

**Empirical Study on the Practice of the Rating of Films Distributed in  
Cinemas Television DVD and Videocassettes in the EU and EEA Member  
States**

**Prepared on behalf of the European Commission**

**Final Report**

**May 2003**

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**and**

**KEA European Affairs**

**in association with**

**KPMG**

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The cut-off for information in this report is the end of 2002.

# 1. Executive Summary

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## 1.1 Introduction

Olsberg|SPI (“SPI”) and KEA European Affairs (“KEA”), in association with KPMG, (referred to herein as “the Consultants”) have been retained by the European Commission (“EC”)<sup>1</sup> to investigate ratings legislation and practice with respect to audiovisual works across the European Union (“EU”) and European Economic Area (“EEA”) Member States<sup>2</sup>. Ratings, which are set by various bodies and agencies throughout Europe, both government and industry, tend to be different between states and within states across different media and modes of distribution. The main aims of the assignment are:

1. To identify the economic impact of this ratings heterogeneity, and
2. To uncover any confusion that it may cause, particularly in parents, teachers, or others responsible for minors.

The brief from the EC (“the Brief”) asks the Consultants to:

- define two representative Samples of 50 films each
- establish the individual ratings for each film in each territory across each distribution channel
- draw conclusions on the impact of ratings heterogeneity on the distribution costs of films, circulation within the internal market, and confusion in the market
- provide an overview of existing legislation and practice
- examine attempts to harmonise ratings legislation within EU and EEA Member States and the possible need for co-ordination, with special regard to self-regulation.

The assessment of the two Samples is to provide a practical illustration of how the different ratings systems affect the distribution of cinematic works across all media channels (cinema, video/DVD, and television) throughout the EU and EEA. The Samples allow different systems to be compared across and within territories.

## 1.2 The Consultants’ Process

### 1.2.1 *Selection of the Feature Film Samples*

The Consultants were charged with the task of determining two representative Samples consisting of 50 films each.

- The first Sample was to consist of European and non-European in origin feature films (referred to in the document as the “Global Sample”), distributed in all EU and EEA Member States.
- The second Sample was to consist of feature films purely European in origin (referred to in the document as the “European Sample”), distributed in the majority of EU and EEA Member States.

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<sup>1</sup> A glossary, which can be found at the end of this document, includes definitions of all the terms used herein.

<sup>2</sup> 15 EU Member States (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the UK) and three EEA Member States (Iceland, Liechtenstein, Norway) – 18 Member States altogether. However, as no information pertaining to feature films, rating practice and legislation was available for Liechtenstein, this report will refer only to those 17 Member States for which the Consultants gathered information.

In the event, there were so few films distributed in all EU and EEA Member States that, with the agreement of the EC, the definition of Global Sample was relaxed to include the greater majority of EU and EEA Member States.

The films were to have been distributed throughout the EU and EEA Member States via cinema, on television, on video and DVD and some of the films were also to have an affiliated video game and/or Internet page.

The Consultants deemed it prudent to expand the originally stipulated number of films to be contained in each of the two Samples from 50 to 60 should any problems with certain films be identified. In the event, the Consultants did not need to exclude any of the 60 films in either of the Samples and therefore all 120 were analysed.

### 1.2.2 Consultation Process

Throughout the study the Consultants conducted an extensive programme of consultation with different industry and non-industry professionals. A list of consultees is contained in Appendix 4.

### 1.2.3 Analysing the Heterogeneity of Ratings

As an essential first step in analysing the effect of the heterogeneity of ratings, the Consultants reviewed the nature of that heterogeneity itself. First, the Consultants observed the heterogeneity between *countries* and between *media* and distribution channels as pointed out in the Brief itself. Secondly, when looking at the ratings legislation and practice, the Consultants noted further heterogeneity of rating *systems* in different countries and media, as well as heterogeneity of *standards* imposed through those systems.

The Consultants defined *systems* to mean the technical devices (i.e. number and level of age categories, the way ratings are signalled and nature of legal status) adopted by the countries and media and *standards* to mean the principles underlying the implementation of the systems.

### 1.2.4 Analysing Comparative Rating

In order to analyse the heterogeneity of ratings the Consultants developed a comparative rating scheme, which would facilitate the examination of the heterogeneity of ratings systems and standards between countries. The comparative rating as explained in the chart below, was used to analyse the rating heterogeneity of the two Samples of films and also aided the analysis of the rating practices adopted in each of the 17 territories<sup>3</sup>. The comparative rating scheme was used as an analytical tool for the econometric analysis as detailed in Section 4.

**Fig. 1a**

Comparative rating				
0	1	2	3	4
Universal	No young children (under 7 years)	No children (under 13 years)	No young teenagers (under 16)	Adults: the highest rating.

<sup>3</sup> That is, all the EU territories excluding Liechtenstein.

### 1.2.1 The Three Economic Impacts

The Consultants clarified with the EC the meaning of the term ‘economic impact’ as costs associated with the rating process rather than revenue implications. The Consultants identified three theoretical types of economic costs associated with the heterogeneity of ratings:

- Administrative costs – Each territory has its own application, submission and viewing costs, and such costs may be increased for certain countries that require re-application for different media. This type of cost includes both direct costs, such as the costs of applying for a rating, as well as indirect costs, such as the time spent managing the rating application process.
- Standard costs – costs incurred due to the different national rating standards that exist in each of the territories, apart from the existence of different systems. An example is costs incurred by a distributor to reversion a work in order to obtain the same rating as obtained in another territory, due to the different standards in the different territories.
- Opportunity costs – lost revenues, which would otherwise be obtained were it not for the heterogeneity of ratings.

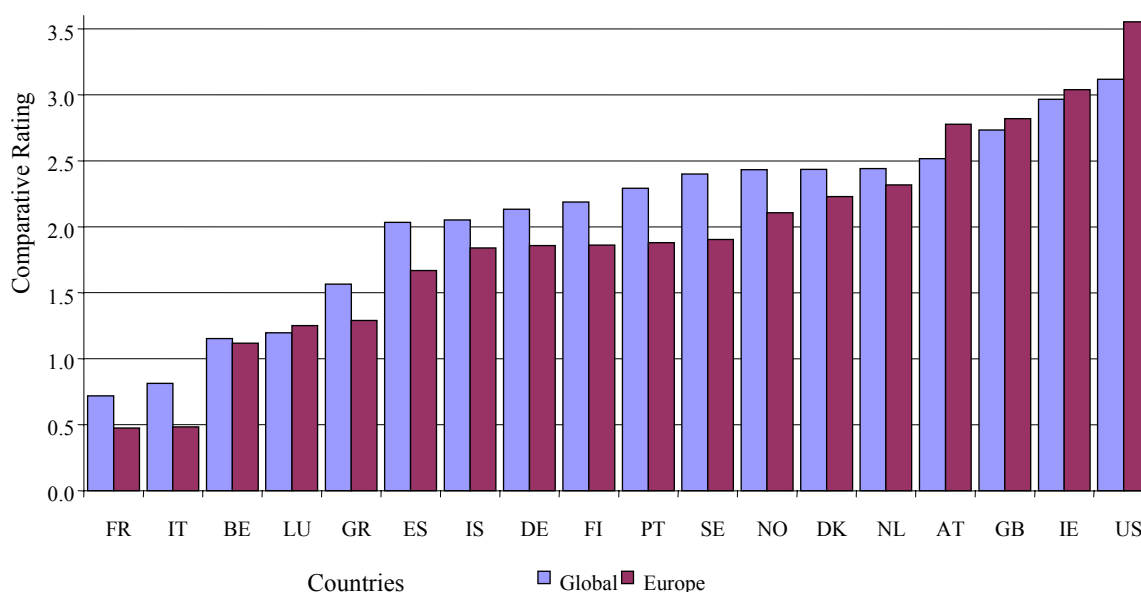
Though these costs are quantifiable in varying degrees, the distinction was deemed to be worthwhile in clarifying the economic consequences of rating systems.

## 1.3 Consultancy Findings

### 1.3.1 Summary of Sample Analysis

The graph below (Fig. 1b) details the average comparative theatrical rating of all the films from the two Samples. The graph includes ratings in 17 of the EU and EEA Member States and the US (which was included in the analysis at the request of the EC). It depicts the average film rating of the Global and European Samples in each territory.

**Fig. 1b: Global and European Average Film Rating – Full Sample**



The graph shows that the US has the highest average rating and France has the lowest average rating – in both cases for both Global and European films. The English language territories – US, Ireland and the UK – all give the European Sample a slightly higher average rating than they give the Global Sample. Thirteen out of the fifteen non-English language territories give the European Sample a slightly lower average rating than the Global Sample.

### ***1.3.2 Overview of Legislation and Practice***

Four main points concerning the legislation and practice of the 17 EU and EEA Member States, for which the Consultants acquired information, emerged with regard to the rating of an audiovisual work:

1. Criteria for rating of an audiovisual work: the standards
2. Technical systems used to implement ratings: the number of age categories, voluntary vs. mandatory rating procedures, labelling, packaging, screen icons, tonal signals, watershed, etc.
3. The implementation of the rating: the nature of the rating authority and its scope and authority
4. The enforcement of the rating practice: legislation guiding the application of ratings

Section 3 details the rating legislation and practice in all of the 17 EU and EEA Member States by individually analysing the impact of ratings on different methods of distribution. The main points are listed below, and following on from this are the trends that have surfaced through investigation into the individual territories' rating systems.

#### *Theatrical Distribution*

- Generally rating practice of feature films for theatrical release is codified under legal provisions. In Austria, France, Greece, Iceland, Ireland, Italy, Norway, Portugal, Spain, Sweden and the UK it is mandatory to submit a film for theatrical release to be rated. Whilst in Belgium, Denmark, Finland, Germany and Luxembourg rating a film intended for theatrical release is a voluntary practice, with the condition that non-rated films may only be seen by limited audiences. In the Netherlands, under the Netherlands Institute for the Classification of Audio-visual Media (“NICAM”) system, rating a film is voluntary, although in practice all films released in the Netherlands are rated under NICAM’s criteria since the entire film sector is a member of the organisation and consequently subscribes to the rules and regulations.
- Belgium is the only Member State where a single age limit system is in place, whereby films are rated either as suitable or unsuitable for people of less than 16 years. All other countries examined have implemented a multiple age limit system for film classification.
- The practice of adding informative descriptions to ratings categories has been adopted by the majority of the territories.
- Specific categories for extremely violent and pornographic films, in addition to the upper age limit categories have, for example, been set up in France, Germany, Portugal, Spain and the UK.
- Traditional censorship (bans and cuts) is progressively disappearing.
- The length of time to rate a film varies from 10 minutes in the Netherlands to up to two months in the UK, in cases where a film’s rating is in dispute<sup>4</sup>

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<sup>4</sup> The average length of time for the BBFC to rate a film has been 6-7 days since 2001.

- The nature of the rating authorities in each of the 17 EU and EEA Member States, for which the Consultants obtained information, differ with some having the power to rate content for distribution on all platforms and others rating work for only theatrical, video and/or DVD release.
- Rating authorities are increasingly keen to include the opinions of members of ‘civil society’, for example teachers and representatives of family and consumer organisations.

#### *Video/DVD*

- In Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, the Netherlands, Portugal, Spain, and Sweden video classification is subject to the same legal provisions and enforced through the same authorities as films rated for theatrical distribution. In for example the UK, ratings are subject to the same authority but breach is a criminal rather than civil offence.
- Whilst the same authority may be in charge of the rating of an audiovisual work it may require distributors to submit a film separately to obtain a rating for theatrical release and video/DVD release; such is the case in Denmark, Ireland, Portugal and the UK.
- Iceland, Ireland and the UK have stricter rules for the rating of video on the grounds that harmful scenes can be replayed and parental control is more difficult to exert on video access than on the access to theatres.
- In Austria, Belgium, and Luxembourg (except for films that have been previously released for theatrical distribution) video rating practice is self-regulated or at the discretion of the publisher/distributor, who often implements the classification used in neighbouring countries – German ratings for Austria, French or German ratings for Luxembourg and Nordic or UK ratings for Norway and French and Dutch ratings for Belgium.
- Whilst Belgium, Luxembourg, Austria and Denmark accept the labelling of neighbouring countries, Ireland is currently opposing the marking of UK logos on works distributed in Ireland, on the grounds that it confuses consumers.
- In Austria, Belgium, France, Greece, Ireland, Italy, Luxembourg, Norway and Sweden there is no specific rating legislation pertaining to DVDs.
- There are different requirements regarding video packaging, i.e. how the rating logo is displayed – size and placement (on the sleeve or on the video/disc itself).

