



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.

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

The answers given for option 1 are given by the VSC as PEGI joint administrator. Some VSC members will be making separate submissions on behalf of their own industry.

This is not a preferred option for PEGI or the VSC as it is believed that it is unworkable and will not satisfy all the key elements recommended by the Byron Review Report and the requirements of all the key stakeholders (the consumer, the games industry and the retail industry).

For this option to work there is a requirement for a clear set of age rating labels. As explained below the methodology used by PEGI for the age rating of games differs from the methodology used by the BBFC for the age rating of films and this difference results in the BBFC giving age rating for games that are lower than the PEGI age ratings (in 2007 over 30% of games given an 18+ PEGI rating for the rest of Europe were given a 15 or lower age rating for the UK by the BBFC). It is believed that these lower age ratings are inappropriate and do not protect the interest of children.

Under this option the BBFC will age rate games at PEGI 12+, 16+ and 18+. It is likely that this will result in at least 30% of BBFC age rating being different from the PEGI rating applicable for the rest of Europe. Accordingly for this option to go ahead it is foreseen that for a significant number of games the BBFC rating on the front of the box will differ from the PEGI rating on the back of the box. This situation will be even more confusing than the current situation.

Under this option it is foreseen that the BBFC may endeavour to lower games given a PEGI 12+ for the rest of Europe and effectively enforce a PEGI 7+ (BBFC PG) or PEGI 3+ (BBFC U). Beyond this it is also foreseen that the BBFC will not permit PEGI 3+ and 7+ games to automatically assume a BBFC U or PG without the games concerned being checked by the BBFC. In effect there could be statutory enforcement for games below 12. This is not envisaged in the key elements specified in the Byron Review Report.

Preliminary discussions with the BBFC would appear to indicate that there can be no compromise on these issues. If the BBFC approach to option 1 is to be accepted then there is very little difference between options 1 and 2 with the BBFC effectively rating all games.

It is not believed that this option is flexible and future proof or that it will be accepted by the games industry or endorsed by the European Union. In particular it is submitted that this option is inappropriate for online gaming (more information about this is set out below).

It is not believed that this option will be supported by retailers if it means that there will be two differing age ratings on the same game.

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

Far from satisfying the key elements recommended by the Byron Review Report it will in fact further confuse the public (particularly parents) into believing that games are the same as films. This confusion already exists to a limited extent because of the very small number of games already being classified by the BBFC. If the BBFC began to classify 12+ and 16+ games instead of PEGI the confusion will be far worse than it is already and would be a retrograde step.

The use of the separate and distinct PEGI system for the age rating of video games in the UK recognises the important difference between video games and films. Films are linear and watching films is a passive experience. Games are interactive and present the player with an interactive and ever changing experience full of options and alternatives. A separate and distinct system will ensure that consumers (particularly parents) do not confuse video games with films.

The methodology used under the PEGI system is more appropriate for the age rating of games. The methodology used by the BBFC for the age rating of films is not appropriate for video games and where applied results in a significant percentage of video games being given age ratings below what the VSC believes to be the more appropriate PEGI level.

The methodology used for films can allow extreme content at lower age levels when justified by context. The methodology used by the PEGI system does not permit this (ie. does not take context into account) as single items of extreme content in games (violence or sexual language) can be seen or heard many times over as a player endeavours to progress through each level of a game. Single items of violence or sexual language in a film will be seen or heard once.

In 2007 over 30% of video games given a PEGI 18+ for the rest of Europe were classified at 15 or below for the UK (using BBFC methodology) potentially leaving children less well protected in the UK than the rest of Europe. If the BBFC began to classify PEGI 12+ and 16+ games there is no reason to believe that this percentage will change which will result in a far greater number of games being inappropriately rated as being suitable for younger children when they are not.

The VSC does not believe that the integrity of the PEGI system should be compromised to fit in with what it believes to be the inappropriate methodology used by the BBFC which will mean that if the BBFC classified PEGI 12+, 16+ and 18+ games the PEGI rating (on the back of the box) will be different to the BBFC classification at least 30% of the time.

Equally PEGI 3+ and 7+ ratings should not be compromised and PEGI would not wish to agree for instance that any PEGI 12+ can be given a lower PEGI rating under the BBFC classification process. There may be an impasse between the PEGI 7+ and the BBFC 12.

