

<b>Title:</b> Video Recordings Act exemptions  <b>IA No:</b> DCMS052  <b>Lead department or agency:</b> Department for Culture, Media and Sport  <b>Other departments or agencies:</b> Department for Education	<b>Impact Assessment (IA)</b>
	<b>Date:</b> 06/11/2012
	<b>Stage:</b> FINAL
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Secondary Legislation
<b>Contact for enquiries:</b> Eleanor Hodge, DCMS Tel: 0207 211 6429	

<b>Summary: Intervention and Options</b>	<b>RPC:</b>
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
-£2.9m	-£2.9m	£0.3m	Yes   IN

**What is the problem under consideration? Why is government intervention necessary?**

The Video Recordings Act governs the circumstances under which DVDs and other hard copy video works must be submitted to the British Board of Film Classification for classification (age rating). Under the Act some types of work are exempt from age rating unless they include adult-type matters like sex, gross violence or criminal behaviour. In response to concerns raised about music and sports videos in particular, Government consulted on the appropriateness of the current exemptions. A review of the exemption for music videos was a specific recommendation of the independent Bailey Review of the Commercialisation and Sexualisation of Children in 2011.

**What are the policy objectives and the intended effects?**

The broad policy aim is to ensure children are protected from exposure to inappropriate content in hard copy video works (DVDs, Blu-ray, VHS etc). Government's planned changes to the Video Recordings Act will ensure the UK has in place a classification system for all video works that is meaningful, effective and proportionate and provides the appropriate levels of child protection, including ensuring that parents and consumers have access to the information they need when making decisions about a product's suitability for their children.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Following consultation we intend to lower the existing thresholds for exemption so that more music, sports, religious and educational products are classified but those likely to be suitable for viewing by younger audiences remain exempt. We compare this to the do nothing option (leaving the current exemptions in place and untouched). In the consultation we also looked in detail at other options namely, completely removing the existing exemptions for the specified categories entirely and a self regulatory "parental advisory" labelling system for some or all categories of currently exempt works, modelled on the existing Parental Advisory Service (PAS) system offered for music video by the British Phonographic Industry (BPI). The alternative options were rejected because in the Government's view – supported by the overwhelming majority of the responses to the consultation – they did not meet our aims of improving protection for children from harmful content with a proportionate impact on businesses.

<b>Will the policy be reviewed? It will be reviewed. If applicable, set review date: -</b>					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	<b>Micro Yes</b>	< 20 Yes	<b>Small Yes</b>	<b>Medium Yes</b>	<b>Large Yes</b>
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded: N/A</b>		<b>Non-traded: N/A</b>

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister: \_\_\_\_\_ **Ed Vaizey** \_\_\_\_\_ Date: 26/6/14

# Summary: Analysis & Evidence

# Do nothing option

Description: Leave the current system unchanged. This is the baseline for appraisal, and therefore no impacts have been estimated.

Price Base Year 2009	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -	High: -	Best Estimate:
<b>COSTS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Cost</b> (Present Value)
Low					
High					
Best Estimate					
Description and scale of key monetised costs by 'main affected groups'					
Other key non-monetised costs by 'main affected groups'					
<b>BENEFITS (£m)</b>	<b>Total Transition</b> (Constant Price) Years		<b>Average Annual</b> (excl. Transition) (Constant Price)		<b>Total Benefit</b> (Present Value)
Low					
High					
Best Estimate	0		0		0
Description and scale of key monetised benefits by 'main affected groups'					
Other key non-monetised benefits by 'main affected groups'					
Key assumptions/sensitivities/risks					Discount rate (%)

## BUSINESS ASSESSMENT (Do nothing option)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs:	Benefits:	Net:		

# Summary: Analysis & Evidence

# Preferred option

Description: Lower the existing thresholds for classification exemption so that more products are classified but those products likely to be suitable for general audiences remain exempt

Price Base Year 2009	PV Base Year 2013	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low:	High:	Best Estimate: 2.9

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate	0	0.4	2.9

### Description and scale of key monetised costs by 'main affected groups'

Lowering the existing threshold for exemptions for music, sports, religious and educational/instructional titles would lead to costs for industry from BBFC classification charges. Total additional classification fees and administrative burdens are estimated to be around £0.4m per year, with a net present value of approximately £2.9m over ten years. Costs incurred by BBFC to undertake classifications are expected to be fully offset by the fees charged to industry.