#### *Broadcasting*

- The *TV Without Frontiers* Directive<sup>5</sup> (1997), which has been adopted by the EU and EEA Member States, instructs the use of three predominant rating practices: watershed, tonal and visual rating signals, thereby imposing a basic rating framework across Europe.
- Due to the fact that there are so many channels and platforms it is increasingly difficult for broadcasters to control content and consequently organise and implement rating criteria. Systematic *ex-ante* control is increasingly being regarded as almost impossible to achieve and therefore greater importance is being placed on *ex-post* control. Broadcasters are focussing on their complaint procedures available to the general public.
- France implemented a labelling system in 1996 for broadcasting. The Belgium French Community also adopted the system. Portugal and Spain have since adopted the process. The system is based on age categories that are systematically signalled through the same on-screen icons. Only in these countries are on-screen visual signals systematically

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<sup>5</sup> EC, *Television Without Frontiers* Directive 1997



implemented, though in Austria, Italy and the Netherlands this system is voluntary and increasingly used.

#### *Video Games*

- The Interactive Software Federation of Europe (“ISFE”) has recently launched<sup>6</sup> the first pan-European age rating system called Pan-European Game Indicator (“PEGI”). To date this represents the only common rating initiative for content that is being adopted throughout Europe across national boundaries. The ISFE voluntary rating system has harmonised age suitability ratings for every type of entertainment software (video games, computer games, etc.) together with a Code of Conduct designed to ensure effective implementation of the system.

#### *Other technologies*

- In general, the increase in the number of channels and platforms – terrestrial, satellite, cable and digital television – along with their increasing ease of moving across national borders is adding substantial complexity to the field of ratings.
- The rating system proposed by the non-governmental Internet Content Rating Association (“ICRA”) has been made use of by other websites and broadcasters, e.g. the German channel, ARD.

The following chart (Fig. 1c) illustrates the range of platforms that rating authorities supervise in the 17 EU and EEA Member States.

**Fig. 1c – Structure of Ratings Authorities in the 17 EU and EEA Member States**

Countries where there is one overriding authority in charge of rating content for <b>theatrical, video, DVD, broadcasting, Internet</b> and <b>video game</b> release	None
Countries where there is one overriding authority in charge of rating content for <b>theatrical, video, DVD, Internet</b> and <b>video game</b> release	Norway
Countries where there is one authority in charge of rating content for <b>theatrical, video, DVD</b> and <b>broadcasting</b>	The Netherlands (it is also considering Internet ratings)
Countries where there is one authority in charge of rating content for <b>theatrical, video, DVD</b> and <b>video game</b> distribution	Denmark, Finland (also video-on-demand), Portugal and the UK
Countries where there is one authority in charge of rating content for <b>theatrical, video, (DVD)</b> release	Germany, Greece, Iceland, Italy, Spain  France and Sweden (no legal requirements yet for DVD)  Ireland (no DVD legislation)
Countries where there is one authority in charge of rating content for <b>theatrical</b> distribution but where the ratings of	Austria, Belgium, Luxembourg

<sup>6</sup> Press release dated 15 October 2002

neighbouring countries are applied for video and DVD	
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**Fig. 1d – Other Structural Issues**

Countries where it is possible that <b>different ratings</b> (those of a neighbouring country) are applied	Austria, Belgium, Luxembourg
Countries where a ' <b>stricter</b> ' rating is possible for rating films released on <b>video</b> and <b>DVD</b> to the rating applied for theatrical release	Iceland, Ireland and the UK
Countries where <b>re-submission</b> of a film is necessary for release on <b>video</b> and <b>DVD</b>	Denmark, Ireland, Portugal and the UK

### **1.3.3 Trends in Legislation and Practice**

The Consultants surfaced four predominant trends when examining the rating legislation and practices the EU and EEA Member States.

1. A distinct shift in rating practices from a 'censorship' approach to a 'guardian' approach
2. Movement within territories towards rationalisation of different rating systems under single authorities covering the classification of content delivered through different platforms
3. Increasing awareness of the need to extend rating systems beyond traditional delivery channels due to convergence of globally accessible technologies
4. A search for more effective rating processes.

#### *Shift from 'Censorship' to 'Guardian' Approach*

- The approaches taken to rating content are becoming more 'flexible', for example the increasing number of age categories which serve the effect of excluding fewer young people from viewing a particular film. This seems to be a consequence of a long-term trend that reflects a broader set of changes in societal norms.
- However, rating authorities are still sensitive to the potential dangers of content to minors. For example, France, Germany, Portugal, Spain and the UK have set up specific categories for pornographic and extremely violent films, in addition to the upper age limit categories.
- The 'guardian' approach is not only triggered by changes in societal norms but also by technological changes. With the multiplication of channels and programmes, it is impossible to control everything. The role of a 'guardian' is easier to perform, while also involving third parties (systems of self-regulation, scrutiny of consumers or family associations) to complement the role of centralised agencies.

#### *Rationalisation of Rating Systems*

- This trend is apparent in the way that a number of countries' rating authorities are merging through the integration, to varying degrees, of audiovisual (i.e. theatrical, video, DVD, video-games) rating systems under single 'umbrella' authorities – the case in Denmark, the Netherlands, Finland and Portugal (refer to Fig 3b).

- With regard to videogames, the Consultants found that the videogame platform was the only media channel to have a significant common rating system established at European level via the ISFE initiatives.
- It is clear that media platforms are becoming more accessible across territories. The main example of this is in television, especially cable and satellite TV transmission – the trend is in evidence in the broadcasting arena with the adoption of the *Television without Frontiers* directive and its terms of applying a watershed and tonal and visual symbols

#### *Trends Relating to Convergence*

- There is an increasing awareness of the need to consider an extension of traditional rating systems in order to cover new technological platforms. Audiovisual content has traditionally been delivered along distinct channels (cinema theatres, video, TV). With the convergence of different delivery modes on the digital standard and the multiplication of digital-based services and devices (Broadband PC, 3G mobiles, Multimedia Home Platform “MHP” standard) the frontier between the audiovisual and the telecommunication sectors has been blurred.
- This is reflected in recent legislative developments in some of the 17 EU and EEA Member States, whereby a single agency has been created in order to cover both the audiovisual and telecommunication landscapes: for example, Rundfunk und Telekom-Regulierungs (“RTR”) in Austria, the Communications Regulatory Authority (“AGCOM”) in Italy, and the Office of Communications (“OFCOM”) in the UK.

#### *Trends Towards a More Efficient Rating Process*

- As has been mentioned, there are trends on many fronts towards greater description of content to supplement ratings information. In the case of the Netherlands’ NICAM system, the descriptors are the basis of the rating system. The entity submitting content for rating itself creates the content descriptors. These descriptors are then fed through a computer programme that generates the subsequent rating, which is published along with the content descriptors in graphic form.
- ICRA is also planning to adapt the film rating systems of individual countries into a series of regional templates (descriptors). Parents would then be able to select a regional template as part of their filtering system.
- Accessibility of information is increasingly being recognised as important, and websites are being seen as a crucial aspect of this goal. Some countries have efficient websites (for example Denmark, Norway, Finland, the Netherlands, UK) allowing easy access to classification information. Possible information available includes online databases, including all films already rated, on-line questionnaires to be filled-in and submitted for classification, explanatory notes, and even downloadable stickers to mark videos according to the ratings granted.

#### **1.3.4 *Confusion Caused by Heterogeneity between Countries***

Though the Consultants clearly evidenced heterogeneity between countries both with regard to ratings systems and standards, there was little evidence of this causing substantial confusion on the part of those responsible for minors. The reasons for this seem to be as follows:

- except in a few cases, consumers in one territory are generally not exposed to rated material from a second territory, unless they themselves are visiting that second territory. The industry in general does not use the identical (and identically packaged) product in

different territories – this is because there is little incentive for either the distributors or the sales agents/ international distributors or even the rating bodies themselves to expose consumers in one country to the ratings system in other countries. The market for audiovisual products and services is still fragmented by national boundaries.

- where there is exposure to material rated by a different system (e.g. in Belgium with regard to material from France and the Netherlands, Austria with regard to material from Germany, Luxembourg with regard to material from France and Germany, and Ireland with regard to the imports from the UK) it is material from a consistent source and consumers learn to understand the specifics of the different system.
- the differences in rating standards between countries are generally consistent and well understood by industry professionals – the marketplace has an expectation as to how the French authorities will rate differently from the German authorities for example. However, confusion does arise sometimes in the mind of a distributor – for example, as to whether a particular film should be marketed as a children’s film, given its different rating in different countries.

The Consultants did not come across any complaints from the consumers’ organisations contacted or interviewed with regard to the issue of ratings and “confusion”.

### ***1.3.5 Confusion Caused by Heterogeneity Between Media***

Consumers are, naturally, confronted far more with heterogeneity of ratings between media than heterogeneity between countries, and it is this heterogeneity that causes the bulk of confusion among those responsible for minors. As noted above, in general there is homogeneity of systems between the theatrical and DVD/video markets. Where there is substantial heterogeneity and opportunity for confusion is in the area of television broadcast of films.

- There is a great opportunity for confusion with regard to television because it is a substantially complicated area due to the numerous windows of free TV, pay TV, encrypted TV, pay-per-view.
- Only in the Netherlands (with its NICAM scheme), France (along with French speaking Belgium) and to a certain extent Spain is there a uniform rating in use across all television channels.
- In the UK, Ireland and Italy, the typical license agreement for television transmission grants broadcasters the right to trim the film for the purpose of fitting into the schedule or for content concerns. In Italy the *Derubricazione* is the de-classification policy that dictates the rights of broadcasters to cut films. Germany and Austria implement similar rules. Therefore, the content of a film may actually be different on TV compared to the version available in the cinemas and on video/DVD.
- In certain countries, the additional material carried on DVDs (i.e. interviews, short films and additional scenes) is often cause for enforcement of a more stringent rating of a film due to the nature of the added content.

Thus, not only is it quite possible that a young person might have seen a film in a cinema but be unable to rent or buy the DVD of the film, but it is also possible that the young person might see the film on television (not knowing it to be trimmed) and be unable to obtain the video or DVD.

### ***1.3.6 Administrative Costs Due to Heterogeneity***

The Consultants have estimated the total costs (direct costs – application for rating, screening costs; and indirect costs – personnel, courier, postage and packaging) for the theatrical release of:

- A commercial international (probably US) feature film, 110 minutes in length, released by a major international distributor on between 30-300 screens (based on figures supplied by a major international distributor) and;
- a less commercial European feature film, 95 minutes in length, released by national independent distributors, in the majority of the 17 EU and EEA Member States, on five prints in each territory

The Consultants estimate the direct costs for the international feature film at €26,430 (theatrical release only) and the indirect costs at €950. The Consultants further estimate the direct costs for the European feature film at €5,085 (€7,695 when also rated for video and DVD distribution), and the indirect costs at €3,000.

The direct costs are much higher for the international feature film because in several territories there is a per print charge which can dramatically increase the costs of a ‘wide release’.

The indirect costs are different for the international work and the European work in a number of respects. First, the indirect costs for the international work are actually incurred by one single company, the international distributor, while the indirect costs for the European work are more theoretical, since they are incurred by the different national distributors, and, since the European work is less likely to be distributed in every territory, the costs are less likely to be incurred. Secondly, the costs for the international work are lower since the international distributor is able to spread rating costs over every territory it is active in, whereas the national distributor will not be able to take advantage of these economies of scale.

The UK is the only territory to distinguish between English (national) language films and other language/subtitled films, charging more to rate an English language film in the theatrical window. Therefore, the total cost to rate an English language European film for theatrical release would be €5,522, increasing to €8,132 when further rated for distribution on video and DVD.

The costs of rating a work in each of the territories differ dramatically as further discussed in Section 5.1.1. Also, the charging practices differ according to the film’s length (feature films over a certain length are charged more in most territories), by genre, by language, and by mode of distribution – in some cases costs are lower if the film is to be released only on the festival circuit.

