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20 March 2007

Simon Richardson  
Licensing Guidance Review Team  
Tourism Division  
6<sup>th</sup> Floor  
Department for Culture, Media and Sport  
2-4 Cockspur Street  
London SW1Y 5DH

Dear Mr Richardson,

**Re: Consultation on Revised Guidance made under Section 182 of the Licensing Act 2003**

1. In response to the consultation on the revised Guidance the BBFC has comments with reference to Question 7.

**Question 7: Do you agree that the pools of conditions in Annexes D-H should be:**

**Option 1: Removed from the current Guidance, but consider establishing an alternative central source of good practice advice? Or**

**Option 2: Retained and updated/expanded as necessary.**

2. The BBFC is concerned that both the section on 'Age restrictions – cinemas' in Annex H, and Paragraphs 10.54 and 10.55 in the revised Guidance, list the BBFC's current classification categories. It is not appropriate for these classification categories to be listed in the Guidance because occasionally they are subject to change. For example, in 2002 the new '12A' category replaced the '12' category for film only. This category allows children under 12 to see a '12A' film, provided that they are accompanied throughout by an adult. The decision to introduce this new classification category was only taken after a pilot scheme and research had been conducted to assess public reaction.
3. The BBFC has no plans at present to change the classification categories, but they will be periodically reviewed which could potentially leave the Guidance misleading and out of date.
4. The only exception to this objection to listing the current BBFC classification categories is the reference to Restricted 18 films. This category is a special and legally restricted classification which means that adults can only be shown an R18 film either in specially licensed cinemas or sold the DVD in a licensed sex shop. In view of its legal significance the BBFC supports inclusion of this category in the revised Guidance.
5. A second concern, with reference to Annex H and paragraph 10.54 of the revised Guidance, is that they imply that films classified by both the BBFC and the Licensing Authority would use the BBFC's classification categories. Such a practice would lead to serious consumer confusion. The BBFC bases its film classifications on its formal Guidelines. These Guidelines are the result of extensive research into public opinion and professional advice. The last set of Guidelines was issued in 2005 and followed contributions from over 11,000 members of the public. The Guidelines ensure that the BBFC's classification decisions are transparent and consistent. The general public is aware what the classifications indicate in terms of film content as well as the age restrictions on access. It is therefore extremely important that if a Licensing Authority were

to choose to classify a film, it does not cause any public confusion by using the BBFC classifications despite having a different set of criteria on which to base its decisions.

6. The BBFC therefore supports Option 1 in Question 7 of the consultation. The sections that relate to film classification in Annex H merely repeat the guidance on films in Chapter 10 of the proposed revised Guidance and are therefore redundant. The BBFC would therefore support removing this annex from the Guidance. We would also support a central source of good practice advice where the BBFC could place information on our Guidelines and current categories and the dangers inherent in another body appearing to use BBFC categories despite using different criteria on which to base the classification.
7. However we would also propose amending paragraph 10.54 and by logical extension paragraph 10.55 of the revised Guidance.

8. The BBFC recommends that paragraph 10.54 is amended to state:

*'The British Board of Film Classification classifies films in accordance with its published Guidelines which are based on extensive research into public opinion, and professional advice. The Licensing Authority would have its own categories and criteria on which to base its classification decisions.'*

9. In order to prevent the recommended wording becoming out of date in the event of changes in age restrictive categories, the BBFC further recommends that paragraph 10.55 is amended to state:

*'Against the background of such classifications, a condition might be expressed in the following terms:*

*"Where a programme includes a film with an age restrictive category no person appearing to be under the age specified shall be admitted to any part of the programme; and where a programme includes a film which requires the presence of an adult for persons below a specified age, no person below that specified age shall be admitted unaccompanied by an adult; and the licence holder shall display in a conspicuous position a notice clearly stating these age restrictions and requirements."*

10. We would further recommend an additional paragraph on Restricted 18 category films which would state:

*'The British Board of Film Classification's Restricted 18 category is a special and legally restricted classification primarily for explicit works of consenting sex between adults. A film that has been classified Restricted 18 by the British Board of Film Classification has been passed only for viewing by persons aged 18 years or over who are members of a properly constituted club or their guests aged 18 or over.'*

11. The BBFC welcomes the clarification of the situation over cinema advertisements as spelled out in paragraph 10.52.

12. The BBFC has no further comments on the other consultation questions relating to the revised Guidance, but we would be available to meet with officials to discuss the proposed drafting amendments outlined above.

Yours sincerely,

Sue Clark  
Head of Communications