It is forecast that within 5 years the great majority of games will be provided to the public online by way of servers operating from all parts of the globe. Any age rating system to be utilised in the UK must take this into account as otherwise it will rapidly become redundant. The PEGI system has taken this into account. It is submitted that the BBFC system does not.

PEGI Online was launched in July of 2007 and provides an effective means of ensuring that websites providing online games (playable online and downloadable online) comply with basic standards of responsibility and only make games available that have been properly age rated.

PEGI Online operates across all PEGI territories (presently some 29 countries of Europe) and as such provides games publishers making

games available online with a commercially and financially viable system for dealing with online games. A national approach in all or any European country does not provide such a viable approach and will probably not be used for online games.

The fact that PEGI Online is international (operating across some 29 countries) lends itself to the development and introduction of filtering software designed to restrict access to all but PEGI Online sites and to further restrict access to games at a pre-set level of age rating. This can only be to the benefit of consumers (particularly parents wishing to control what their children play on and download from the internet). A UK only system of age rating for games will provide no system of regulation for websites making games available and will not lend itself (on any financial or commercial basis) to any viable system of filtering software.

Whatever system is utilised in the UK for the age rating of games made available as physical products in retail outlets it is likely that PEGI and PEGI Online will be the systems used for games made available online throughout Europe (both playable online and downloadable).

If PEGI is not to be used in the UK as the system for the rating of games made available as physical products in retail outlets then the UK will be out of step with the rest of Europe and UK consumers (particularly parents) will not be familiar with the PEGI rating system that will confront them and their children when they go online to play or download games. They will be left at a distinct disadvantage.

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

None

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

(i) the consumer?

Potentially two different ratings on the same packaging will confuse consumers.

(ii) the games industry?

The games industry via its trade association (ELSPA) have indicated they not support this option.

(iii) the retail industry?

The retail industry would not wish to see two different ratings on the same

packaging.
Q5: What suggestions do you have to improve the system for any of the key stakeholders?
None. It is not believed that this option is capable of working on a practical basis.
Q6: Do you think this system addresses the evidence on potential harms raised by the Byron review and if not why not?
No. Consumers will not know on which ratings to rely.
Q7: How do you think this system will last into the future?
It will not last into the future for the reasons already stated (games will increasingly be played and sold (downloaded) online).
Q8: Do you think this option would work in the online environment?
(i) If so, what would be the benefits?
There are none.
(ii) If not, what would be the problems and do you have any solutions?
Operators of gaming websites are unlikely to carry two different ratings for the same game. Games publishers are unlikely to use the BBFC for classifying online games.
Q9: Is there any other information that you think Government should take into account when considering the monetary costs of this option?
See question 11.
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?
Yes, it will cause confusion. The consumer will not know whether to rely upon the BBFC rating or the PEGI rating.
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?
This question will be dealt with in the submission made on behalf of the games industry.

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?
This question will be dealt with in the submission made on behalf of the games industry.
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.
This question will be dealt with in the submission made on behalf of the games industry.
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]
<p>The criteria and methodology used by the PEGI system to rate games at 12+ level and has been tried, tested and accepted across Europe (including the UK) without any significant concerns or negative consumer reaction. Such concerns that have arisen have been quickly and properly resolved within the dynamic and flexible PEGI procedures.</p> <p>The BBFC has relatively very little experience of classifying games at the 12 level but there is compelling evidence to suggest that their film methodology approach will result in an increasing percentage of games being inappropriately classified at 12. The BBFC methodology approach has on at least one occasion resulted in extreme violence being permitted at 12 (the game 'Mass Effect').</p> <p>The PEGI approach to rating games at the 12+ level has proved itself to be the correct approach. In the period April 2003 to September 2008 a total of 1447 games have been rated at PEGI 12+.</p>

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 answers given for option 2 are given by the VSC as PEGI joint administrator. Some VSC members will be making separate submissions on behalf of their own industry.

In many instances the reasons for the answers to questions about option 2 are set out in more detail in the answers to the questions concerning option 1.

This is not a preferred option for PEGI or the VSC as it is even more inappropriate than option 1.

Q16: What are the key flaws with this option and how could it be adapted to overcome them?

