

## Response from the Mobile Broadband Group to the Department of Culture, Media and Sport's consultation on video games classification

1. The Mobile Broadband Group ("MBG", whose members are the UK's mobile operators O2, Orange, T-Mobile, Virgin Mobile, Vodafone and 3) welcomes the opportunity to respond to the Department of Culture, Media and Sport's consultation on video games classification.

### Summary

2. The MBG's main points in response to this consultation can be summarised as follows:
  - **Mobile games** are not currently subject to either BBFC or PEGI classification and it would not proportionate to require this now. As noted in the Byron review, mobile games represent a small proportion of the market and are perceived as relatively innocuous due to the smaller screen size and limited graphics and functionality.
  - **On-line games** come in many more guises than the professionally produced and packaged games sold off-line. If a classification system designed for off-line is to be introduced on-line, there needs to be much greater clarity about where it would apply. For this reason the MBG believes that a voluntary approach will be the fairest and most practical way of introducing classification into an on-line situation.
  - **The PEGI classification** system offers a better approach to classification because of the extra information provided, the economies of scale of a trans national approach and the administrative simplicity of self-classification.

### Mobile Games

3. Customers come across games in a mobile context in principally three different ways: embedded in the mobile device on purchase, as downloads to the handset and through participation on-line (using a mobile connection to the Internet). For the purposes of this paper, this latter category is considered under the on-line section below.
4. According to M Metrics<sup>1</sup>, 22.9% of mobile customers in the UK have played an embedded game (i.e native to the device on purchase). 4.6% of customers have downloaded a game (and 10.9% have played a downloaded game - roughly two players per downloaded game). This would set the annual retail value of mobile games in the region of £40-£70 million in the UK – a relatively small amount when compared to the £2billion UK video games industry.
5. As was noted in the Byron Review, mobile phone games today represent a fairly small part of the market and are perceived as relatively innocuous due to the smaller screen

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<sup>1</sup> <http://www.marketwire.com/press-release/MMetrics-822262.html>

size and limited graphics and functionality. The games are mostly designed to appeal to a wide range of customers and for quick, light entertainment for those on the move.

6. By way of example, the two pictures below show the differences between the way in which violence is depicted and a flamethrower is rendered in the game Call of Duty:



#### **Console**

- *Realistic animation*
- *Bodies burning on the floor*
- *Suffering expressions/animations*
- *People shouting when burning*
- *Burnt bodies on the field*

#### **Mobile**

- One single animation*
- Burning for 2 seconds*
- No facial expressions*
- No sound*
- Bodies disappear*

7. To date, mobile games have not been classified under the PEGI system. As noted above, the volumes are low and there is already cost pressure because of the relatively low retail price (c.£4 per mobile game as opposed to c.£40 per game on a console) and the need to test games on so many varieties of handset. Adding the cost of classification would increase this pressure. Furthermore, there is no perceived demand for classification of mobile games to be more widespread, as the mobile operators have, since 2004, been operating a Code of Practice that is designed to protect children from inappropriate content on mobiles, including games.
8. If any mobile game were to be produced only for adults and made available commercially by a mobile operator, it would have an 18 classification, fall within the remit of the IMCB classification system<sup>2</sup> and would only be made available to those that have been verified as being at least 18 years old.
9. - There are very low levels of complaints about mis-classification of content (including games). In June 2008 Ofcom reviewed the Mobile Content Code and declared that it was

<sup>2</sup> Independent Mobile Classification body, [www.imcb.org.uk](http://www.imcb.org.uk)

effective at restricting children's access to adult content and a good example of self-regulation<sup>3</sup>.

10. The mobile operators and mobile games publishers are also subject to the 11<sup>th</sup> Code of Practice regulated by PhonepayPlus. The advertising and promotion of mobile games paid for by premium rate. (i.e. the majority of downloaded mobile games in the UK) is regulated under this Code.
11. The MBG therefore believes that there is already adequate protection in place for mobile games and that it would not be proportionate to mandate a PEGI or BBFC rating system. The cost of putting a game of this sort through a rating system would not be justified, particularly when there is no observable demand from customers for this to happen.
12. There is no suggestion in the consultation document that mobile games should be subject to classification but as there is a lack of clarity on scope (which is discussed in more detail below), the MBG makes this point so as to be absolutely clear about its position.

### **On-line games**

13. The first problem with this consultation relates to definition and scope, which is not addressed at all in the consultation document. As is often the case with trying to apply off line rules to on-line content, matters that are straightforward and obvious in an off-line world become fragmented and fuzzy in an on-line world.
14. With respect to the off-line world, the vast bulk of video games sold are professionally produced and packaged and then distributed through retail outlets such as HMV, Zavvi or specialist game stores. There is a common understanding about which products are subject to the relevant classification scheme (or schemes) and it is easier to check a customer's age.
15. The MBG's understanding of the Government's intention is that any scheme will also have to apply to 'on-line gaming'. It is not clear whether this is to take immediate effect or evolve over time. Nor is it clear what 'on-line gaming' exactly means and thus the extent to which any regulation would apply.
16. 'On-line' may or may not include, for example:
  - Games purchased off-line but which are then connected up to the Internet for additional features (such as chat, cheats and forums)
  - Games that are principally designed to be played on-line (such as the multiplayer on-line roleplaying games or on-line chess or scrabble), where the 'rating' of the game may be more dependent on the creativity and behaviour of the participants rather than be intrinsic to the game.
  - Games that are purchased on-line and downloaded for play on a local device (such as a PC, games console or mobile phone)