### ***1.3.7 Standards Costs Due to Heterogeneity***

The Consultants defined standards costs as the costs incurred due to the different national rating standards that exist in each of the territories, apart from the existence of different systems. An example of this type of cost is the costs incurred by a distributor having to reversion a work in order to obtain the same rating as obtained in a different territory, due to the different standards in the different territories.

Given these clear differences between the standards in the different countries demonstrated above in Fig. 1b, initially the Consultants believed that there would be evidence of films being reversioned to obtain distribution in different territories or different media – i.e. the incurrence of

standards costs. In fact, the Consultants surfaced little evidence of this type of cost, with the major (US-based) distributors incurring more of these costs than European companies.

Most European films are distributed by independent companies, which operate in a single country and have a specific knowledge of their markets. Most US films are distributed by US-based companies, which, although they own the rights to the films in many territories, still often schedule and organise distribution on a territory-by-territory basis.

Distributors of European films outside their country of origin (non-national European films) tend to accept the rating as given rather than reversion for the sake of a lower, more inclusive rating, for two reasons. First, European films, especially non-national films, are generally speaking seen as specialised cinema with an emphasis on artistic expression rather than mass-market entertainment with wide audience appeal. To cut the film for a more inclusive rating could be seen to interfere with artistic integrity of the film. Secondly, distributors suspect that audience appeal would not necessarily increase having incurred the expense of re-cutting to obtain a more inclusive rating.

For a US-based distributor marketing a US-originated film across Europe the situation is different. Firstly, distributors can afford the cost of re-versioning, and any reduction in rating classification will most likely noticeably increase box office appeal of the product. Secondly, distributors are more concerned with mass-market appeal and less concerned with issues of artistic integrity.

Even for majors, however, re-versioning for rating purposes is not common. The Consultants estimate that approximately one in twenty releases from major distributors might have trims for rating purposes. Furthermore, though distribution is generally still managed on a territory-by-territory basis, it is increasingly common for majors to market across Europe a DVD, which is identical visually (picture and additional material) but will differ with respect to sound. Therefore, there may be cases where the version of the film on theatrical release differs slightly from the version on the DVD. The economies of scale from a single authoring process exceed any benefits from seeking the most inclusive rating in each territory. Thus, even at the level of majors, standards costs are not incurred in any substantial way (though the administrative costs of applying to 17 different authorities and meeting the different packaging requirements are still incurred).

### ***1.3.8 Opportunity Costs Due to Heterogeneity***

Opportunity costs are those losses, which occur because of the differences between ratings systems, and are by their very nature impossible to quantify. In this context, they refer to the absence of economic benefits (i.e. revenues) that would otherwise be obtained, were the rating heterogeneity not to be in place. These could theoretically arise as follows:

- a film is not distributed in a territory or media that it would otherwise be, absent the heterogeneity of rating
- a film fails to obtain distribution revenues to the degree that it would, absent the heterogeneity
- economies of scale would occur absent the heterogeneity

### *Failure to obtain distribution*

Apart from the situation of censorship, where a film is not allowed a release due to the nature of its content, the Consultants found no evidence of the requirement for a rating being the reason for a film's failure to obtain distribution in a certain territory – i.e. that a film did not obtain distribution because distributors did not want to submit to the burden of obtaining a rating.

### *Loss of distribution revenues*

Clearly when a difficult film is rated for lower ages by a more inclusive system, it has a potentially wider box office audience compared to its audience in a less inclusive system where it is available to less of the population. This does not necessarily mean it would take less money in the less inclusive system, since many other factors actually affect the box office receipts of a film.

Following clarification with the EC, the Consultants were not required to analyse the effects of ratings heterogeneity on box office revenues. However, in the course of our study, we encountered the following dramatic indication of opportunity costs in the substantially increased UK box office of the feature film *Spiderman*. The British Board of Film Classification, which had imposed an initial rating of '12' on the film changed it to the newly introduced '12A' rating thereby allowing children below 12 to see the film accompanied by an adult. In its twelfth week of release, shown in 56 locations, *Spiderman* collected €31,630 (£20,000) in box office receipts, compared to week 13, after the implementation of the new rating, where in 305 locations the film took considerably more – €428,590 (£271,000). It is likely, however, that had this amendment to the 12 rating been implemented earlier the final box office cumulative would have been several million more.

It is difficult for opportunity costs to be assessed in other than this illustrative fashion. Certainly they do exist, but they are due mostly to the heterogeneity of standards rather than that of systems. Furthermore, the Consultants believe that these dramatic examples of opportunity costs in this regard would apply far more to US originated product distributed by major distributors than to European cinema.

### *Lack of economies of scale*

The European indigenous film business has not historically lent itself to substantial economies of scale, due to the territory-by-territory distribution system discussed above. However, the DVD affords the possibility for the first time to distribute a single object with multiple language versions across many different territories. The Consultants' work has surfaced that this is not, in large part, taking place. Most European distributors are 'authoring' (i.e. manufacturing a master for) the DVD for their own territories, rather than sharing these costs with other companies and distributing discs, which are available in many countries.

The reasons for this are many:

- the reluctance for distributors that do not already have a close working relationship to enter into a potentially fraught and awkward association to share crucial materials
- the desire for distributors of specialised film to tailor the 'additional material' to the needs of their own markets
- the desire to avoid stockpiling DVDs before their use to minimise theft and piracy
- current license practices that, for small distributors, often give them the rights to the film only in a dubbed or sub-titled form.

The potential confusion of listing many different ratings on a DVD package is not, in general, widely quoted as an additional obstacle. This may be because other obstacles are being encountered before this one. However, the Consultants would conclude that, at present, ratings do not seem to be a primary obstacle to the achievement of economies of scale in European distribution.

## **1.4 Conclusions**

### ***1.4.1 No Industry Pressure for Homogeneity***

The rating system as it exists today is well entrenched in the distribution system. Though there are, of course, complaints about individual rating decisions, and concerns with bureaucratic procedures and costs, in the main, both European distributors and US-based companies are used to dealing with heterogeneity and see no need of change. Moreover, the industry claims there are unintended benefits to the heterogeneity in that rating requirements have the effect of preserving territory-by-territory distribution and acting as something of an obstacle to pirate copying.

### ***1.4.2 No Consumer Pressure for Homogeneity***

At the level of cultural and consumer groups, there is likewise no great pressure for change. Ratings are seen to reinforce and preserve cultural norms, and consequently can often represent an obstacle, albeit a small one, to the imposition of the norms of other cultures. Amongst consumer organisations, there is, rather than pressure towards homogeneity, in most countries, a strong tendency to preservation of the current rating systems. Certainly there is, as between territories, no great fear of heterogeneity of ratings as a source of confusion.

As between media the situation is somewhat different, especially with regard to television. Though the *TV Without Frontiers* directive has resulted in some uniformity of treatment of content, there is no uniform rating system and many opportunities, detailed above, for potential confusion. Though consumer organisations have yet to focus on heterogeneity of ratings as a source of this confusion, it may be that this realisation is made over time, especially as consumers are exposed to an increasing number of channels.

### ***1.4.3 Pressures Tending Towards Homogeneity***

Despite the lack of pressure from the industry or from the consumer for homogeneity, there are, however, structural pressures that are inexorably tending towards greater uniformity. Principal among these are the twin forces of globalisation and convergence – both driven by societal and technological changes.

The impact of globalisation is felt in the greater exposure and interest in the product of other countries and the trans-border nature of the Internet itself, the growing possibility of video-on-demand on an international basis as bandwidths increase, and the worldwide success of such non-localised content as videogames. Convergence represents the move of traditionally separate audiovisual content delivery channels onto a shared technological platform and the increasing interest of consumers in having access to information and entertainment any time and everywhere.



The Consultants believe that the combination of globalisation and convergence trends will, over time, create extremely strong pressures for a more homogenous system of content rating than exists at present. Moreover, these pressures will result in a volume and variety of delivery methods for content that will increasingly make it difficult to rate on an *ex ante* basis. There will be increasing pressure to consider *ex post* methods of content rating, which will involve efficient and effective channels of consumer complaint.

#### **1.4.4 Impact of Heterogeneity on the Internal Market**

The quantifiable costs of the heterogeneity of ratings are not substantial – less than €10,000 per film. The Consultants' research and consultation did not lead to conclusions that the heterogeneity in rating practices across the 17 EU and EEA Member States constitutes a major obstacle to the circulation of audiovisual works under current market conditions.

#### **1.4.5 The Potential for Harmonisation**

The current situation of heterogeneity is sustained by cultural differences, language barriers and the market realities of the film business (including that distributors are territorially based) and the fact that there is no substantial constituency calling out for harmonisation.

However, though harmonisation of rating practice throughout Europe may seem currently impossible to achieve, there is definitely room for action in fostering common actions and exchanging 'good practices' towards a more uniform system of European rating practices. This could be achieved through self-regulation, umbrella authorities (thus centralising the rating bodies and practices), educating the public on the issues of ratings (thus making personal responsibility a more viable option) and additional technical measures to enable individuals to control theirs' and others' viewing habits.

Moreover, as mentioned, there are technological and societal changes, which may substantially change the impetus towards harmonisation. In this regard, it is worth highlighting three models that exist currently – one that homogenises systems but preserves heterogeneous standards; one that homogenises both systems and standards in a particular media; and one that homogenises both systems and standards in a particular territory.

The Nordic countries have, over the years, moved to an almost uniform system of rating, which applies across the four countries of Norway, Sweden, Denmark and Finland, which have all incorporated the '7', '11' and '15' rating categories. Norway and Finland have an additional rating '18' and some of the countries enforce adult accompaniment whereas others do not. Though each country retains its own standards (particularly shown by the different most restrictive ratings), and rate films differently, the films are rated on the same 'scale', which allows for greater ease of understanding between countries. This system is regarded in these countries as a success.

The only sector where a significant common rating system has been established at European level is that of videogames. Although a full implementation of ISFE's guidelines throughout the whole of Europe is still taking place, ISFE has been visibly campaigning for a unified European videogame rating system. The ISFE system represents a total homogeneity – of systems and standards – albeit in a specific content platform. The ability to execute this has, in the opinion of some experts, only been possible because the form of content is so new and because it, in

general, does not carry the ‘cultural’ connotations that may make it difficult to introduce changes to the systems applied to conventional content.

The Netherlands’ NICAM scheme provides uniform rating of content across distribution platforms. It also provides readily understood (via symbols) content descriptors so that audiences may understand the reason for the rating. Furthermore, it is both voluntary and self-regulatory. Bodies submitting content for rating complete a detailed questionnaire, which is then analysed by computer resulting in a rating and the corresponding content descriptors. Though it is a recent innovation, and there have been some complaints about costs incurred by companies that submit films for ratings, this is a system with increasing success and acceptance among consumers. NICAM was an example for the ISFE initiative.

It is worth noting that it is possible to imagine a ratings structure that combines the best elements from these three examples to provide a harmonisation that reflects cultural differences. The EU and EEA Member States could adopt the Nordic example of harmonising their ratings systems in a way that allowed for the reflection of different standards. It could adopt the NICAM methodology of uniform rating across media and the ISFE example of applying uniform ratings across territories.

In the same way as NICAM, bodies would submit content with the appropriate questionnaire which would then be fed into a computer to result in the relevant rating for each one of the EU and EEA Member States, all configured on a system that each territory would understand.

#### **1.4.6 Recommendations for EU Action**

The following are recommendations by the Consultants as a result of their findings (in brief below and in detailed in Section 6):

1. Acknowledge the increasing technological and societal pressures towards homogeneity of ratings by, initially, encouraging countries to use common descriptive rating criteria in their ratings practices. Increasing availability and consumer understanding of descriptive criteria – with simple visual cues – will make it easier for content to cross boundaries and media. This is a first step towards greater coordination between countries.
2. Ensure that exchanges of good practices between different media platforms occur regularly. There are currently numerous organisations and events that encourage ratings bodies from different countries to coordinate their practices – for instance, national rating authorities in Austria, Germany and the Netherlands meet on a regular basis and encourage staff to become trained in other countries. An emphasis needs to be made on routes by which bodies representing different media can also meet and consider options for coordination. This will be a first step towards encouraging uniformity of rating practice across different media, considering models such as the NICAM system, which has eliminated opportunities for confusion with a simple accessible rating system that can be utilised across media sectors.
3. Encourage the development of cost-efficient and time saving procedures through the exchange of best practices. This includes promoting accessible databases of rated films and efficient online rating procedures. Currently these vary widely from Denmark, which has a very inclusive web site for ratings issues to Ireland, which has no web site.
4. Consider and support methods of content evaluation other than the current *ex ante* system, which will be increasingly difficult to maintain in the face of technological and societal change. Thus attention should be paid to *ex post* measures including effective complaint and control mechanisms.