Far from satisfying the key elements recommended by the Byron Review Report it may in fact further convince the public (particularly parents) to an even greater extent than option 1 into believing that interactive games are the same as films. This confusion already exists to a limited extent because of the small number of games already being classified by the BBFC. If the BBFC began to classify games at all levels the confusion will be even greater.

All the arguments concerning the inappropriate methodology used by the BBFC as they are set out in the answer to questions 1 and 2 apply equally in this answer to question 16.

In 2007 over 30% of video games given a PEGI 18+ for the rest of Europe were classified at 15 or below for the UK (using film methodology) potentially leaving children less well protected in the UK compared to the rest of Europe. If the BBFC began to classify all games there is no reason to believe that this percentage will change which will result in over 30% of all games being inconsistently rated. The UK will be out of step with the rest of Europe and may be perceived as having a lesser interest in the protection of children and young teenagers. It is believed that parents in the UK do not have less of an interest in the protection of children than parents elsewhere in Europe.

It is forecast that within 5 years the great majority of games will be provided to the public online by way of servers operating from all parts of the globe. To be future proof any age rating system to be utilised in the UK must take this into account as otherwise it will rapidly become redundant. The PEGI system has taken this into account. The BBFC system does not.

PEGI Online was launched in July of 2007 and provides an effective means of ensuring that websites providing online games (playable online and downloadable online) comply with basic standards of responsibility and only make games available that have been properly age rated.

PEGI Online operates across all PEGI territories (presently some 29 countries of Europe) and as such provides games publishers making games available online with a commercially and financially viable system for dealing with online games. A national approach in all or any European country does not provide such a viable approach and will not be voluntarily supported for online games.

The BBFC does not work internationally and games publishers are unlikely submit their online games to the BBFC.

The fact that PEGI Online is international (operating across some 29 countries) lends itself to the development and introduction of filtering software designed to restrict access to all but PEGI Online sites and to further restrict access to games at a pre-set level of age rating. This can only but be to the benefit of consumers (particularly parents wishing to control what their children play and download from the internet). A UK only system of age rating for games will provide no system of regulation for websites making games available and will not lend itself (on any financial or commercial basis) to any viable system of filtering software.

Whatever system is utilised in the UK for the age rating of games made available as physical products in retail outlets PEGI and PEGI Online will be the systems used for games made available online throughout Europe (both playable online and downloadable).

If PEGI is not to be used in the UK as the system for the rating of games made available as physical products in retail outlets then the UK will be out of step with the rest of Europe and UK consumers (particularly parents) will not be familiar with the PEGI rating system that will confront them and their children when they go online to play or download games. They will be left at a distinct disadvantage.

Q17: What are the key advantages with this option and why?

None.

Q18: How do you think this system would work for the following key stakeholders:

(i) the consumer?

Consumers will be confused for the reasons already stated

<p>(ii) the games industry?</p> <p>This option will not have the support of the games industry.</p>
<p>(iii) the retail industry?</p> <p>UK retailers probably will support this option as it provides one system for all games which would be easier to implement in terms of staff training and ensuring that age restricted games are not supplied to persons under the specified ages irrespective of the basis for the rating and whether it is appropriate.</p>
<p>Q19: What suggestions do you have to improve the system for any of the key stakeholders?</p>
<p>Replace it with option 3.</p>
<p>Q20: Do you think this system addresses the evidence on potential harms raised by the Byron review and if not why not?</p>
<p>No. So far as physical products available in the shops are concerned it will confuse consumers (particularly parents) into believing that games are the same as films and the film rating methodology will result in over 30% of games being rated at inappropriate levels leaving children and young teenagers in the UK potentially less well protected than in other countries of Europe.</p> <p>This option will leave UK consumers (particularly parents) 'in the dark' so far as online gaming is concerned as the BBFC system will not be used for the rating of games to be made available online.</p>
<p>Q21: How do you think this system will last into the future?</p>
<p>It will not.</p>
<p>Q22: Do you think this option would work in the online environment?</p>
<p>(i) If so, what would be the benefits?</p> <p>It is unlikely to be used in an online environment.</p>
<p>(ii) If not, what would be the problems and do you have any solutions?</p> <p>BBFC classification of games will have little relevance in an online environment for the reasons already stated. Games publishers are unlikely to use the BBFC for classifying online games.</p>