### Other key non-monetised costs by 'main affected groups'

If lowering the threshold for exemptions leads to some previously unclassified products becoming age restricted then it is possible that this will affect sales of those products. The size of any such effect is highly uncertain and so cannot be robustly monetised. This cost is indirect and is therefore out of scope of One-in, One-out.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate	0	0	0

### Description and scale of key monetised benefits by 'main affected groups'

No benefits monetised.

### Other key non-monetised benefits by 'main affected groups'

Lowering the existing threshold for exemptions would prevent the direct supply of these products to children, and ensure protection for a vulnerable group in society. It would also avoid the administrative burden of BBFC classification for products likely to be suitable for all audiences.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

The number of titles that are currently exempt is based on data from BVA and BPI, but is not known with certainty. It is uncertain how many of these titles would be affected by lowering the threshold. It has been necessary to draw on evidence from the video games sector, but this is an imperfect comparator because of differences between the two markets. It is assumed that the number of titles affected stays constant over the appraisal period.

## BUSINESS ASSESSMENT (Preferred option)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: 0.3	Benefits: 0	Net: 0.3	Yes	IN

# Evidence Base

## A. PROBLEM UNDER CONSIDERATION

1. The UK's Video Recordings Act 1984 governs the supply of DVD, Blu-ray discs and some other hard copy video works in the UK. Under the Act, certain video works must be referred to the British Board of Film Classification (BBFC) which reviews the content and awards classifications based on age-suitability (eg 'U', 'PG', '12', '15', '18' or 'R18'). If a video work is awarded a BBFC age rating, the video work and its packaging must carry the appropriate BBFC labelling in order to be supplied (ie. sold or rented) in the UK. Anyone convicted of supplying a BBFC-rated video work to someone not meeting the age requirement faces a fine or jail term.
2. The Act however currently offers exemption from age classification for certain categories of video work provided they do not feature to a significant extent content which includes matter like sex, gross violence or criminal behaviour. The exemption applies to video works that are concerned with:
  - Music
  - Sport
  - Religion
  - Education or instruction (which is generally interpreted to include documentaries)
3. It is the responsibility of a product's distributor to determine whether or not it is exempt from age classification under the Video Recordings Act and, if it is not exempt, submit it to the BBFC for age classification and then apply the appropriate age symbol to the packaging. Retailers must also ensure that products they offer for sale are properly classified and labelled and that they adhere to any statutory age restrictions at point of sale. Enforcement of the regulatory regime is carried out by Trading Standards. Looking at Video Recordings Act prosecution figures for the 10 year period from 1998 – 2007 (the latest available), numbers of convictions ranged from 336 in 2000 to 164 in 2006.
4. The Video Recordings Act also covers video games. Following the Byron Review and subsequent consultation, Government has recently brought into force a new regulatory regime for video games so that any video games that are only suitable for viewing by persons aged 12 and above are rated by the PEGI system via the Video Standards Council (which is being designated the Video Games Rating Authority).
5. The current exemptions for specific filmed content have been in place and unchanged since the Video Recordings Act was first passed back in 1984 giving rise to the question of whether they remain justifiable following the market, product and cultural changes seen in the intervening period. Particular concerns have been expressed about the impact on young people of music videos, most recently in the independent Bailey Review of the Commercialisation and Sexualisation of Childhood in 2011 which recommended that an urgent public review be carried out on whether allowing some music videos to be placed on sale without an age rating or certificate is appropriate.
6. The BBFC does not have data breaking down the specific number of music, sports, religious or educational video works that currently are being age rated each year because they have lost their classification exemption due to content depicting gross violence or human sexual activity. However, analysis by the British Video Association (BVA) and data services company West 10 of products sold through mainstream retail suggests that relatively few DVD and Blu-ray discs in these categories are currently classified. For music video specifically, the music producers trade body the British Phonographic Institute (BPI) agrees that the number of products currently being classified is likely to be negligible. A look at the DVD top seller charts for 2011 would support this: of the top 10 music DVDs all would be exempt. Three works in fact carried BBFC 'PG', 'U' and '12' ratings but these were films (Justin Bieber, Never Say Never, Michael Jackson This is It and George Harrison Living in the Material World) which we assume had been classified originally for a cinema release.