5. Note and encourage the role of self-regulation as a force for harmonisation – as has been the case with ISFE in the videogame sector. Self-regulation may occur within the context of a state-mandated framework, as is the case with NICAM, or it may be fully industry driven, as is the case with ISFE.
6. Encourage the inclusion of ‘civil society’ (non-industry professionals those from the education sector) in the boards of rating authorities, which is already the case in an increasing number of countries. Increasingly ratings cannot be seen to be imposed on society by a body outside. The use of members of ‘civil society’ is a way of ensuring the decisions of ratings bodies are informed by societal norms, but are also a way of encouraging ‘buy-in’ to rating decisions. The EC should also encourage mechanisms by which there can be pan-European co-ordination among these ‘civil society’ representatives.
7. As the state switches from censor to regulatory authority, setting up a general framework and controlling enforcement, consumers need to be educated as to the specifics of content regulation. Measures to encourage the dispersal and understanding of rating information should be encouraged. These efforts should be linked to the increasing focus across Europe on issues of ‘media literacy’.

## 2. Nature of Assignment

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### 2.1 The Study

Olsberg|SPI (“SPI”) and Kern European Affairs (“KEA”), in association with KPMG, (referred to herein as “the Consultants”) have been retained by the European Commission (“EC”) to undertake an investigation of ratings legislation and practice with respect to audiovisual works across the European Union (“EU”) and European Economic Area (“EEA”) Member States<sup>7</sup>.

The primary aims of the assignment are to:

1. Identify the economic impact of this ratings heterogeneity, and to;
2. Uncover any confusion that it may cause, particularly in parents, teachers, or others responsible for minors.

Specifically, the brief from the EC (“the Brief”) asked the Consultants to:

- Determine a first representative Sample of 50 films (of European and non-European origin), which have been distributed throughout all of EU and EEA Member States via cinema, on television and on DVD/Videocassettes. The Sample should also contain some films where a video game and an Internet page exist.
- Determine a second representative Sample of 50 films of European origin, which have been distributed in the majority of the EU and EEA Member States via cinemas, on television and on DVD/videocassettes.
- Establish the individual ratings for each film (taking into account where applicable different versions) in the EU and EEA Member States for the various distribution channels in each territory across each distribution channel (theatrical, video, DVD, television, video game and Internet).
- Establish the impact on the film for EU and EEA Member States and each distribution channel (theatrical, video, DVD, television) measured.
- Draw conclusions on the impact of the effects of rating heterogeneity on the distribution costs of films, circulation within the EU and EEA (internal market), and potential confusion of persons responsible for minors such as parents and teachers.
- Provide an overview of current legislation and practice in EU and EEA Member States of rating of films in cinemas, on television and on DVD and video.
- Analyse the economic impact and impact on those responsible for minors of heterogeneity of rating legislation and practice.
- Examine attempts to harmonise ratings legislation within EU and EEA Member States and the possible need for co-ordination of legislation and practice, with special regard to self-regulation, and where it would be an appropriate tool.

The assessment of the two Samples provides a practical illustration of how the different ratings systems affect the distribution of cinematic works across all media channels (cinema, video/DVD, and television) throughout the EU and EEA. The Samples allow the different systems to be compared across and within territories.

Likewise, the detailed breakdown of rating legislation and practice within the individual EU and EEA Member States provides a practical understanding of the individual territories’ economic

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<sup>7</sup> Please refer to the glossary at the end of this document for a definition of all the terms.

and cultural regard toward the rating process of audiovisual works and allowed comparable analysis to take place.

The study provides a detailed overview of the European best practices and highlights the issues of self-regulation and the attempts made by individual countries to harmonise the rating systems that exist across different platforms.

## **2.2 Methodology and Approach**

The Consultants method and approach to this study can be categorised as follows:

1. Data gathering – determining the two representative Samples and obtaining the rating data for each of the films, analysing the heterogeneity by producing comparative ratings.
2. Review and analysis of rating legislation and practice in each of the 17 territories for which the Consultants obtained information.
3. Assessing and measuring the impact of rating heterogeneity, including the economic impact.
4. Assessing the confusion caused by the heterogeneity of ratings, which is encountered by parents and those in charge of minors.

### ***2.2.1 Selection of the Feature Film Samples***

The Consultants were charged with the task of determining two representative Samples consisting of 50 films each.

- The first Sample to be determined was to consist of European and non-European in origin feature films, which were distributed throughout all EU and EEA Member States via cinema, on television, on video and DVD. This Sample is referred to as the Global Sample.
- The second Sample to be determined was to consist of feature films purely European in origin, which were distributed in the majority of EU and EEA Member States via cinemas, on television, on video and DVD. This Sample is referred to as the European Sample.
- The Samples were also to contain some films where an affiliated video game and Internet page existed.

As was suggested in the EC's brief the representative Samples were determined through existing online databases such as the LUMIERE (European Audiovisual Observatory) and the Internet Movie Database – IMDB Pro, website.

The determining factor in the process of selecting the films for the Samples was based on selecting films that were representative by budget, by genre and by country of origin. The selection of the two Samples was approved by the EC.

The Consultants deemed it prudent to expand the originally stipulated number of films to be contained in each of the two Samples from 50 to 60 should any problems with certain films be identified. In the event, the Consultants did not need to exclude any of the 60 films in either of the Samples and therefore all 120 were analysed in the Final Report. The individual film fiche contained in Appendix 2 present each individual film with the following information – local distributor, each national rating the film received in 17 EU/EEA Member States and the US on the various media platforms (cinema, video, DVD and television) and information pertaining to

an Internet page and video game where it exists and the comparative rating that has been applied by the Consultants to analyse the heterogeneity of ratings and make it easier to compare and contrast the results.

### ***2.2.2 Obtaining the Ratings***

Once the feature films had been selected, the process of obtaining the ratings for each work distributed on each medium (cinema, video, DVD and television, where available) could begin.

- The first step was to contact the national rating agencies in all of the 17 (EU/EEA Member States) and the US. Many of the rating agencies reported the films ratings when they had been released in their territory or had accessible online databases where the ratings could be found, such as the UK's British Board of Film Classification ("BBFC"), the Netherlands's NICAM system and Norway's Filmtilsynet.
- When the agencies failed to provide ratings for the films distributed on any of the platforms other than the cinema or failed to provide any ratings information the Consultants began searching online databases – such as LUMIERE and IMDB Pro, which proved to be a valuable tool in identifying the theatrical ratings for a large proportion of the films (specifically those from the Global Sample) in the majority of territories.
- The next step was to contact the international distributors/sales agents of the films for the rating data.
- When the international distributors/sales agents could not provide rating data the local distributors in each of the territories for each of the films were contacted. The international and local distributors were also requested to inform the Consultants of existing video games affiliated directly with the films on the list and if an 'official' Internet page existed for any of the feature films.
- The Consultants sometimes found that the films' theatrical distributors were not necessarily the same as the video or DVD distributors for the film and therefore further investigation was needed.
- Whilst the majority of the films have been released theatrically and on video many of the films have yet to be released on DVD.

The television ratings were not as easy to obtain or to categorise due to the fact that there are numerous broadcasters and networks in each territory and because of the existence of terrestrial, satellite and cable television, all of which operate different rating policies. Therefore, on the individual film sheets a broader scheme of rating categorisation in line with the broadcasters' rating legislation and practice has been adopted.

### ***2.2.3 Legislation Overview***

An investigation into the various ratings systems throughout Europe was completed via consultations with representatives of all of the national rating authorities, international bodies in Europe including the Motion Picture Association ("MPAA"), the International Video Federation ("IVF") and the Interactive Software Federation of Europe ("ISFE"). In performing the country-by-country surveys the Consultants carried out interviews with regulatory bodies in charge of ratings throughout the EU and EEA.

The 17 individual country profiles and the legal information (refer to Appendix 1 for the documents) have been double checked by the relevant persons in charge of rating in national agencies and institutions (refer to Appendix 4.2 for a list of the verifiers). The country profiles were completed through analysing legal texts, relevant websites and through interviews (a list of the persons interviewed is also attached to the consolidated documents found in Appendix 4). All relevant details for national agencies and institutions can be found in Appendix 4. The research was also conducted in a multi-lingual environment and therefore, benefited from the language flexibility of the Consultants: Danish, English French, German, Italian and Spanish.

#### ***2.2.4 Measuring the Impact of Heterogeneity***

In order to measure the impact of the heterogeneity between ratings the Consultants needed to understand the nature of heterogeneity itself. The EC's brief observed that heterogeneity existed between *countries* and between *media* and distribution channels. The Consultants took this distinction a step further and observed the heterogeneity of rating *systems* across different countries and media as well as heterogeneity of *standards* imposed through those systems.

Analysing the economic impact of the heterogeneity of ratings was conducted through careful interpretation of the two Samples and through extensive discussions with industry professionals. The Consultants drew invaluable information from its relationships with:

- Foreign sales agents
- National distributors
- Producers
- Public and regulatory bodies

The issues of confusion induced by the heterogeneity of ratings have been assessed as part of a full programme of consultation with international distributors, sales agents, consumer organisations, child protection groups, and local agencies. Organisations representing parents have also been consulted. Research though solid and empirical, was of necessity, qualitative rather than quantitative, as it was not possible for us to 'measure confusion'. Evidence of confusion across countries was sought, as was that of confusion within countries across media

In addition, European-wide trends with regard to content classification have been identified. A methodology for identifying the economic impact of ratings heterogeneity has also been generated, by identifying three universal costs incurred with regard to rating heterogeneity – Administrative Costs, Standard Costs and Opportunity Costs.

### **2.3 Background to the Study**

A European Commission staff working paper "*on certain legal aspects relating to cinematographic and other audiovisual works*"<sup>8</sup>, issued on 11 April 2001, underlines the fact that, in view of a full exploitation of the benefits of the internal market, the different rating practices applied both between the EU and EEA Member States and within the same country across different distribution channels could represent an impediment to the circulation of audiovisual works. The

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<sup>8</sup> SEC(2001) 619, see [http://europa.eu.int/comm/avpolicy/regul/cinedoc\\_en.pdf](http://europa.eu.int/comm/avpolicy/regul/cinedoc_en.pdf)

aim of this document was to launch a debate on a number of legal issues in particular on those that could impact the development of a competitive cinema industry in Europe.

The main barriers would be those that would affect the circulation of European audiovisual works but also those that would effect the provision of services preventing the sector from taking full advantage of the benefits of the Internal Market. Likewise, the impact of different rating systems applied both within the EU and EEA Member States and between the EU and EEA Member States may potentially constitute an impediment to the circulation of audiovisual products.

In particular the EC was eager to set out its position highlighting the areas where further reflection was needed in order to create a favourable environment for the production and distribution of audiovisual works. In relation to the issue of 'ratings' the Communication highlighted the need of support for "increased cooperation between competent authorities and the rating bodies to reduce disparities from one Member State to another and from one medium to another and to develop mutual recognition".



### 3. Overview of Current Rating Legislation and Practice

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#### 3.1 Overall Trends

This section contains a review of the rating legislation and practice in the 17 EU and EEA Member States. The Consultants' work revealed several key issues, the differences between media with respect to ratings, the differences between countries and shifting philosophies towards classification in a time marked by globalisation and convergence.

In terms of an overall European trend the Consultants have noticed two predominant trends:

1. The first trend to come to light was that there has been a distinct shift in the rating practices in many of the 17 countries from a "censorship" approach to a "guardian" approach.
2. The second identified trend, that there is a movement towards a rationalisation of the different rating systems under single authorities.