Q23: Is there any other information that you think Government should take into account when considering the monetary costs of this option?
See answer to question 24.
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?
This question will be dealt with in the submission made on behalf of the games industry.
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
BBFC symbols will be of little relevance to PEGI Online. Games rated for online distribution are not rated on a country specific basis. They are rated for international distribution. The BBFC system is unlikely to be recognised outside the UK. The PEGI system is recognised throughout Europe.
(ii) BBFC.online (separate from the PEGI system)
BBFC Online will be of little relevance to online gaming and is unlikely to be used by games developers/publishers.
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?
In the opinion of the VSC they are unlikely to use it for games made available online. They will be encouraged to make more games available online and discouraged to release some games in the UK as physical products for sale in the shops.
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)
As an increasing percentage of games are 'purchased' online (for playing online or download). UK consumers will be unfamiliar with PEGI and PEGI Online which will be the systems used for online gaming. They will be at a disadvantage compared to consumers in the rest of Europe.
Note: Consumers will also be purchasing physical games for supply by way of mail order from online retailers based throughout Europe which will

carry PEGI ratings.
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)
It will place relatively few burdens on online games developers as they are unlikely to be using the BBFC for rating games to be made available online. It will be confusing to parents (see answer to question 27).
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.
They are unlikely to use it for games made available online. They will be encouraged to make more games available online and discouraged to release some games in the UK as physical products for sale in the shops.

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?
The answers given for option 3 are given by the VSC as PEGI joint administrator. Some VSC members will be making separate submissions on behalf of their own industry.
This is the preferred option for PEGI and the VSC as it is believed it will satisfy all the key elements recommended by the Byron Review Report and the requirements of all the key stakeholders (the consumer, the games industry and the retail industry). It would also be relatively straightforward to implement. Implementation would require statutory changes but to no greater extent than options 1 and 2.
Q31: What are the key flaws with this option and how could it be adapted to overcome them?

As it would satisfy the requirements of all the key stakeholders and the Report of the Byron Review there are no significant flaws to be overcome.

A potential problem was the question of multimedia products (e.g. Blu-ray discs) containing ancillary games but it is believed this issue has been resolved (see answer to Q 43).

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

The use of the separate and distinct PEGI system for the age rating of video games in the UK recognises the important difference between video games and films. Films are linear and watching films is a passive experience. Games are interactive and present the player with an interactive and ever changing experience. A separate and distinct system will ensure that consumers (particularly parents) do not confuse video games with films.

The methodology used under the PEGI system is more appropriate for the age rating of games. It is submitted that the methodology used for the age rating of films is not appropriate for video games and results in a significant percentage of video games being given age ratings below the appropriate level.

The methodology used for films can permit extreme content at lower age levels when justified by context. The methodology used by the PEGI system does not permit this (does not take context into account) as single items of extreme content in games (violence or sexual language) can be seen or heard many times over as a player endeavours to progress through each level of a game. Single items of violence or sexual language in a film will be seen or heard once during a viewing of the film.

In 2007 over 30% of video games given a PEGI 18+ for the rest of Europe were classified at 15 or below for the UK (using film rating methodology) potentially leaving children less well protected in the UK than the rest of Europe.

PEGI is future-proof. Any national system of age rating for games will not be.

It is forecast that within about 5 years the great majority of games will be provided to the public online by way of servers operating from all parts of the globe. Any age rating system to be utilised in the UK must take this into account as otherwise it will rapidly become redundant.

PEGI Online was launched in July of 2007 and provides an effective means of ensuring that websites providing online games (playable online and downloadable online) comply with basic standards of responsibility and

only make games available that have been properly age rated. It also ensures the age rating is displayed at the point of purchase, or play, online which will make it comparable to what the consumer expects when purchasing physical retail products.

PEGI Online operates across all PEGI territories (presently some 29 countries of Europe) and as such provides games publishers making games available online with a commercially and financially viable system for dealing with online games. A national approach in all or any European country does not provide such a viable approach and it is believed will not be used for online games.

The fact that PEGI Online is International (operating across some 29 countries) lends itself to the development and introduction of filtering software designed to restrict access to all but PEGI Online sites and to further restrict access to games at a pre-set level of age rating. This can only but be to the benefit of consumers (particularly parents wishing to control what their children play and download from the internet). A UK only system of age rating for games will provide no system of regulation for websites making games available and will not lend itself (on any financial or commercial basis) to any system of filtering software.