7. A similar story appears with sports, religious and educational videos. We know for example that all products in the Sports top 10 best seller charts in 2011 claimed exemption.
8. Video works made available online – via downloadable or Video On Demand content – are outside the scope of the Video Recordings Act. The consultation noted that it is likely young people are increasingly accessing content online rather than in packaged media. Voluntary classification and labelling schemes are available for online content. For example, wherever the BBFC issues a certificate for the physical copy of an offline video work, it then makes this classification available for the producer/distributor to apply when it is made available online. Since July this year the BBFC has made no additional charge for this. Additionally, the BBFC has a chargeable “Watch and Rate” service which allows those offering content via online release only to voluntarily apply for a BBFC age classification. To date the BBFC has age classified over 200,000 individual items for online distribution and a number of online platforms carry the age ratings, including Talk Talk, BlinkBox and Netflix. Whilst these online age classifications have no legal backing, feedback from consumers, particularly parents, suggest they find them helpful.
9. Other tools are available to help parents manage children’s access to online content. DCMS, Department for Education, the Home Office, industry and children’s charities work together through the UK Council for Child Internet Safety to consider how best to keep children safe on the internet. For example, four major ISPs have signed a code of practice which ensures that new customers are offered the option to switch on filters and other parental controls and ISPs are increasingly rolling this out to existing customers.

## B: RATIONALE FOR INTERVENTION

10. In carrying out the public consultation on the Video Recordings Act exemptions the primary concern was to determine whether these exemptions - or a different approach - offer the best framework in terms of :
  - Compliance for product producers and retailers
  - Protecting children from exposure to inappropriate content
  - Promoting consumer confidence, ensuring they are able to make informed decisions about video purchases and their suitability, particularly when they are acquiring products that may be watched by children
11. The Government’s preferred position in its consultation on this matter was to lower the exemptions thresholds in the Video Recordings Act via secondary legislation so that more products are classified. However, the consultation sought views and evidence on the full range of possible options, to assist with arriving at the best possible solution to meeting the policy aims.

## C: OPTIONS CONSIDERED

12. The consultation discussed 4 potential options as follows:
  - a) **Do nothing:** keep the existing classification exemptions for music, sports, educational/instructional and religious video works exactly as they are
  - b) **Remove the exemptions** so that in future music, sport, educational and religious video works must be subject to statutory classification by the BBFC. This option would require primary legislation.
  - c) **Lower the existing statutory thresholds for exemption for music, sport and educational and religious videos** so that more such products are classified by the BBFC but those likely to be suitable for viewing by younger audiences remain exempt. This would require secondary legislation
  - d) **Ask other parts of the video industry to introduce a self-regulatory ‘parental advisory’** labelling system for currently exempt products, similar to the Parental Advisory Service (PAS) scheme put in place by the BPI for audio works and recently introduced on a voluntary basis for music videos available online

13. As Government has only recently publicly consulted on the age rating provisions for video games in the Video Recordings Act and subsequently brought into force a new regulatory regime for these products, we did not actively seek views on the exemption in place for video games suitable for the under-12s. However the consultation allowed respondents to offer views and evidence on any possible options as they wish.

## **D: SUMMARY OF RESPONSES TO THE CONSULTATION**

14. Twenty three organisations, one business and three individuals responded to the consultation with views on the exemptions to the VRA. In several cases organisations made joint submissions. The submissions covered a spectrum of interests including industry, consumers, parents, regulators and enforcement agencies. Of the views received:

- one respondent (an individual) said the current system should be left unchanged
- four respondents (three organisations and one individual preferred removing the exemptions entirely, although one of these organisations said that they would also accept the option of lowering the threshold
- nineteen respondents (eighteen organisations and one individual) said that lowering the threshold for exemption was their preferred option
- three respondents (two organisations and one business) discussed the exemptions without explicitly confirming a preferred option

15. Organisations supporting this option included those representing the main industry groups that will be affected (the British Video Association, the BPI, the Entertainment Retail Association), the ratings bodies (BBFC and VSC), enforcement agencies (the Trading Standards Institute) and several third sector organisation including the NSPCC, Family Education Trust and Family and Parenting Institute). Most regarded the full removal of the exemptions as a disproportionate response to the problems we are trying to resolve. It was felt that the vast majority of works in the exempt categories do not contain content that is unsuitable for children and it would be an unnecessary new financial and administrative burden on businesses to require them to send products to the BBFC effectively simply to obtain confirmation that these could be safely made available to anyone. The possibility of voluntary “parental advisory” scheme for products in the exempt genres was not favoured by any of the responses – it was believed to offer insufficient protection for children and industry did not necessarily welcome the task of creating and maintaining such a scheme.