##### 3.1.1 *From a Censor Approach to a Guardian Approach*

The Consultants have been made aware of a distinctive shift in the countries' views from a "censorship" approach to a "guardian" approach. Censorship is being used less frequently with regard to the classification of audiovisual content and instead the implementation by a "guardian" of a policy aimed at protecting minors from harmful content is being witnessed.

The classification of audiovisual works finds its origin in "moral" concerns. Films aimed at theatrical release have been subject to the censors' scrutiny from the beginning of the 20th century. The censors' major concern was the protection of public morality and public order, hence the rating processes in each of the territories being exercised, until recently, by public bodies under the jurisdiction of Ministries of Justice and Home Affairs.

Rating processes are now in hands of bodies placed under the control of ministries of Culture and Education and in some cases Ministries of Telecommunication, and the notion of "censorship" which carries a heavy ideological bias, has progressively been abandoned. The major reasons and justifications for classifying films are:

- The protection of minors and the young. Yet, although all the European countries have adopted the protection of minors and the young as the main "*raison d'être*" for rating audiovisual content, they may implement it on the basis of different criteria. National cultures and traditions may for instance lead to put a bigger emphasis on either violence or sex.
- The protection of the whole society from hard pornography and extreme violence (through banning or limiting the distribution of films with such characteristics), or from any infringement of basic rights (e.g. by audiovisual works which incite racial hatred or discriminate on the basis of nationality or sexual orientation). As a consequence, in all the European countries, audiovisual works are submitted to the provisions laid down under Penal Codes (common and civil laws). In particular, extreme violence, child pornography, pornography showing sexual relationships between human and animals, are not acceptable.

It follows that rating practices are increasingly driven by a contractual approach. Public authorities act as guardians aiming to guide citizens to make an informed choice of audiovisual content, rather than as a censor imposing a potentially arbitrary classification.

This contractual approach is also triggered by technical constraints. The emergence of a multi-level, multi-channel, multi-media environment makes it impossible for a central authority to control all content, which is being made available for public and private use. The different public authorities in charge of the classification of audiovisual content may warn and inform the viewers/ audience, but are definitely not able to fully control and classify all the sold, rental or broadcast content anymore.

The shift from a “censor approach” to a “guardian approach” can be further noticed in:

- Censorship – the possibility of fully banning or partially banning an audiovisual work is less and less used (as can be seen in Fig 3c – Rating process/duration)
- Mandatory vs. voluntary procedures – systems of self-regulation are being promoted in place of the obligation to submit an audiovisual work for classification. This is particularly true for video/DVDs, video games and broadcasting. This trend towards self-regulation is complemented by attempts to set-up homogeneous rating presentation processes through the use of the same colours, size and symbols across all media so as to empower viewers with adequate tools to make their own judgements and decide whether their children are mature enough to view a given film. France’s broadcasting rating system is a prime example (more details in Section 3 and Appendix 1).
- More flexible age categories – the introduction of additional age categories aims at bringing more flexibility to the classification of content, and at widening the access to “sensitive” audiovisual works. Additionally, with the introduction of ‘PG’ (parental guidance) the categories become more flexible: the indicated age represents an opinion from the board for film classification, but parents may make a different choice. Finally, with the introduction of new “advisory limits”, the rating indicates the recommended age of the viewer but children over this age limit may be admitted if accompanied by an adult, for example, in Denmark, Sweden, Norway and Ireland. On 30 August 2002, the BBFC in the UK introduced a new “12A” category.
- The development of descriptive approaches – making information on the type of harmful content included in an audiovisual work (sex, violence, drugs, etc.) accessible and ultimately empowering parents with the right tools to decide on whether a sensitive film will definitively be at odds with the education they wish to give their children.
- Inclusion of ‘civil society’ into the rating process – the profile of the people involved in the different committees in charge of rating films. They now include psychologists and experts in the young and in education, as well as representatives from “civil society” (representatives from the media industry, professionals, educators, family and consumer associations).
- More efficient rating processes –self-regulation implies that processes will be made easier and consequently cost-efficiency due to the adoption of time saving processes. Therefore, many countries that have adopted self-regulatory processes have developed online procedures and online access to packaging material (stickers).
- The desire to “guard the guardian” – with self-regulation comes the need for the establishment of control mechanisms and effective complaint and sanctions procedures in order to legitimise the process.

It is important however, that the State has room for manoeuvre so as public order is maintained. The sale, rental, or exploitation of audiovisual content remains submitted to possible penal sanctions. The necessary maintenance of such prohibitive system was expressed in the *Green Paper on the Protection of Minors and Human Dignity*<sup>9</sup> which distinguished content which is illegal, i.e. prohibited by law (such as child pornography) from content which may be harmful to children (sex, violence) and yet admitted by law. A balance must be found between the principles of the freedom of expression and the safeguard of the general public interest. This necessity was tragically emphasized by recent drama in Erfurt (Germany), where a 19-year old boy murdered 17 people and in France where a teenager killed another teenager while replicating murder scenes taken from the feature film thriller *Scream*.

### **3.1.2 Towards a Rationalisation of Different Rating Systems under Single Authorities**

The Consultants have found that it is possible for confusion to arise as a consequence of a lack of consistency in the rules applied to the different media systems, which is evidenced by the different rating systems that exist in all EU/EEA Member States.

The co-existence of different rating systems may also be the result of a clear will of the legislator, as it was felt that some media systems (e.g. video) would be more easily accessed by children than others (e.g. attendance to cinema screenings), which required stricter rules to be applied to them.

Yet today, two major structural trends drive the organisations in charge of rating practices in the countries surveyed.

⇒ A first trend is towards the setting-up of “umbrella authorities”, in charge of rating films across the entire audiovisual sectors (film, video, DVD, video games). It derives from an attempt to rationalise complex systems that have developed over the years.

Some recent legislation has ruled that video games are to be treated the same as other audiovisual content (films, video/DVD) in the rating process. This is the case in Denmark (the Media Council for Children and the Young rules on video games and they are submitted to same age categories and labelling/marketing obligations as videos), Finland (the Board for Film Classification – “VET”), is responsible for rating video games according to same rules as for films and videos), Portugal (where the Classification Committee is in charge of rating not only audiovisual products, including video games, but also any type of live show) and the UK to some extent (under the Video Recording Act of 1984, video games including criminal behaviour, use of illegal drugs, violent behaviours or incidents, horrific behaviours, human sexual activities must be rated by the British Board of Film Classification). Recent German legislative developments move in the same direction, aiming at covering the whole field of media products with provisions concerning rating (refer to German Comparative Rating Legislation chart below).

⇒ A second trend is directed towards integration, under a single authority, of the structures in charge of controlling the broadcasting sector on the one hand and the telecommunication sector on the other hand. This evolution results from the need to converge the frontiers between “audiovisual content” and “telecommunications”. Today films are already accessible over the Internet network and in the future they will be accessible through mobile phones and other devices. Such “convergence” has implication on content regulation. Hence attempts to integrate

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<sup>9</sup> COM (96) 483 Final.

the audiovisual and telecommunication sectors. These two organisational trends are analysed in the rest of the document.

## **3.2 Current State of Content Ratings**





### ***3.2.1 Comparative Country Rating Legislation Charts***

The tables on the following pages provide a comparative overview of the audiovisual rating legislation and practices in the 17 EU territories (Appendix 1 contains detailed country profiles).





 **AUSTRIA**

Theatrical Release					
<b>Legislation</b>		Regional system. Each one of the nine federal <i>Länder</i> has its own law on the protection of the youth ( <i>Jugendschutzgesetz</i> ) and its own law on cinema ( <i>Kinoggesetz</i> )			
<b>Mandatory classification</b>		Yes			
<b>Age categories</b> – as established by the Austrian Board of Media Classification (“ABMC”)					
For all	6	10	12	14	16
<b>Censorship (banning films or restricting distribution)</b>		No			
<b>Partial Prohibition (cuts)</b>		Yes (depending on regional legislation)			
<b>Enforcement</b>		Austrian Board of Film Classification (“ABFC”), advisory board (reporting to the Federal Ministry of Education, Science and Culture) collaborating with regional authorities in charge of films examination			
Video DVD					
No legal basis for the rating of videos and DVDs. In practice, all videos/DVDs are imported from Germany are labelled according to the FSK rating system					
Broadcasting					
<b>Legislation</b>		- Broadcasting Act ( <i>Bundesgesetz über den Österreichischen Rundfunk</i> , ORF-G) No. 379/1984 - Act on private broadcasters ( <i>Bundesgesetz, mit dem Bestimmungen für Privates Fernsehen erlassen werden</i> , PrTV-G) No. 84/2001			
<b>Enforcement</b>		<b>Public broadcasters (ORF)</b>		Private broadcasters	
		ORF Internal guidelines		KommAustria	
<b>ORF internal system of watershed</b>					
<b>Until 8.15pm</b>		<b>8.15pm – 10pm</b>		<b>After 10pm</b>	
<b>ORF visual symbols</b>					
K+		X		O	
Programme particularly suitable for children		Programme not suitable for children		Programme for adults only	
Video Games					
Even if the ABFC is entitled to classify interactive leisure software products, this possibility has not yet been implemented. In practice most video games are imported from Germany and they carry the <i>Freiwillige Selbstkontrolle der Filmwirtschaft</i> , (“FSK” – the Voluntary Self-Regulation Board of the Film Industry) label.					

 **BELGIUM**

Theatrical Release				
<b>Legislation</b>		Law of 1 September 1920 (Law Vandervelde)		
<b>Mandatory classification</b>		Yes, if a film is intended for people under 16		
<b>Age categories</b>				
All		16		
<b>Censorship</b>		No		
<b>Partial prohibition (cuts)</b>		Yes		
<b>Enforcement</b>		Commission Intercommunautaire de Contrôle des Films (“CICF”). The CICF is based on a co-operation agreement between the different Belgian linguistic communities.		
Video DVD				
<b>Applicable regime</b>		Self-regulation		
<b>System of age categories enforced:</b>				
All		12		16
Broadcasting				
I. French Community				
<b>Legislation</b>		- Decree of 17 July 1987 - Order of 12 October 2000		
<b>Age category and corresponding visual symbol</b>				
All	PG	12	16	18
No icon				
<b>Enforcement</b>		Superior Audiovisual Council ( <i>Conseil Supérieur de l’Audiovisuel</i> , “CSA”), administrative authority independent from the government.		
II. Flemish Community				
<b>Legislation</b>		Decree of 25 January 1995		
<b>Enforcement</b>		Media Council ( <i>Vlaamse Kijk- en Luisterraad voor Radio en Televisie</i> )		
<b>Signal</b>		Tonal		
III. Brussels-Capital Region				
<b>Legislation</b>		Law of 30 March 1995		
<b>Signal</b>		Choice between tonal or visual		
IV. German-speaking Community				
<b>Legislation</b>		Decree of 26 April 1999		
<b>Signal</b>		Tonal and visual		
Video Games				
No specific legislation. Most imported products labelled according to the Entertainment and Leisure Software Publishers Association’s (“ELSPA”) system.				