Whatever system is utilised in the UK for the age rating of games made available as physical products in retail outlets PEGI and PEGI Online will be the systems used for games made available online throughout Europe (both playable online and downloadable).

If PEGI is not to be used in the UK as the system for the rating of games made available as physical products in retail outlets then the UK will be out of step with the rest of Europe and UK consumers (particularly parents) will not be familiar with the PEGI rating system that will confront them and their children when they go online to play or download games. They will be at a distinct disadvantage.

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

(i) the consumer?

The PEGI system represents a clear and distinct system for the age rating of games only and does not confuse the public (particularly parents) into believing that games are the same as films (it is acknowledged that enhancement of the PEGI logos will further clarify the system and this point is dealt with in Q 34 below). The methodology used by PEGI ensures that games are given an appropriate age rating and are not given age ratings that the VSC believes are below the appropriate rating defined by

the PEGI system. The UK rating system for films would not achieve either of these objectives.

The PEGI system will familiarise consumers (particularly parents) with the system that will be used for online gaming (both downloadable games and games playable online). It is estimated that within 5 years the large majority of games will only be made available online. If UK consumers are not familiar with the PEGI system this will put them at a distinct disadvantage compared to consumers in the rest of Europe. This cannot be in the best interests of child protection in the UK.

The PEGI system combined with PEGI Online lends itself to the application of filtering software for both console online gaming (Playstation, Xbox 360 and Wii) as well as PC online gaming which will give consumers (particularly parents) the ability to restrict access to properly regulated online sites making PEGI rated games available and the ability to set age restrictions for games that they allow their children to play. A UK national system of age rating will not lend itself to the application of such filtering software and would mean that parents in the UK would be put at a disadvantage compared to parents in the rest of Europe.

A UK national system of age rating will also pose dangers for children and young teenagers playing online games in view of the inappropriate methodology used by the UK film rating system and the lower ratings given under this system. An example of this would be where a game is rated 18+ under the PEGI system but is given a 12 classification by the UK system. In this situation an adult somewhere in Europe could go online to play a game believing that he/she will be playing against another adult. Whilst this may be true for other players in Europe it is likely not be true for a player in the UK who could well be a child. Similarly the UK child or his/her parents would have no way of knowing that the game is only available to adults in Europe.

(ii) the games industry?

The European games industry is already fully supportive of the PEGI and PEGI Online systems and recognise these systems as the way forward for the future as an increasing percentage of games are only made available online.

The major console owners (Sony (Playstation), Microsoft (Xbox 360) and Nintendo (Wii)) do not permit games to be made available on their consoles unless they have been PEGI rated (or rated by another recognised system in the event that they are not PEGI rated). This ensures compliance with PEGI ratings and near universal adoption in the core market segment.

For online gaming (downloadable games and playing online) PEGI and PEGI Online represents the only viable rating system for the future.

(iii) the retail industry?

The UK retail industry will support of this option as it provides one system for all games which would be easier to implement in terms of staff training and ensuring that age restricted games are not supplied to persons under the specified ages.

The VSC Code of Practice and Staff Training Guidelines are already subscribed to by VSC retailer members and members of the Entertainment Retailers Association who represent retailers responsible for over 80% of retail games sales the in the UK. The Code and Guidelines are endorsed by the trading standards authorities and place great emphasis on age restricted products and the need to prevent supply of such products to persons below the specified ages. If PEGI became the mandatory system for the UK the Code and Guidelines could easily be modified to reflect this change as they already currently deal with PEGI on a voluntary basis.

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

There may be greater awareness of the film rating symbols. This is because they have ben used for films for a longer period (since 1985) than the PEGI symbols have been used for games (since 2003). When the film rating symbols are used for games this only serves to convince the public into believing that games are the same as films. For the reasons already stated games are certainly not the same as films. The only similarity is the fact that they are both viewed on a screen.

PEGI must and will take all appropriate steps to increase public awareness of the PEGI symbols for games

PEGI will review its current age rating logos and content descriptors with a view to them having more impact with the public. The use of colour will be considered. Alternatives to the PEGI 3+ logo (meaning suitable for all ages) are already being considered as is the use of English language text in conjunction with the content decriptors.

