is no statutory basis to the PEGI ratings system. This too appears to be an oversight and consideration surely ought to be given to making it statutory if the government

concludes that both the BBFC classification and the PEGI classification are to co-exist. We note there is a “Handbook for Coders” and again we wonder how many people are aware of this or that PEGI has an “appeals system”. Since no information is given in the consultation paper we wonder how many appeals have been made and what has been the outcome. So far as we can see the PEGI website has no information on the “appeals system”.

It is very helpful to know about the “Handbook for Coders”, which updated as recently as June 2008. We note that this online rating system is for use solely by games publishers who obtain a licence from the Interactive Software Federation of Europe, a body seemingly made up entirely of industry representatives. This is hardly a satisfactory way to conduct a system of regulation and we are astonished that such a system has become established without political intervention to secure the welfare of children or the wider public interest.

It is not surprising that the games industry is so opposed to the outside interference represented by the BBFC Classification of games. We note that Dr Byron felt the PEGI pictogram system was unclear. We have sympathy for this view and we wonder what if anything has been done to improve it so that parents, especially, and children understand what they mean. We note that corrective action can be ordered by the PEGI Enforcement Committee and we wonder if any Handbook Coder, or anyone else, has been fined or members banned by this Committee. Since the PEGI system has no legal status we wonder what sanctions can be applied to online games publishers who ignore it.

We also note that some websites are “checked” by the Video Standards Council and we ask what the “minimum safety standards” are that websites are expected to comply with. And we wonder how difficult it is to copy the VSC symbol and use it inappropriately or even fraudulently! (1.18)

Clear unified scheme

The Byron Recommendations (1.19) seem sensible but we are aware that disagreements have arisen over the use of BBFC symbols and PEGI symbols so much so that the Minister of State, Margaret Hodge MP, has intervened. If this dispute is not resolved

the government really must devise a scheme that best serves the public rather than the industry.

We would recommend a unified classification scheme that “meets all the criteria” combining age and skill suitability. We agree with Dr Byron (1.22) that the scheme must be “trustworthy, uniform and clear” and there must be “power to refuse to certify certain titles”. We further suggest there should be no right of appeal. We do not agree that the system “must work for the games industry” alone or that it “must support retailers”. The overriding priority really ought to be the welfare of children and families. After all it was the protection of children and young people from the “terrible issues” of pornography and violence that prompted the Prime Minister to set up the Byron Review in the first place.

Definitions needed

It is not enough to apply constraints only on the basis of “evidence of potential harm” when these terms are not defined. We note that decisions will be made on “the right classification system” (1.23) but wonder what can now be done about the millions of boxed games currently in circulation and games played online. Clearly retrospective application of any new classification system will be impossible as used games are now sold outside normal retail outlets such as car boot fairs, garage sales, in charity shops and online. We know of cases where children and young people have ‘gone behind the backs’ of their parents and bought imported games that have neither BBFC nor PEGI symbols but the completely different symbols and age ratings of the American Entertainment Software Ratings Board. It is very worrying indeed that such games are, apparently, so readily available to youngsters.

It is comforting to know that there is public support (1.24) for it being illegal to sell or supply games whose content “may cause harm”. We note that in Thailand (*BBC News Online 4/8/2008*) copies of *Grand Theft Auto IV* have been withdrawn because a teenager murdered a taxi driver after playing the game. He wanted to find out “if it was as easy in real life to rob a taxi as it was in the game”. Has this game been withdrawn in any other country where the PEGI system is in force? Has the game publisher been sanctioned in any way by PEGI or anyone else?

In our opinion there would be benefits, such as minimising public confusion, in “aligning the video classification system with that of film”. On the face of it this seems to be a sensible proposal but it should always be remembered that classification for video and DVD works was always to be more restrictive because they are means of home entertainment. However, the British Board of Film Classification has, over time, classified worsening violence, language and sexual conduct for younger age groups. This situation has been made worse by the introduction of the ‘12A’ classification, which permits younger children entry to a cinema as long as they are accompanied by an adult who is not necessarily an older sibling or a parent or guardian.

We accept that games are changing fast (1.27) and so a ratings system must be “able to adjust quickly to reflect new risks”. For this reason we simply do not understand why the Government “does not want to place a disproportionate regulatory burden on the industry”. When lives are at stake, as in Thailand, we cannot understand the Government’s caution!

Retailers’ responsibilities

We understand that retailers are not in the forefront with regard to applying the classifications. We wonder what penalties are proposed when retailers fail to honour classifications. We understand that there have been only 14 prosecutions of retailers for supplying games to people under the age stated on the packaging. We know of no prosecutions against online games providers. In these circumstances how is it proposed to demonstrate how “robust” (1.30) a new system is? In addition to the above mentioned experience of Trading Standards officers in Wales we are aware of a series of test purchases conducted in September 2007 by *The One Show*, BBC1 TV, which found that 9 out of 10 retailers sold 18 rated games to a 14-year-old girl. So far as we know no prosecutions were initiated.