16. Although it is outside the scope of the Video Recordings Act, many responses to the consultation showed concerns about children’s access to content made available online and called for wider adoption of the voluntary age ratings schemes available for online content, to complement the statutory age ratings applied to content in the offline world. Government welcomes the fact that increasing numbers of digital distributors and content producers are signing up to voluntary systems such as BBFC Online or are offering their own content labels but believes more can be done. Government plans to work with key industry players and influencers to encourage a more consistent approach to online age ratings and labels.

17. Thus the majority of the responses support the Government’s proposal to lower the exemption threshold, regarding this as an effective way to greatly improve child protection whilst presenting a proportionate impact on industry, and this proposals remains the preferred option at the final policy stage.

## **D: COSTS AND BENEFITS**

### **Size of the video industry**

18. In order to assess the costs and benefits of the preferred option, it is necessary to understand the size of the video industry that will be affected by the proposal.

19. In its well-established annual Yearbook the British Video Association (BVA) publishes detailed data from database services company, West10, showing video works sales made through

mainstream retail in the UK. This is the best available data and thus we use it for the basis of this impact assessment. However, we are mindful that it is unlikely to represent 100% of the UK market and some DVD and Blu-ray disc releases and sales in the UK may currently simply be unidentified. These for example might relate to small or micro-businesses which could be dealing in speciality genres, and imports for niche or culturally-specific consumer demand in the UK.

**The BVA's assessment of the entertainment video market in 2011 is :**

By Volume			By Value		
Physical Retail	207.2m	56.2%	Physical Retail	£1,749.m	75.8%
Physical Rental	96.1m	26.1%	Physical Rental	£274.4m	11.9%
Digital Retail	14.2m	3.8%	Digital Retail	£96.0m	4.2%
Digital Rental	51.5m	13.9%	Digital Rental	88.9m	8.2%
<b>Total volume</b>	<b>369.0m</b>	<b>100.0%</b>	<b>Total value</b>	<b>£2,308.5m</b>	<b>100.0%</b>

Source: BVA/West 10

20. The BVA's analysis for 2011 shows that 12.4% of the value of the market related to the sale or rental of video works via digital download and this percentage is growing year on year. However, this section of the market is out of scope of the consultation as the Video Recordings Act applies only to hard copy recordings.
21. The BVA estimates that a total of 7999 DVD and Blu-ray discs titles were released for distribution through mainstream retail in the UK in 2011. The genre breakdown in terms of sales and number of releases is below.

**Unit sales (of DVDs and Blu-ray discs) across all genres in 2011 by value**

Film	TV	Music	Sport	Children's	Special interest	Total
£133.0m	£29.1m	£4.1m	£2.8m	£32.0m	£6.3m	<b>£207.2m</b>
64.0%	14.0%	2.0%	1.5%	15.5%	3.0%	<b>100.0%</b>

Source: BVA/West10

**Number of DVDs and Blu-ray disc releases in 2011**

Film	TV	Music	Sports	Childrens	Special interest <sup>1</sup>	Total
3,460	912	1,300	571	695	1061	<b>7,999</b>
43.3%	11.4%	16.3%	7.1%	8.7%	13.3%	<b>100.0%</b>

Source: BVA/West 10

22. BPI specific research on the music market offers an estimate of 1481 music videos released in physical copy in the UK in 2011. For this impact assessment we are using the BVA figure for music videos, simply for consistency across the piece and to minimise any potential for double-counting.
23. Of the 1,300 music-themed DVD and Blu-ray disc releases identified by BVA/West 10 in 2011, they believe **1,269** claimed exemption under the current regime.
24. Of the 571 sports-themed DVD and Blu-ray disc releases, BVA/West 10 believe **483** claimed exemption.
25. Religious and educational/instructional (including documentary) releases are found mostly in BVA/West 10's "specialist interest" category though a small number are also found in "children's", "film" and "television" as follows:

<sup>1</sup> The BVA's "special interest" figures covers Live Comedy releases and other releases not counted in other categories. It therefore includes a wide range of educational/instructional (including documentary) and religious products

## Number of religious or educational DVDs and Blu-ray disc releases in 2011

Religious or educational DVD and Blu-ray disc releases in 2011 <sup>2</sup>						
Film	TV	Music	Sports	Childrens	Special interest	Total
192	26	0	0	91	984	<b>1,293</b>
14.8%	2.0%	0.0%	0.0%	7.0%	76.1%	<b>100.0%</b>

Source: BVA/West10

26. From this we can see that 1,293 religious and educational (including documentary) titles were released in 2011 according to BVA/West 10's analysis. Of these they believe **1,112** were exempt from classification.
27. Any changes to the current exemptions will impact primarily on video publishers, mostly in terms of the costs of classification though there will also be costs of package labelling and possible impact on sales of new age restrictions. Industry suggests also that should changes be made that introduce statutory age ratings to some products for the first time, individual producers could decide not to put some specific products on the UK market i.e. they will either not publish them at all or offer them only online. This is a possibility though industry cannot currently estimate how many products might be affected or the size of potential revenue losses.

### **BBFC charges for classification**

28. For each submission the BBFC charges a £75 administration fee plus £6 per minute of content. The BBFC advised that the average duration of hard copy video works submitted to them for classification in 2011 was 66.4 minutes. Thus an estimate for the average costs to producers of submitting a work for classification is: **£473.40**.
29. The consultation responses suggested that there might also be some **administrative costs** incurred by producers in carrying out a requirement to submit products to the BBFC – ie. in terms of costs of preparing a submission or in time delays created by waiting for the classification decision to be made. Whilst the administrative costs of preparing a single submission to the BBFC were not available, the BVA helpfully provided an indication of the kind of costs incurred by some of their members who are currently routinely submitting works to the BBFC for classification. They suggest that the cost of employing a full time member of staff for such work is on average £30,000 per annum. Additional costs incurred (creating DVDRs, setting up and managing an account at the BBFC etc) would total around £10,000 per annum. However, the number of submissions currently being made by an individual members varies considerably – for example, a large tv distributor currently makes around 1,000 submissions per annum, mainly for tv programmes, trailers, commentaries and value added material whereas a Hollywood size distributor is currently making around 200 submissions (for feature length films). While the submission from the BVA stated explicitly that they felt unable to provide a reliable estimate of unit costs for this reason, these figures have been used to estimate an indicative cost per unit, so that these additional administrative costs to business are recognised in the One-in, One-out estimate. Taking the £40,000 annual costs and dividing by 1,000 units gives an indicative cost of £40 per unit. Adding this to the fee estimate made in paragraph 28 gives a total unit cost to business of **£513.40**. These costs are all classified as direct, since they are an unavoidable implication of the change in legislation.

### **Costs of the do nothing option (keep current exemptions):**

30. Keeping the current exemptions will not introduce any new costs or benefits. The large majority of music, sports, religious and educational/instructional videos would continue to be exempt from classification.

### **Costs of the preferred option (lower the existing statutory thresholds for exemption):**

31. To model the preferred option it is necessary to understand the threshold at which exemptions will have to conform under the new legislation. The basis for this set out in the consultation was the new threshold that has been set for the new regulatory regime Government is implementing

<sup>2</sup> Does not include music tuition DVDs/Blu-rays discs which are already counted in the "music" category



for video games. Legislative changes in section 2 (2) of the Video Recordings Act mean that products depicting, for example, swearing, words or images intended to convey a sexual message or activities involving drug abuse will in future have to be classified but products suitable for younger audiences will continue to be exempt. In effect it will mean that video games rated 12 and above are within scope of the Video Recordings Act and anything below is exempt from classification. This is used again at final stage as the basis for appraisal.