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

Yes. The launch of PEGI in 2003 was preceded by some two years of pan-European discussion under the chairmanship of the European Union. The sole motive for these discussions and the launch of PEGI was to establish

<p>a system designed to protect children and young persons from unsuitable and potentially harmful material. This protection of minors was and remains the sole objective for PEGI and PEGI Online.</p>
<p>Q36: How do you think this system will last into the future?</p>
<p>PEGI and PEGI Online are future proof. They have been designed to be dynamic and flexible so as to be able to cope with the ever changing games environment. They are supported by the games industry who are the first to know what future developments will be.</p>
<p>Q37: Do you think this option would work in the online environment?</p>
<p>(i) If so, what would be the benefits?</p> <p>PEGI and PEGI Online have been designed to work in the online environment and in this respect represent a unique achievement. Within the foreseeable future the substantial percentage of games will be made available to the public by way of the internet (both for playing online and downloadable online). PEGI and PEGI Online will work in tandem with PEGI age rating the games and PEGI Online regulating the websites making the games available. The internet is global and only an international approach to online gaming will work. In this international environment national rating systems will not be nearly as effective as pan-European system. PEGI will continue to develop close links with other major games rating bodies such as the ESRB (an independent body in the USA).</p>
<p>(ii) If not, what would be the problems and do you have any solutions?</p> <p>Problems that have arisen from the ever developing online environment have and will continue to be addressed and dealt with by the PEGI and PEGI Online systems. Current examples of this are casual games, add-ons and a new issue (episodic content (possibly new material being added on a daily/weekly basis)). As the PEGI systems are flexible and dynamic such issues can be dealt with quickly. This is achieved by setting agreed parameters to deal with such issues. The underlying age ratings are not prejudiced, proper advice and guidance is given and (where necessary) full examination is carried out. This is combined with potentially severe penalties for abuse.</p>
<p>Q38: Is there any other information that you think Government should take into account when considering the monetary costs of this option?</p>
<p>Costs incurred by the VSC in its position as the statutory classifier will be borne by the games industry upon terms to be agreed.</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>

The VSC is already very well placed to take on the role of statutory classifier of video games. It has a wealth of knowledge and experience of rating games over the past 14 years. From 1994 until 2003 it administered the UK only ELSPA system for rating games and under this system over 6000 games were rated. Since 2003 it has jointly administered the PEGI system together with NICAM in Holland since when a further 5000 games have been rated. Since 2004 none of the games rated under the ELSPA and PEGI systems has caused any legal, political or media problem in the UK. Indeed, it is submitted that the VSC has more knowledge and experience in the age rating of games than any other body in the UK or the rest of Europe. This is borne out by the fact that even the BBFC refer enquirers to the VSC for advice concerning the VRA and ancillary matters

In the event that the VSC does take on this role it will examine all games at the 12+, 16+ and 18+ age levels. Games at 3+ and 7+ will be examined by NICAM in Holland. Accordingly all games attracting a mandatory rating (those at 12+ and above) will be examined by a designated UK body.

The criteria and methodology to be used for establishing the ratings at the various age levels will be the PEGI criteria and methodology. For the reasons already stated it is submitted that the PEGI criteria and methodology is more appropriate for games than the criteria and methodology used for films.

The PEGI criteria already take specific account of UK sensitivities and will continue to do so. A particular example of this is the issue of bad and offensive language which is a particularly sensitive issue peculiar for the UK.

In carrying out the examination of games the VSC is fully capable of fulfilling a dual role as PEGI administrator and statutory classifier of games for the UK. In taking on the role of statutory classifier the VSC is fully aware of the additional responsibilities that this will involve.

The ability to decline to classify a game for UK release would be a major responsibility that the VSC would be required to assume (games cannot be banned under the PEGI system).

The VSC is fully competent to identify 'problematic' games that may be considered to cause harm to potential viewers or through their behaviour to society. The VSC is fully conversant with the provisions of the Video Recordings Act (as amended) and the relevant case law in respect of this issue.

In the event that the VSC became the statutory classifier it would establish internal procedures for identifying and dealing with such 'problematic

games' and would also establish an independent Adjudication Committee (made up of a senior media lawyer, a senior media academic and a senior clinical psychologist). Any game being considered by the VSC for effective banning in the UK would be referred to this committee and its advice taken into account before a final decision is made by the VSC. In this manner any decision made by the VSC to decline to classify a game will be less likely to be reversed on appeal.