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<sup>3</sup> [http://www.ofcom.org.uk/advice/media\\_literacy/medlitpub/ukcode/ukcode.pdf](http://www.ofcom.org.uk/advice/media_literacy/medlitpub/ukcode/ukcode.pdf)

- Games that are provided free on web sites on either stand alone sites ( e.g. <http://www.freeonlinegames.com/> ) or as a feature in a wider site.
- Advergames – generally free games that are intended to advertise or promote products or services (e.g. <http://www.mcdonalds.co.uk/?f=y> )

Some of these sites may be hosted in the UK and aimed at the UK market, some may be aimed at the UK market but hosted outside the UK, some may be accessible from the UK but aimed at international markets or other markets.

17. The on-line market presents considerably more problems of definition than the off-line market and so the first step is to establish a much clearer and targeted scope to which any regulation might apply in the on-line environment, taking account of what is proportionate, relevant and practical to apply.

### **Under 18 categories for on-line games**

18. A further challenge for the on-line environment is the practical issues around age verification. The Government indicates that any new scheme will entail games publishers giving age categories below 18, specifically 15 and 12.

19. There is no mention as to whether the Government expects publishers to carry out checks to ensure that customers buying 12 games are at least 12 years old (and 15 years old for 15 rated games). The MBG would strongly advocate against such an approach on the grounds that this would be disproportionate. Younger customers simply do not have the necessary documentation in any numbers, as things stand today. It must be sufficient that the publisher communicates the game rating and it should then be up to the consumer to make an informed decision as to whether to buy or play the game.

20. The MBG does not have the same attitude towards 18 rated games. First the documentation for proving age is far more widely available for adults (electoral registers, credit cards etc.) and secondly there is a clearer public policy consensus that is appropriate to protect children from adult content. The mobile operators have successfully operated such a system for mobile content (not just games) since 2005<sup>4</sup>.

### **The advantages of the PEGI Classification System**

21. The factors that are driving the MBG's view are as follows? a) Where is a rating system helpful to consumers, particularly parents? b) Is the system scalable across markets? c) Is it cost effective to implement? d) Does the proposal amount to proportionate regulation?

22. Without knowing the Government's intended scope in relation to the 'on-line' portion, it is difficult for the MBG to be definitive about its preferred approach. However, certain factors cause us to favour the PEGI system more than the BBFC approach. In either event, the on-line element should be voluntary, until the Government has had an

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<sup>4</sup> <http://www.mobilebroadbandgroup.com/social.htm>

opportunity to assess what can be achieved without resorting to formal regulatory measures, which inevitably are much more complex to apply and enforce.

23. The advantages of PEGI are that, first, it is both age based and symbols based, giving the publisher more opportunity to communicate relevant information to potential customers. The MBG recognises that research has revealed customers are confused by some of the symbols. We feel this can be overcome through further research and adjustment but the general principle is sound.
24. Secondly, the PEGI system has a broader application than just the UK market. This is particularly relevant in an online game environment, where exactly the same product is available in multiple markets. Volumes for games sold on-line are often much lower than games sold through the physical distribution channel; they tend to get less marketing push and, because of the lower barriers to entry, are often sold by small publishers who are much more cost sensitive.
25. It would not be right that small on-line publishers should be expected to obtain a rating for the UK market only. There would be no scale economies.
26. Thirdly, the PEGI system relies on self-classification as opposed to a submission system whereby each piece of content is submitted for independent evaluation. This seems to be unnecessarily bureaucratic. For some games that are more based on the interaction of the participants, it could also be completely irrelevant. The age appropriateness of on-line interactive games can be determined by other features (such as the level of moderation) that cannot be assessed through a prior-submission methodology.
27. Finally, the MBG believes that it will not be proportionate to mandate a rating system of any kind on all 'on-line' gaming experiences. For example, mobile games are designed to give a quick, fun, generally low graphics entertainment experience, sold in relatively low volumes. The cost of putting a game of this sort through a rating system would not be justified, particularly when there is no observable demand from customers for this to happen.
28. We are extremely doubtful that mandating rating for many of the free gaming sites or games that are pre-loaded on PCs and mobile devices would be practical or justifiable either.
29. The Government needs to give much greater thought as to which games they expect a rating system to apply 'on-line' and much greater thought as to the practicalities of enforcement before mandating any solution. In a transnational market, it would also be non-sensical to push a solution that included the word 'British', that would self-evidently apply only in the UK market.
30. The UK has demonstrated that much can be achieved on-line through taking a lead and encouraging voluntary action. This is definitely the preferred approach in relation to games on-line as well.