32. For video games, an estimated 23% of games released are rated suitable for 12 years by PEGI and thus will be brought into the statutory classification regime for the first time. However, 54 % of products (those rated PEGI 3 and 7) would remain exempt from statutory classification<sup>3</sup>.
33. It is not possible to say with any certainty what proportion of video works would be brought within classification thresholds as a result of this option as insufficient data is available, and no useful additional information was gathered during the consultation. The percentage of games brought into the statutory classification regime for the first time can be used to give an indication of the possible costs. However, this is not an ideal proxy as the products and markets are possibly very different (for example a far higher proportion of video games were already classified than is currently the case for the video genres in question for this policy). Unfortunately, no supplementary information was obtained during the consultation to improve the robustness of this assumption, and we continue to apply the impact on video games across music, sports and special interest video works. This implies the following costs:
- Music: 299 (23% of 1,300) X £513.40 = £153,507
  - Sports: 131 (23% of 571) X £513.40 = £67,255
  - Special interest: 297 (23% of 1,293 ) x £513.40 = £152,480
34. Total additional classification fees would therefore be in the region of £0.4 million per year. Over ten years the cost of the preferred option has a present value of approximately £2.9 million. No other impact are quantified in the impact assessment (see explanations below), and so this figure represents the net present value of the preferred option.
35. We should note, as mentioned previously, that the figures made available by the BVA and BPI used here, whilst extremely helpful, are unlikely to include 100% of the products placed on the UK market. It is also worth noting again that the special interest category statistics are likely to include works that are out of scope of the religious or educational category included in this proposal. No additional information was obtained at consultation to fill these evidence gap. The impact on business calculation is therefore based on the best available information, and is prudent.
36. Under the new regulatory regime Government is in the process of implementing for video games, it is possible there are games that would be expected to be rated 12 by PEGI but in fact could still be able to claim exemption because they are primarily about music, sports, religion or education. Publishers could lose the potential to claim such an exemption under the preferred option. However, on currently available data it is impossible to estimate how many video games products could possibly be relevant here, if any. Also it's worth noting that, in practice, publishers of boxed video games voluntarily refer all of their products for PEGI classification (retailers generally will not carry boxed video games that have not been PEGI rated) so may not claim the exemption even where it is available.

### **Other costs:**

37. The preferred option could imply some costs to business should the BBFC require cuts to be made to a product in order for it to be classifiable. Such occurrences are rare however – for example, in 2011 of the 2327 video works that were 15-rated by the BBFC, only 11 were subject to cuts. It was even lower for 12- age rated works where 2 out of 2250 were cut. No information was obtained in the consultation to monetise the size of this impact. This cost is indirect, because it would be a business decision to alter the content of the recording, rather than a requirement of legislation. It is therefore out of scope of the One-in, One-out business calculation.

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<sup>3</sup> Figures on classifications based on Video Standard Council's analysis of the 2206 games submitted for PEGI age rating in 2011

38. The preferred option would imply the need to change the way in which products are labelled for the UK market. This may suggest additional costs should any producers find for the first time they are unable to have one packaging design they can use across the whole of Region 2 (i.e. the European territory). No information was received in the consultation to assess the size or monetary impact of this effect. It is therefore left unquantified.
39. Whilst DVD/Blu-ray publishers would be the group most affected by any changes to the Video Recordings Act exemptions, others impacted might include:
- **Retailers:** mainstream retailers are already fully configured to deal with age-restricted products. Sales assistants will need to learn any changes to the current exemptions but this may be absorbed as part of existing ongoing training requirement (typically staff are required by their employers to undergo training and reassessment every 3 months as a minimum). If exemptions are removed and age restrictions to some previously-unclassified works, it seems reasonable to assume that some retailers could see an impact on sales. At the same time, improved consumer confidence from a clearer classification system could see a strengthening of demand. However, the net direction and scale of any such effects is uncertain and, with no additional information accruing from the consultation, cannot be quantified. These business impacts would result from second round outcomes in altered consumer behaviour. They are therefore indirect in nature, and out of scope of One-in, One-out.
  - **Classification bodies:** the BBFC already classifies video works as defined in the Video Recordings Act. This includes all feature films and tv programmes released in physical form and also those music, sports, educational/instructional and religious video works that have lost their exemption because they depict to a significant extent gross violence, human sexual content or scenes likely to show techniques useful in committing a crime. The preferred option would potentially impact on the BBFC in terms of their remit and their classification caseload. The BBFC is a not-for-profit organisation and the options would be cost neutral - resources needed to deal with the larger number of submissions that the organisation received would be wholly covered by the classification fees charged.
  - **Implications for enforcement:** The consultation looks at possible amendments to existing regulation. Enforcement of the Video Recordings Act and the Video Recordings Labelling Regulations is by Trading Standards Officers who already carry out checks on sales of age-restricted products to ensure that DVDs/Blu-ray offered for sale are appropriately classified and labelled. Responses to the consultation from enforcement agency representations confirmed that the proposed option would not have a significant impact on them. However, it is possible that any changes made to the Video Recordings Act exemptions might imply, for example, training needs for Trading Standards Officers in order for them to learn the new arrangements.