There will be a procedure whereby a game publisher will have the ability to appeal against any decision to 'ban' a game. The VSC will construct an Appeals Panel of at least 12 people being senior and respected representatives from the legal, teaching, child welfare, literary and social services professions.

An appeal will be heard by an Appeals Committee made up of 7 members of the Appeals Panel. Each Appeals Committee will elect a chair-person from amongst their number and appeals will be heard in accordance with an agreed procedure compliant with all necessary legal and equitable principles.

The VSC will establish a Consultation Committee made up of representatives from child and family welfare organisations, local authority and policing bodies, social services, the teaching profession, government and others having an interest in the work of the VSC as the statutory classifier. It will regularly report to and consult with this Committee with a view to establishing that its work as the UK statutory classifier is being carried out with all due regard to UK views and sensitivities.

The VSC will regularly carry out research into UK public attitudes towards video games and the PEGI age rating system. Again this will be done with a view to establishing that the work of the VSC has all due regard to UK views and sensitivities. To the extent that such research reveals that the PEGI system does not take into account any aspect of UK views and sensitivities the VSC will ensure that any such matters are properly referred to the PEGI Advisory Board (through the UK representative on this Board) for consideration. It is submitted that PEGI has already demonstrated that it is fully able to take into account national sensitivities. Examples are UK language issues and Greek gambling issues.

The VSC will properly fulfil all the reporting responsibilities that it would be required to carry out as the statutory classifier.

In the event that the VSC is chosen to be the statutory classifier it will prepare and present a fully structured plan to demonstrate how it will operate and discharge all its legal and other responsibilities. It will do this after full dialogue with the authorities.

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?
Yes. The VSC is fully competent to do this.
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?
This proposal will be substantially more cost efficient than options 1 and 2. The cost of these options is based upon a separate process to be carried out in addition to the PEGI rating process which will continue for the rest of Europe. The cost of this option will be much smaller by comparison as the only extra items to be paid for will be related to the additional costs of the VSC in fulfilling its autonomous role as the UK classifier.
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]
No, the VSC should rate all games material. The BBFC should classify video material which is not an integral part of a game because the PEGI rating is not appropriate for video.
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?
No, this will not be necessary under the PEGI system (please see below).
(ii) In the event of different age ratings, should only the higher symbol prevail?
Yes, however, PEGI rules prohibit the use of material which either is of a higher rating than the game itself or which promotes/advertises another game or other product (eg. film) which is of a higher rating. Therefore under the PEGI system the PEGI age rating will always be higher than or equal to the BBFC classification and be the appropriate symbol to use.
The VSC has consulted with video distributors through their trade body the British Video Association (BVA). This has identified a concern regarding the rating of multimedia products (e.g. Blu-ray Discs) where the product is primarily a video release but contains ancillary items such as an interactive game which has not been rated under the PEGI system and will not be released as a standalone game. The VSC recommends that in these circumstances the entire product be dealt with as a whole (video plus

ancillary products including the game), treated as a video release and rated by the BBFC who should retain authority to classify games that are ancillary to video. This has the beneficial effect of the rating logo being seen is the one the consumer would expect to accompany the primary material.

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)

It is very important to realise that as and when the large percentage of games are only made available online (by way of download or for playing online) the combination of PEGI and PEGI Online offers developers/publishers located in Japan, the US or indeed anywhere else in the world with the only commercially and financially viable alternative for the regulation and age rating of games for European release.

Games from developers/publishers based in all parts of the world have been rated under the PEGI system for European release since 2003.

If PEGI and PEGI Online did not exist the option of age rating each game to be made available online in the UK and in each of the other 28 PEGI countries would be prohibitive on a financial and commercial basis. Having 29 different national ratings across Europe would be nonsensical. In such event the developers/publishers would take one of three options. They would do nothing and use no age rating system at all. They would devise their own age ratings or use another national system (eg. the US ESRB system).

The fact that PEGI and PEGI Online does exist offers such developers/publishers with a commercially and financially viable means of addressing this issue in a responsible manner.

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?

The answers given to option 4 are given by the VSC in its own right.

This option does not address the key elements of the Byron Review Report. It can in many ways be regarded as a continuation of the situation that has existed since 1994.