 **DENMARK**





Theatrical Release			
<b>Legislation</b>	- Film Act n° 186 of 12 March 1997 - Order n°30 of 16 January 1998 on the Media Council for Children and Young People (“MCCY”)		
<b>Mandatory classification</b>	Yes, for film aimed at an audience under 15		
<b>Age categories</b>			
			
CAT1	CAT2	CAT3	CAT4
Film can be viewed by all	Film can be viewed by all but not recommended for children under 7	Film is approved for children over 11 years	Film is approved for children over 15 years
<b>Censorship</b>	No		
<b>Cuts</b>	No		
<b>Enforcement</b>	MCCY (Ministry for Culture)		
<b>Fees for classification of film, video, DVD</b>	€1.70 per minute		
Video DVD: same categories and enforcement procedure			
<b>Applicable regime</b>	- Film Act n° 186 of 12 March 1997 sets additional rules on - labelling and packaging		
Broadcasting			
<b>Legislation</b>	Consolidated Broadcasting Act n° 701/ 2001		
<b>Age Categories</b>	In practice: Feature films: TV channels use MCCY ratings		
<b>Watershed</b>	Yes (9pm)		
<b>Visual signal</b>	No		
<b>Tonal signal</b>	Spoken announcement before broadcast		
<b>Enforcement</b>	Radio and TV Board		
Video Games (Self regulation)			
Voluntary system for local products: <ul style="list-style-type: none"> <li>- Age categories remain to the appreciation of the video games’ producer.</li> <li>- Mandatory information to be provided: age categories as defined by the producer, platform, details of MCCY.</li> </ul> With regard to imported products – ratings obtained from the product’s country of origin are used (such as classification of the BBFC for UK products)			
<b>Enforcement</b>	MCCY may classify. Stickers available online		

 FINLAND

Theatrical Release				
<b>Legislation</b>		- New Act on Classification of Audiovisual Programs ( <a href="#">775/2000</a> ) which came into force 1 January 2001		
<b>Registration mandatory</b>		Yes		
<b>Classification mandatory</b>		Yes, only for audiovisual works intended to people under 18		
<b>Age categories</b>				
All	7	11	15	18
<b>Censorship</b>		No		
<b>Cuts</b>		Yes		
<b>Enforcement</b>		Finnish Board for Film Classification (Ministry of Education)		
<b>Fees</b>		€2 per minute (minimum €34)		
Video DVD including Video-on-Demand/Video Games				
<b>Applicable regime</b>		Same legal provisions as for films		
Broadcasting				
<b>Legislation</b>		- Television and Radio Operations 15 January 1999/14 - Act on the State Television and Radio Fund 9 October 1998/745 - Act on Television and Radio Operations 778/2000 given on 25 August 2000 - Act on the Finnish Broadcasting Company Ltd 22 December 1993/1380		
<b>Watershed</b>		Yes (9pm)		
<b>Visual signal</b>		No		
<b>Tonal signal</b>		Yes (+spoken announcement)		
<b>Enforcement</b>		Mass Media Unit of the Ministry of Transport and Communication		



 FRANCE

Theatrical Release					
<b>Legislation</b>		- Ordonnance n°45-1464 of 3 July 1945 on the delivery of “certificates for exploitation” to film exhibition and exports in France. - Decree n°2001-618 of 12 July 2001 amending Decree n° 90-174 of 23 February 1990, on the classification of cinematographic works - Decree n°92-445 of 15 May 1992 on the access of minors to cinema theatres - Article 11 and 12 of Finance Law n°75 – 1278 of 30 December 1975 (pornographic films)			
<b>Mandatory classification</b>		Yes			
<b>Age categories</b>					
All	12	16	18	Pornographic films and films of extreme violence	Prohibition
<b>Censorship</b>		Yes			
<b>Cuts</b>		Yes			
<b>Enforcement</b>		Film Classification Commission, CNC, Ministry for Culture			
<b>Fees</b>		€0.03 per metre of film			
Video DVD					
<b>Applicable regime</b>		- Films previously classified for theatrical release: same classification applies Films directly released in video format: the Syndicate of Video Publishers (SEV) implements a self-regulation scheme including 4 age categories: “forbidden under 18”, “adults-not recommended under 16”, “not recommended under 12” and “all public”			
<i>Enforcement</i>		<i>A posteriori</i> control by a special commission under the aegis of the Ministry for Home Affairs.			
Broadcasting					
<b>Legislation</b>		Law 86-1067 of 30 September 1986 on the freedom of communication			
<b>Age categories</b>					
All	10 	12 	16 	18 	
<b>Watershed</b>		Yes (varies from channel to channel)			
<b>Visual or tonal signal</b>		Visual and tonal			
<b>Enforcement</b>		Conseil Supérieur de l’Audiovisuel, independent body			
Video Games (Self regulation)					
System developed by SELL. ( <i>Syndicat des Editeurs de Logiciels de Loisir</i> ) including a four category classification					
Suitable for all	Not recommended for an audience under 12	Adult public – not recommended for an audience under 16	Forbidden under 18		

 **GERMANY**

Theatrical Release				
<b>Legislation enforcement</b>		- Law on the protection of the youth in public places (JÖSchG) of 25 February 1985 - Law on the diffusion of writings and media content endangering the youth ("GjSM") of 12 July 1985		
<b>Mandatory classification</b>		No, the system is voluntary. However, unclassified films may be shown to adult people only		
<b>Age categories</b>				
For all	6	12	16	18
<b>Timetable for unaccompanied young people attending cinema shows</b>				
Children	Young people under 16		Young people over 16	
Until 8pm	Until 10pm		Until 12am	
<b>Censorship</b>		No, but under law "GjSM" films and videos endangering the youth may be put on an "index" which limits their freedom of circulation		
<b>Partial prohibition (cuts)</b>		Yes		
<b>Enforcement</b>		- FSK self-regulatory body for the film and video industry, in charge of implementing law "JÖSchG" - <i>Bundesprüfstelle für jugendgefährdende Schriften</i> ("BPjS") in charge of implementing law "GjSM" (films including pornography and/or extreme violence)		
Video DVD				
<b>Applicable regime</b>		Law JÖSchG Same legislation and enforcement boards as for films intended for theatrical release		
Broadcasting				
<b>Legislation</b>		Federal broadcasting act ( <i>Rundfunkstaatsvertrag</i> ) of 31 August 1991		
<b>Enforcement</b>		<i>Private broadcasters</i>		<i>Public broadcasters</i>
		<i>Freiwillige Selbstkontrolle Fernsehen</i> ("FSF") voluntary self-regulation board of the private broadcasting sector		Broadcaster's internal guidelines
<b>Watershed (broadcasting time referring to age categories for films)</b>				
<b>Age</b>	<b>12</b>	<b>16</b>	<b>18</b>	
Broadcasting time	Left to broadcaster's choice	10pm – 6am	11pm – 6am	
<b>Signal</b>		Choice between tonal or visual		
Video Games				
Voluntary self-regulation system. Enforcement body: the <i>Unterhaltungssoftware Selbstkontrolle</i> ("USK"), organ of the interactive leisure software industry. Age categories are the same as for film classification.				





Theatrical Release			
<b>Legislation</b>		Act No. 47/1995 on the inspection of films and prohibiting of films of violence	
<b>Mandatory classification</b>		Yes	
<b>Age categories</b>			
10	12	14	16
<b>Censorship</b>		Yes	
<b>Partial prohibition (cuts)</b>		No	
<b>Enforcement board</b>		Film Inspection (Ministry of Culture and Education)	
Video DVD			
The same legislation and enforcement boards apply as for films intended for theatrical release. The age categories for the video/DVD distribution are however different from those applicable to theatrical release:			
<b>Age categories</b>			
Not suitable for the youngest viewers	12		16
Broadcasting			
<b>Legislation</b>		- Act No. 47/1995 on the inspection of films and prohibiting of films of violence - Act No. 53/2000, "Broadcasting act"	
Video Games			
Video games are not yet classified by the Film Inspection, even though this is permitted by act No. 47/1995			

 **IRELAND**

Theatrical Release and Video				
<b>Legislation</b>		Censorship of Film Act, 1923 n°23 of 16 July 1923 Video Recording Act of 1989		
<b>Mandatory classification</b>		Yes		
<b>Age categories</b>				
All	PG	12PG	15 PG	18
<b>Classification applicable to videos</b>				
All	PG	12	15	18
<b>Censorship</b>		Yes		
<b>Cuts</b>		Yes		
<b>Enforcement</b>		Irish Board of Film Censors		
<b>Fees</b>		Films for theatrical release: €8 per minute (average €888 per film) Video releases: rental market €101.60; sell-through market: €228.50		
Broadcasting				
<b>Legislation</b>		Radio and Television Act, 1988 Broadcasting Act, 2001		
<b>Watershed</b>		9pm		
<b>Visual signal</b>		No		
<b>Tonal signal</b>		Yes		
<b>Enforcement</b>		Broadcasting Commission of Ireland (since 2001)		
Video Games				
ESLPA System –under self-regulation: video games rated 15 or 18 should be submitted to the Film Censor.				











 **ITALY**

Theatrical Release			
<b>Legislation</b>		- Law 161/62 on the revision of films and theatre works - D.P.R. (Presidential Decree) No. 2029/63 - Law 203/95 - D.L. (Legislative Decree) No. 3 of 8 January 1998	
<b>Mandatory classification</b>		Yes	
<b>Age categories</b>			
For all	14	18	Unsuitable for all
<b>Censorship</b>		Yes	
<b>Partial prohibition (cuts)</b>		Yes	
<b>Enforcement</b>		Revision Commission under the <i>aegis</i> of the Ministry of Culture (Directorate for Cinema)	
Video DVD			
Same legislation and enforcement authorities apply as for theatrical release.			
Broadcasting			
<b>Legislation</b>		- Law 223/90 on the regulation of public and private broadcasting system - Law 203/95 - Law 249/97 on the appointment of AGCOM	
<b>Enforcement</b>		Authority for the Guarantee in Communications (AGCOM)	
<b>Watershed</b> (broadcasting time referring to age categories for films)			
<b>Age</b>	<b>14</b>	<b>18</b>	
Broadcasting time	10.30pm – 7am	Cannot be shown on terrestrial TV	
<b>Self-regulation</b>		The Association of Italian Private Broadcasters (“FRT”), implements a system of visual symbols for parental guidance + a protected broadcasting slot between 4pm and 7pm	
Video Games			
No specific legislation. Most imported products labelled according to ELSPA system.			

 **LUXEMBOURG**

Theatrical Release			
<b>Legislation</b>	- Law of 13 June 1922 - Grand-Ducal order of 16 June 1922 - Ministerial regulation of 28 November 1977		
<b>Mandatory classification</b>	Yes, if a film is intended for people under 17		
<b>Age categories</b>			
For all	14	17	Unsuitable for all
<b>Censorship</b>	Yes		
<b>Partial prohibition (cuts)</b>	Yes		
<b>Enforcement</b>	Commission for the surveillance of cinemas and public theatres ( <i>Commission de Surveillance</i> , "CdS" – governmental agency)		
Video DVD			
Only applicable legislation: criminal code. In practice, rating systems of neighbouring countries applied on imported videos			
Broadcasting			
<b>Legislation</b>	Law of 27 July 1991 on electronic media		
<b>Enforcement board</b>	National Programme Council ( <i>Conseil National des Programmes</i> , CNP)		
<b>Signal</b>	Choice between tonal or visual		
Video Games			
No specific legislation. Most imported products labelled according to ELSPA system.			

 **THE NETHERLANDS**

Cinema, Video (VHS and DVD), Broadcast, Video Games (Self Regulation, no cuts, no censorship)					
<b>Mandatory classification</b>		No			
<b>Age categories</b>					
All	PG under 6	12	16		
					
<b>Thematic categories</b>					
Violence	Sex	Fear	Drugs & alcohol	Discrimination	Swearing
					
<b>Enforcement</b>	NICAM ( <i>Nederlands Instituut voor de Classificatie van Audiovisuele Media</i> ) – staff of NICAM member companies are trained by NICAM and are called ‘coders’				
<b>Censorship</b>	No				
<b>Cuts</b>	No				
Broadcasting sector (Additional provisions and rules complementing the NICAM system)					
<b>Additional provisions relating to broadcasting</b>	Media Act 2000				
<b>Watershed</b>	Yes (8pm and 10pm)				
<b>Visual signal</b>	Yes				
<b>Tonal signal</b>	No				
<b>Enforcement</b>	The Dutch Media Authority				
<b>Censorship</b>	Yes (rare)				




**NORWAY**

Theatrical Release				
<b>Legislation</b>		- Law on pornography (paragraph 204) - Law on violent images (paragraph 382) - Law n° 21 of 15 May 1987, amended on 1 January 2000		
<b>Mandatory classification</b>		Yes for audiovisual works intended to people under 18		
<b>Age categories</b>				
All	7 (4 if accompanied)	11 (8 if accompanied)	15 (12 if accompanied)	18
<b>Censorship</b>		Yes		
<b>Cuts</b>		Yes		
<b>Enforcement</b>		Norwegian Board for Film Classification (Royal Ministry of Cultural and Church Affairs)		
Video DVD				
<b>Applicable regime</b>		Law (same rules as for films)		
Mandatory registration but no legal provision on mandatory submission of videos for classification of content by the national board				
<b>Fees</b>		€0.68 (tax per unit)		
Broadcasting				
<b>Legislation</b>		- Act no. 127 of 4 December 1992 (with subsequent amendments, most recently by Act No.6 of January 14, 2000) relating to broadcasting. - Regulations of 27 February 1997 relating to broadcasting		
<b>Watershed</b>		9pm		
<b>Visual signal</b>		No		
<b>Tonal signal</b>		Yes (Tonal warning)		
<b>Enforcement</b>		The Mass Media Authority (under the Royal Ministry of Cultural and Church Affairs)		
<b>Censorship</b>		No		
Video Games				
Advisory approach through the Norwegian Board for Film Classification				