## E: RISKS AND ASSUMPTIONS

40. The number of titles in each genre is not known with complete certainty. As discussed, the data for the number of videos from BPI and BVA may not include all products on the UK market. The number of titles that would no longer have exemption from lowering the threshold is uncertain. It has been necessary to draw on evidence from the video games sector, but this is an imperfect comparator as the markets are not the same.
41. For net present value calculations the number of titles affected is assumed to remain constant over time. However, in reality there is likely to be some fluctuation in individual years. The number of titles affected is increasingly uncertain in later years. Whilst there has been no obvious trend in unit sales in recent years, it is possible that the number of titles affected may fall going forward as consumers move to more digital rather than boxed purchases, especially in the longer-term. Policy implementation is assumed to be in 2013.

## **F: WIDER IMPACTS**

### **Benefits**

42. The preferred option would result in more products carrying advice for consumers about the suitability of the content for children, and offer increased protection for a vulnerable group in society. The preferred option would therefore help prevent the direct supply of these products to children, whilst avoiding the administrative burden of BBFC classification for products likely to be suitable for all audiences. The size and monetary value of this impact is extremely difficult to assess reliably, and investment in an improved evidence base would be disproportionate to the size of the policy intervention. Therefore, no monetised benefits have been recognised in the impact assessment. These are social benefits, and are therefore out of scope of the One-in, One-out business assessment.

### **Competition Assessment and Small Firms Impact Test**

43. None of the options are expected to have a substantive impact on competition. If some small firms specialise in production of music, sport, religious or educational titles then these firms will incur BBFC classification fees as outlined above. In their response to the consultation, the BVA suggested that this could result in some producers deciding to forgo a DVD release altogether and publish the video content only online. However such an impact is likely to be relatively small and to be viewed in the context of the continuing trend of making content available online rather than releasing via packaged media.

### **Micro Organisations**

44. Micro organisations are within scope as any video works classification requirements are designed to provide protection for consumers, and particularly children, so exempting any organisations could potentially undermine this protection. On the limited data currently available we have been unable to assess accurately the extent to which any micro-businesses might be affected by options discussed. The consultation document specifically requested evidence from respondents to allow a robust analysis of any micro-business impacts. Whilst several responses agreed that micro-businesses were likely to be impacted and these could include video producers/distributors and retailers, very little data was offered. The BPI was able to provide helpful figures from its own membership : of its 350 producers/distributors who are BPI members, some two thirds are micro-businesses.

### **Direct costs and benefits to business calculations (following OIOO methodology)**

45. Under the planned regulatory changes only those products that are affected by the lowered threshold will be subject to classification. Only the direct costs associated with the BBFC fee and administrative processing of applications are in scope of the One-In, One-Out methodology. This measure qualifies as IN, with an Equivalent Annual Net Cost to Business (EANCB) of £0.3m.

### **Statutory Equality Impact Tests**

46. We have also considered the potential effects of the proposal on protected groups under the Equality Act 2010. Again, after initial screening it has been deemed that no significant impact is anticipated.

### **Other specific impact tests**

47. Other specific impact tests have been considered including Legal Aid, Sustainable Development, Carbon Assessment, Other Environment, and Rural Proofing. After initial screening it has been deemed that no significant impact is anticipated in any case.

## **G: IMPLEMENTATION PLAN**

48. The public consultation on Video Recordings Act exemptions was launched in Spring 2012, run jointly with a consultation on the future regulation of cinema advertising. The two topics have

some read across in terms of policy aims and have several stakeholders in common. The consultation was open for 12 weeks. Taking forward the plan to lower the threshold for exemption under the VRA can be dealt with by secondary legislation – Government would expect to publish draft legislation in early Spring 2012 and then, subject to notification to the EC under the Technical Standards Directive, would introduce the legislation into Parliament in autumn 2012. It is estimated the legislative changes would be brought into force in April 2014. We would expect to fully review the policy 3 years after implementation.