In the period 1994 to 2003 the VSC administered the UK only ELSPA system of age rating and since 2003 has jointly administered the PEGI system. During this entire period the VSC has always had a good working relationship with the BBFC and ensured that the small minority of games that have lost exemption have gone to the BBFC for legal classification. Both the VSC and the BBFC have taken legal advice on the dividing line between exempt and non exempt. There has never been any serious disagreement on this subject.

It means that games at the extreme limit (those containing gross violence, sexual content or otherwise have a PEGI 18+ for the rest of Europe) would continue to be referred to the BBFC for legal classification. On a very few occasions it is games in this category that have caused some public and political concern. Such games would continue to be dealt with under the criminal law.

A Code of Practice and Staff Training Guidelines are already subscribed to by VSC retailer members and members of the Entertainment Retailers Association who together represent over 80% of the retail industry for games in the UK. The Code and guidelines place great emphasis on age restricted products, both games and videos/dvds, and the need to prevent supply of such products to persons below the specified ages.

The VSC Code and Guidelines were created by the VSC and have existed since the early nineties. They were compiled with the assistance of the trading standards authorities. Compliance with the Guidelines does provide retailers with the opportunity to take advantage of the 'due diligence' defence to prosecutions in the event that staff have been trained properly but nonetheless an unfortunate mistake has been made.

The availability of the 'due diligence' defence to prosecution under the Video Recordings Act does provide an active incentive for retailers to train their staff properly in regard to not supplying age restricted products to persons under the specified ages. The VSC also supplies retailers with an educational DVD to assist retailers to carry out this training.

<p>The Code and Guidelines require retailers to treat the PEGI system of age rating for games as mandatory.</p> <p>The VSC and ERA will review the existing Code and Guidelines with a view to establishing if any improvements can be made.</p>
<p>Q46: What are the key flaws with this option and how could it be adapted to overcome them?</p>
<p>There are no fundamental flaws with this option. However it would mean that the PEGI 12+ and 16+ would not be mandatory ratings. It would also mean that classifications would continue to be given by the BBFC which would be considered inappropriate by PEGI due to the film rating methodology.</p>
<p>Q47: What are the key advantages with this option and why?</p>
<p>It would maintain the status quo that has existed for the past 14 years with very few (if any) significant problems. It would not require any changes in the law and would 'bridge the gap' between now and the time in the relatively near future when the very large percentage of games will be supplied online.</p>
<p>Q48: How do you think this system would work for the following key stakeholders:</p>
<p>(i) the consumer?</p> <p>As the large majority of games would continue to be rated under the PEGI system this option would continue to familiarise the public with the ratings that they will see when games are provided online only.</p>
<p>(ii) the games industry?</p> <p>The games industry support option 3.</p>
<p>(iii) the retail industry?</p> <p>The retail industry have effectively operated under this option for 14 years.</p>
<p>Q49: What suggestions do you have to improve the system for any of the key stakeholders?</p>
<p>A review of the existing Code and Guidelines.</p>
<p>Q50: Do you think this system is sufficient to reflect the evidence on</p>

potential harms raised by the Byron review and if not why not?
Yes, in general terms. PEGI was launched in 2003 with the sole objective of establishing a system to protect children and young persons from unsuitable and potentially harmful material. It can therefore be said that PEGI has the same objectives as the report of the Byron Review.
Q51: How do you think this system will last into the future?
Yes, to the extent that it has a requirement to do so.
Q52: Do you think this option would work in the online environment?
(i) If so, what would be the benefits?
This option would allow the UK consumers to be exposed to the same pan-European rating system that will be seen in an online environment and when they play with gamers in other countries of Europe. On the whole it would also ensure that this rating will be the same as they see in the shops
(ii) If not, what would be the problems and do you have any solutions?
The only problem area would be those small number of games in the shops having a BBFC classification different from the PEGI rating.
Q53: Is there any other information that you think Government should take into account when considering the monetary costs of this option?
See answer to question 55.
Q54: Do you think industry would sign up to such a code?
To a very great extent they already have signed up to such a code.
Q55: Would this incur any additional costs to industry (games or retail) and can you provide evidence of this?
This option would not incur any additional costs to retailers except for those retailers who are not currently subscribers to the existing code.
Q56: Do you think that this would work in practice on the ground?
Yes. On the basis that it has worked for some 14 years.
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.

This option would not have any affect on developers/publishers based outside the UK.