 **PORTUGAL**

Theatrical Release				
<b>Legislation</b>		Law decree 396/82 of 21 September 1982, as amended by law decree 116/83 of 24 February 1983 and law decree 39/88 of 6 February 1988		
<b>Mandatory classification</b>		Yes		
<b>Age categories</b>				
4	6	12	16	18
<b>Censorship</b>		No		
<b>Partial prohibition (cuts)</b>		No		
<b>Enforcement</b>		<ul style="list-style-type: none"> <li>- Commission for the classification of films (<i>Comissão de Classificação de Espectáculos</i>, “CCE”), agency depending on the Ministry of Culture</li> <li>- CINEDOC, private voluntary rating board set up by the Social Communication Secretary, a catholic organisation</li> </ul>		
Video DVD				
<b>Applicable regime</b>		Law decree 396/82 The same legislation and enforcement boards apply as for films intended for theatrical release		
Broadcasting				
<b>Legislation</b>		Law 43/98 of 6 August 1998		
<b>Enforcement board</b>		High Authority for the Mass Media ( <i>Alta Autoridade para a Comunicação Social</i> – “AACS”)		
<b>Self-regulation</b>				
An agreement among the three TV operators RTP, SIC and TVI was signed on 9 July 1997. It establishes a watershed at 10pm as well as a visual symbol (“0”) indicating programmes with violent content.				
Video Games				
The same legislation and enforcement boards apply as for films intended for theatrical release, videos and DVDs.				

 **SPAIN**

Theatrical Release				
<b>Legislation</b>		<ul style="list-style-type: none"> <li>- Royal Decree 81/1997 of 24 January on the protection and support to the film sector, which redefines norms related to co-productions, exhibition, and classification of feature films.</li> <li>- Regulation 7 July 1997, on the implementation of Royal Decree 81/1997 in the field of screening quotas, film distribution, film exhibition, the registration of film companies and the classification of film and other audiovisual works.</li> <li>- Law 15/2001 of 9 July on support to and promotion of cinematographic works in the audiovisual sector.</li> </ul>		
<b>Mandatory classification</b>		Yes		
<b>Age categories</b>				
All	7	13	18	Pornographic and extremely violent films
<b>Censorship</b>		No		
<b>Cuts</b>		No		
<b>Enforcement</b>		Commission for film classification (ICAA, Ministry of Culture)		
Video:				
<b>Applicable regime</b>		Same laws as for films theatrically released: same age categories, procedure and competent authority as for theatrical releases		
Broadcasting – self-regulation				
<b>Legislation</b>		<ul style="list-style-type: none"> <li>- Article 149.1.27 of the Constitution, (the State has exclusive power for setting up the applicable regime for television channels. The autonomous communities are given power to develop legislation for the implementation of basic State norms).</li> <li>- Law 4/1980 of 10 January on the Status of Radio and Television.</li> <li>- Law 46/1983 of 26 December regulating “third channel”</li> <li>- Law 10/1988 of 3 May on Private television</li> <li>- Law 35/1992 of 22 December on Satellite Television.</li> <li>- Law 37/1995 of 12 December on Satellite Communications</li> <li>- Law 25/1994 of 12 July amended by Law 22/1999 of 7 June</li> <li>- Royal Decree of 17 September 1999</li> </ul>		
Under legal provisions: Broadcasters must apply the same rating applied to feature films already theatrically rated. Broadcasters must apply either visual or tonal signalling On this basis, Spanish broadcasters have set up a Convention to implement these legal provisions and agreed to a system of on-screen icons, which are applied across all the signatory channels.				
<b>Watershed</b>		Yes (from 8pm to 6am)		
<b>Visual signal</b>		Yes		
<b>Tonal signal</b>		Yes		
<b>Censorship</b>		No		
<b>Enforcement</b>		Sub-directorate for contents in the information society, Ministry of Sciences and Technology		
Video Games – self regulation				
ELSPA system				

 **SWEDEN**

Theatrical release			
<b>Legislation</b>	- Law on the Examination and Control of Films and Videogram Ordinance (SFS 1990 :886), published on 8 November 1990 - Swedish Code of Statutes (SFS): SFS 1990:992, published on 20 November 1990 - Swedish Code of Statutes (SFS): SFS 1990:894, published on 4 September 1990 - Chapter 16: on Crimes against Public Order		
<b>Mandatory classification</b>	Yes		
<b>Age categories</b>			
All	7	11	15
<b>Censorship</b>	Yes		
<b>Cut</b>	Yes		
<b>Enforcement</b>	National Board of Film Censors		
Video DVD			
<b>Applicable regime</b>	- Video DVD aimed to sale or rent for <u>public</u> exhibition: classification is mandatory – same age categories as for films aimed for theatrical releases - Video DVD aimed to sale or rent for <u>private</u> use: classification is optional and voluntary		
<b>Fees</b>	License card: €161.80 + Fee (basic fee: €21.60 + €4.80 per minute) Special fee for documentaries (€22)		
<b>Enforcement</b>	Regional Supervisory Organisation of the “SFB” (the National Board of Censors)		
Broadcasting – self-regulation			
<b>Legislation</b>	- The New Radio and Television Act (1997)		
<b>Age categories</b>	TV Channels use same classification for feature films as they obtained when rated by the SFB		
<b>Watershed</b>	Yes (9pm)		
<b>Visual signal</b>	No		
<b>Tonal signal</b>	Yes (+ Spoken announcement before broadcast)		
<b>Enforcement</b>	Swedish Broadcasting Commission		
Video Games – self regulation			
Voluntary code of conduct set up by ADESE (based on ELSPA system)			

 **UNITED KINGDOM**

Theatrical release					
<b>Legislation</b>		- Cinema Act 27 March 1985			
<b>Mandatory classification</b>		Yes for video No for feature films (the mere approval of the local authority may be sufficient)			
<b>Age categories</b>					
Universal	PG (all ages admitted but parental guidance recommended)	12 A (children over 12 – children under 12 may be admitted ie accompanied by parents)	15	18	R18 (to be supplied only in licensed sex-shops to adults)
<b>Censorship</b>		Yes			
<b>Cut</b>		Yes			
<b>Fees</b>		Feature and video (standard rate fee) from €15.95 per minute for the first hour, falling to €11.73 per minute for the second hour, falling to €8.75 per minute thereafter.  See country profile for detailed information.			
<b>Enforcement</b>		Local authorities			
Video DVD for public exhibition (law-British Board of Film Classification)					
<b>Applicable regime</b>		Law - Cinematograph Film Act of 1937, which lays down principles, such as the prohibition to supply or exhibit a “film containing cruel goading of any animal fury”, applying to video classification. - Video Recording Act of 1984 - The Video Labelling regulations of 1 November 1995 (secondary legislation)			
<b>Age categories and enforcement</b>		Age categories - same as for films; enforcement - Trading Standard Offices			
Broadcasting					
<b>Legislation</b>		Broadcasting Act of 1990, as amended in 1996			
<b>Watershed</b>		Yes: film rated +15 and +18 are not broadcast before 9pm (film channels: 8pm; pay-per-view: at any time provided use of a personal identification number’s mandatory)			
<b>Visual signal</b>		No			
<b>Tonal signal</b>		No, only an announcement.			
<b>Enforcement</b>		British Standards Commission (“BSC”) Independent Television Commission (“ITC”)			
Video Games					
BBFC has started to classify video games, also 2 voluntary systems: ELSPA and Video Standard Council					

### 3.3 Rating Practice in the EU and EEA Areas - Comparative Analysis by Sector

The Consultants examined the rating practices and legislation in the 17 EU/EEA Member States by individual media sectors in order to enable clear and concise comparisons to be made and relevant key issues and trends be explored<sup>10</sup>.

Appendix 6, Appendix 7 and Appendix 8 are also relevant to this section. Appendix 7 contains 3 sections:

- defining a rating strategy;
- the criteria for implementing age categories
- and the process of enforcing rating processes and the authorities in charge and a table providing an overview of the authorities in charge of rating audiovisual content.

Appendix 8 contains sections on: the state of censorship legislation in the EU and the state of appeal procedures from rating decisions in the EU and EEA Member States.

#### 3.3.1 Cinema/Theatrical Release

The Consultants have found that theatrical ratings differ between countries in several ways.

1. The structure of rating categories
2. Censorship
3. Legislation pertaining to the submission of a film for classification (submission process, costs and duration)
4. Nature of the rating authorities

It is worth noting that as a general rule, classification used in rating feature films for theatrical release is codified under legal provisions.

##### *Advisory Categories*

Except for Belgium, which has maintained its original old two-category classification, all the countries surveyed have added new rating categories in recent years and many now have from '5' to '6' age categories.

The introduction of additional age categories was intended to make the systems more flexible with subtle distinctions between ages as opposed to the traditional focus of the age categories on the "under 18" and "over 18" age distinction issue.

Paradoxically, this trend toward adding more rating categories to their systems, the countries could end up with systems that are too rigid and this leads to questions regarding the sociological and psychological reasoning behind the enforcement of ratings. For instance the question could be asked as to why a "mature" child of 11 years should be denied access to a film rated "for 12 and over"?

In a recent overhaul of its legislation, Ireland has tried to avoid this. The new rating system was completed with the introduction of the 'PG mention'. Instead of implementing the categories: 'general', 'PG', '12', '15', and '18', the classification applicable to feature films for theatrical releases is now 'PG', '12 PG', '15 PG', and '18'. Other terms, 'over 12' and 'over 15' were

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<sup>10</sup> Please note that all contact information and website references with regard to the organisations mentioned in the report can be found in Appendix 7

replaced by more indicative classification, which means that while the film is, in the opinion of the film censor, only suitable for those over 12 or 15 years of age, a person under that age may be admitted to a cinema screening provided he/she is accompanied by a parent or guardian.

Similarly in Norway, provided children are accompanied by adults, films rated '7' for theatrical release can also be accessed by children over 4, films rated '11' can be accessed by children over 8, and films rated '15' by children over 11.

In Sweden, children under 7 will have access to films with the age limit of '7' if accompanied by a person of 18 or over. Children from 7 will have access to films with the age limit '11' under the same circumstances.

In Portugal, children accompanied by their parents may go to the cinema even if the screened film is rated as unsuitable for lower age categories.

Contrary to the practices in Ireland, Norway and Portugal, some countries have reinforced age categories with provisions relating either to the age of the person who may accompany children, or through defining specific schedules. For instance, in Germany the law adds to traditional age categories some measures intended to regulate film attendance by children and young people in relation to screening hours and the presence of a parent or guardian. Consequently, unaccompanied children younger than 14 may only go to the cinema if the screening ends by 8pm; young people between 14 and 16 may attend screenings until 10pm and minors older than 16 until 12am.

With additional ratings categories have come the need to justify them, and this has resulted in a trend toward additional descriptive categories accompanying the ratings.

It is worth noting that in addition to age categories, NICAM, the Dutch classification body, has added a thematic classification. In addition to providing an age category (evaluative approach), any feature film has an additional classification, which gives information on the kind of harmful content in the audiovisual work (descriptive approach). Hence the classification not only states the recommended age, but also adds information regarding the usage of "violence", "drugs", "fear", "discrimination" or "sex" in the audiovisual work. This system is aimed at giving more appropriate guidance by saying why the audiovisual work should not be shown to people under a certain age.

In Austria, the ABMC provides a positive evaluation of films rated, indicating films particularly suitable for children. In Portugal, films receiving a "quality" label on grounds of their artistic, thematic or technical value are exempted from the payment of the classification fee.

### *Censorship*

In France, Spain, the UK (for videos), Germany and Portugal, an additional specific category includes pornographic and/or extremely violent films. It can be considered as a form of censorship. The classification of an audiovisual work under this category is followed by the application of a specific regime. Theatres which, show such films, are also subject to a specific regime.