New System needed

Of the four options summarised it is plain that a new classification system is needed. It is certainly not ideal, in our opinion, to have a BBFC rating on the front and the PEGI rating on the back of a box. Both must be on the front. Since the overthrow of the BBFC decision on the *Manhunt II* game we have little confidence in the

retention of “power to refuse to classify games”. The BBFC’s position has been very substantially weakened in this regard. As with pornography we can expect the BBFC to revise its Classification Guidelines to avoid further litigation! (1.34)

We can see no good reason why a classification system for “selling/supplying video games” (1.36) should not be made statutory. Since there is no information in the consultation, or anywhere else, as to experience gained with voluntary systems and any “good practice”. It is therefore difficult to recommend a Voluntary Code of Practice. What we do know, however, is that children as young as four, five or six are gaining access to and playing ‘18’ games that are already in circulation. It is difficult to see how any code, however “enhanced”, will affect this scandalous and tragic state of affairs.

We do not agree that the reason for refusing a classification should depend solely on what is “publicly acceptable”. Such a test is notoriously difficult to determine and so other factors must be taken into account, such as, the content of the game and the state of the society into which the games are being cast. And so, for example, where there is a high level of gun or knife crime or civil disorder or antisocial behaviour, games that portray this should be discouraged and constrained and games publishers asked to devote their energies to producing games that do not rely on such uncivil or criminal activities – the assumption being that they will adversely affect behaviour.

We agree with the proposal (2.16) that there should be “only one set of symbols for all video games” and there should be an international agreement or treaty that the same symbols be shown on online games. Given that the BBFC has such a poor record in restraining the film industry we believe it would not be appropriate for the Board, as presently constituted, to be trusted with the task of classifying games.

However, since their classification symbols are recognised and broadly understood we can see no good reason why similar symbols cannot be used exclusively for games and are “enhanced” by skill classification. Content descriptions cannot be reduced to symbols and so content must be described in detail as part of the international effort to improve media literacy.

The power to refuse classification must be retained and we believe refusals should not be subject to appeal. If the government wishes to provide an appeals system this should be open to the public as well as to the industry. Indeed we believe that legislation must be brought forward along the lines of Julian Brazier's BBFC Accountable to Parliament Bill that fell at Second Reading in February 2008.

Conclusions

Finally, we believe it is not enough to focus in the consultation on the classification system and on the difficulties for retailers. The problems that arise have their origins with games producers. In any statutory system of classification where harm becomes evident games producers must be accountable as well for the harm associated with their games. An international agreement or treaty must have provisions for games producers to be accountable and those who have to cope with the consequences of murder, as in Thailand, must have recourse, through such an agreement, to sue the games producers. Such an agreement should come within the terms of both EU and human rights legislation.

October 2008

Rotting brain and conscience

By John C Beyer Director of mediawatch-uk

Police officer escapes with his life after brutal gang attack!

The shocking CCTV footage of the officer surrounded by a mob and kicked while on the ground was featured in TV news bulletins and some commentators remarked that it looked as though it had been taken from a violent computer game!

Last year the Prime Minister expressed concern about pornography and violence in the media describing this as a “terrible issue” to be tackled. He appointed Dr Tanya Byron to make recommendations on how children can be protected from such material on the internet and in computer games. Dr Byron’s report was published in March and the UK Council for Child Internet Safety launched last month.

The impact and influence of the media has long been a worry for many parents and the widespread use by children of personal computers and laptops has heightened concern and given rise to demands for effective measures to protect children from inappropriate content.

The argument over whether or not people are harmed or psychologically damaged has been raging for years as each new technological development arrives. There are always those who are ready to defend their ground and computer gamers are no exception. But as long ago as 1992 misgivings were being expressed about games in which players can ‘kill’ at the touch of a button, doing it alone and in isolation. Writing in the *Daily Telegraph* in August 1992, Lawrence Garner noted that computer games “confer a satisfying power”. He suggested that computer game fantasies have become the reality for some people and concluded: “The amoral world of the computer game and violent film rots not only the brain but the conscience.” It is not surprising, therefore, that the American Military use violent computer games in training soldiers to kill.

It is alarming that youngsters of five or six years of age are gaining access to and playing ‘18’ rated games and that some retailers have little regard for the dual age classifications applied to them. In June 2008 Trading Standards officers in Wales found that 9 out

of 10 vendors sold software to underage children. A series of test purchases conducted in September 2007 by *The One Show*, BBC1 TV, also found that 9 out of 10 retailers sold 18 rated games to a 14-year-old girl. We also know of young people buying imported games that have only symbols of the American Entertainment Software Ratings Board. We understand that there have been only 14 prosecutions of retailers for supplying games to people under the age stated on the packaging. An Office of Communications' survey, published in May 2008, found that two thirds of 12 to 15-year-olds said violence in games affected their behaviour.

The Government's consultation on Video Games Classification is timely because important regulatory issues must be resolved. An appropriate solution to these challenges lies in the direction of a unified regulatory scheme backed up with an International Agreement that should rule out unacceptable content, such as, pornography and violence, likely to impair the mental or moral development of minors.

This article first appeared in *The House Magazine*, 27 October 2008