**In France**, pornographic films are subject to specific legal provisions that are laid down under the Financial Law of 30 December 1975 (article 11 and 12 of Law n°75-1278) which established specific categories for films including pornographic and violent scenes. Such films are accessible to an audience over 18 but only within specific theatres.

**In Spain**, under Royal Decree 81/1997, the commission for film classification may rule on a film and classify it as “being destined to be released in “X theatres”. As under the French legislation, the film falls into a specific category and its release is conditioned by a specific regime.

**In the UK**, the ‘R18’ category is imposed on ‘explicit’ videos showing scenes of sex between consenting adults. ‘R18’ videos may be supplied only in licensed sex shops, which no one under 18 can enter.

**In Germany**, films and other publications that could endanger the moral development of children and the youth must be put on a “list” which implies limitations to their circulation and availability to the public. The reasons leading a product to be indexed include pornography, extreme violence or glorification of war.

**In Portugal**, a specific classification exists for pornographic films. It is based on defined criteria.

In addition to these specific categories, some countries may proceed to cut or even ban films, as is the case in France, Iceland, Ireland, Italy, Luxembourg, Norway, Sweden (although not implemented) and the UK whereby a film can be banned by the national board for film classification. In the remaining countries, full censorship cannot be implemented. The Consultants noticed the countries, which had in their recent past experienced a dictatorship regime neither resent the mere notion of censorship and consequently no longer ban nor cut feature films. However, in all the countries surveyed, any audiovisual work can still be submitted to penal sanctions (common and civil law).

In some countries, the board for film classification may be permitted to cut the film, as is the case in Finland, Germany, Ireland, Luxembourg, Sweden and the UK. In other countries, such as Belgium, Denmark, France, Germany and Italy, cuts can be made voluntarily by the film’s producer or distributor, if the classification board refused to grant the audiovisual work the age category initially anticipated by the distributor.

The Consultants have noticed a distinct trend towards a more liberal approach when rating feature films, and there is evidence of fewer cases of censorship by the rating authorities (see statistics in Appendix 8). Therefore, the Consultants have concluded that this indicates the transition from a “censor approach” to a “guardian approach”.

#### *Legislation Pertaining to the Submission of a Film for Classification*

The Consultants noted that in most of the countries the rating of an audiovisual work is mandatory. This is the case in Austria, France, Greece, Iceland, Ireland, Italy, Portugal, Spain, Sweden, and the UK, where any audiovisual work must go through this process before being allowed in theatres.

Netherlands and Germany are exceptions to the norm – in these territories the rating process is voluntary. A voluntary system of self-regulation was set up in Germany by the industry within the FSK. The FSK is an independent body acting as a self-regulation board for the film industry and was established by the High Federation of the Film Industry (“SPIO”), the federation of 11 German film and video industry groups.

The FSK has been entrusted, by agreement with the Supreme Youth Authorities of German Länder, with the task of examining all the films intended for exhibition in the country.



Therefore, although the Supreme Youth Authorities remain the legal entities responsible for film rating, the classification procedure and certificate release are actually implemented by the FSK.

In the Netherlands, the system is voluntary under the aegis of NICAM, the newly created agency in charge of rating content across all media. According to this system, only the members of NICAM (Netherlands Association of Producers and Importers of Visual and Sound Recording Media (NVPI), Netherlands Video Retailers organisation (“NVDO”), Netherlands Association of Gramophone Record Retailers (“NVGD”), Netherlands Federation of Cinematography (“NFC”), Netherlands Broadcasting Foundation (“NOS”) which represents all national public broadcasters, Association for satellite TV and Radio Programme Providers (“VESTRA”), which represents all commercial broadcasters in the Netherlands) are required to implement NICAM’s classification, as they have subscribed to the system when joining the organisation.

Other countries have introduced some level of flexibility in the rating process and hence, it is sometimes possible for a distributor not to go through the classification process, but the film will then automatically be rated for audiences above 15 years of age in Denmark, 16 years of age in Belgium, 17 years of age in Luxembourg, and 18 years of age in Norway, Finland and Germany. However, in these cases it is still necessary to get the audiovisual work registered.<sup>11</sup>

Most countries have set up specific appeal procedures so as to give the distributor/producer the opportunity to contest the rating imposed on their audiovisual work. Details on the procedure are given in Appendix 8.

Finally, all countries have set up specific stipulations for films intended for display at film festivals or other cultural events. This results in discrimination against local theatres. In London for instance, cine-clubs (film screening clubs) may show films that have not been classified by the BBFC. This is also the case in the French Cultural Institute’s theatre, which is known as *the* place to see censored films. In Ireland the Irish Film Centre can also show films that were banned by the Irish Film Censor.

In other countries (Denmark, Finland, France, Germany, Norway and Sweden) legal provisions exist to exempt a film that is being shown at festivals and other cultural events from the need to be submitted for classification. For instance, in Iceland films intended for festival exhibition pay a lower classification fee than films screened in movie theatres.

### *Cost*

Classification is always completed against payment of a fee or a tax. The fee can either be a flat fee, or calculated as a function of the metres of film stock, or the film’s duration.

**Fig. 3b The price for rating an audiovisual work in European countries**

Countries	Feature Films	Video DVD	Video Games
Austria	€0.06 per meter	Video classification is not mandatory	No specific legislation
Belgium	€0.025 per meter	No legislation on video (and video game) classification	

<sup>11</sup> Registration consists of a technical identification and is not aimed at carrying information on the content itself. It is often limited to the attribution of an identification number (sometimes completed by metadata aimed at facilitating the production and distribution process). Classification consists in the attribution of a category, according to evaluative and descriptive considerations.

Country	Feature Films	Video DVD	Video Games
Denmark	<p>€1.7 per minute for a film (theatrical and video releases)</p> <p><b>Double submission for theatrical and video release of a single audiovisual work</b>  Film and video must be systematically submitted, regardless of whether the audiovisual work was already rated.  Half of the price if the audiovisual work was already rated  Half of the price if the distributor makes an application for a second rating of the same film. This second application is free if the final decision changes the initial one.</p>		
Finland	<p>€2 per minute for a film (theatrical and video releases)</p> <p><b>Single submission for theatrical and video releases of a single audiovisual work</b>  An audiovisual work is only rated once. The decisive factor is the content and not the support.  Yet all audiovisual works (including the case of a video including a film which was already rated) must be registered.</p>		Interactive programmes: €67.30 per programme
France	€0.03 per meter		No submission requested
Germany	About €1500 per 90min film (i.e. €16.67 per minute).	There is no additional rating required	No submission requested
Greece	<p>€18 for a theatrical trailer</p> <p>€18 for a film of up to 500m</p> <p>€30 for a film between 501-1600 metres</p> <p>€60 for films exceeding 1601 metres</p> <p>In the case of resubmission, there is a surplus cost of:</p> <p>€35 for a film of 200 to 1600 metres</p> <p>€70 for a film of over 1601 metres</p>	There is no additional rating required for video	No submission requested – Voluntary self-regulated system
Iceland	<p>€216.12 per film. This fee includes the rating of the video/DVD version of the film. The cost of the rating of a film intended for festival exhibition is €99.30</p> <p><b>Submission for theatrical and video releases of a single audiovisual work</b>  €110.96 for films that have not been previously rated for theatrical release</p>		
Ireland	<p>€7.90 per minute for a film</p> <p><b>Double submission for theatrical and video releases of a single audiovisual work</b>  Video must be systematically submitted for classification, regardless of whether the audiovisual work was already rated when theatrically released. Applicable prices:  €228.50 (video for release on the rental market)  €101.50 for release on the sell-through market</p>		No submission requested
Italy	€10 <b>for each copy</b> released on the market	There is no additional rating required for video	No submission requested
Luxembourg	NA.		
The Netherlands	No specific cost (voluntary online submission), however cost to the industry is estimated at €10 million per year		
Norway	<p><b>Double submission for the registration of a single audiovisual work intended for theatrical and video releases</b></p> <p><b>No obligation to submit video for classification</b></p> <p>€0.68 (<b>tax per unit</b>) applicable to the registration process.  This registration process automatically implies the rating of the audiovisual work in case of theatrical releases. It does not necessarily include the rating of the audiovisual work in case of video release (this is only be completed on the distributor's request and does not incur any cost in addition to the cost for registration).</p>		No submission requested

Country	Feature Films	Video DVD	Video Games
<b>Portugal</b>	<b>€149.64 per audiovisual work</b> submitted (pornographic: €299.28)  <b>Double submission for theatrical and video releases of a single audiovisual work</b>  The submission is mandatory for all videos, including when the film was already rated for theatrical release. Yet a reduced fee is applicable in this case: - Video film already classified: €7.48 (€299.28 if pornographic) - New video film release: €37.41 (€748.20 if pornographic) - €0.18 for a mandatory stamp		Same price as for video
<b>Spain</b>	For theatrical release, a classification certificate must be obtained, costing €1.195413 per spool of film (up to 300 m), with an additional €1.95413 charged for each copy released For non-theatrical release, there is a charge of €6.130323 for each film of 1hr or less, with each additional hour costing €1.532581. A certificate is additionally required, whose cost is a function of the number of units €4.60 for 500 or below €91.95 from 500 to 10,000 €918.55 from 10,000 to 100,000		
<b>Sweden</b>	Fixed mount to be paid by the distributor: <b>€161.80</b> Basic fee <b>€21.60</b> Additional fee: <b>€4.80 per minute</b>	Same prices apply. Not all video are required to be submitted to the board for film classification.	
<b>United Kingdom</b>	Different flat fees and compensation rate fees according to the type of format, the language (Predominantly English spoken vs. sub-titled/dubbed). Please refer to the annex attached to the country profile.		

Since the process of classification is mandatory in almost all the countries surveyed, when a film distributor intends to operate on a Pan-European level, he has to pay for the classification of his film in each of the territories it is to be released in. So this constitutes additional costs.

The method of payment is not universal, as it may be calculated through duration, or a levy on each unit. Alternatively, it may consist, as in Sweden, of a fixed sum paid by the distributor along with an additional fee per meter. The fee may be reduced (as in Denmark or in Portugal) if the audiovisual work has already been rated for release on another platform i.e. video or DVD. In Iceland the fee paid for theatrical release includes rating for video and DVD versions of the film. In Norway the fee covers registration of the audiovisual work, which is mandatory. Classification is either mandatory (for films released with a target audience under 18) or voluntary (for videos) but does not entail additional costs. In Ireland the cost for getting a film rated turned out to be a problem for smaller firms. A suggestion was made to link the tax to gross revenues but since the system would have been biased against the large American mainstream films that saturate most markets they would have ended up subsidising the rest, and therefore, it was not implemented. In Norway, however, such a system of tax on gross revenues did exist until very recently, where it was replaced by a tax per unit.

In the UK the applicable fee varies according to the length of the audiovisual work and the language. Films predominantly in English have higher fees than films subtitled or dubbed in foreign languages.

In the case of the Dutch system under the newly imposed NICAM scheme, rating a work is a voluntary process. Members of NICAM commit themselves to the implementation of its rating. In order to do so, they have to invest in the training of "coders". Coders are picked from the staff of each member of NICAM. They are persons specifically in charge of rating the audiovisual content produced/broadcast by their company. Training is completed under the auspices of NICAM personnel, and therefore needs commitment of an investment by the NICAM Members because it carries a cost. According to Mr Bekkers, director of NICAM, and

following an investigation carried out by a consultant for NICAM, the total cost of NICAM's system of self regulation (i.e. cost of staff and training) amounts to €10 million per year, with the rating personnel in the broadcasting sector being the most labour intensive.

As has already been highlighted in this study, cultural events like festivals may be exempted from the mandatory process of classification, thus saving the cost of getting the films classified. In Sweden, films exhibited within festivals or other entertainment events must be accompanied by a "license card" which must be paid for.

#### *Duration of the Rating Process*

The duration of the classification process varies greatly from 10 minutes in the Netherlands (since it is completed online), up to two weeks in Portugal and Ireland and up to 2 months in the UK, in cases where a film's rating is in dispute<sup>12</sup>. In Spain, if the Commission for film classification does not provide a rating for the work within one month, the rating, which was anticipated by the applicant, is deemed acceptable. In Italy, after twenty days the same system of automatic classification is implemented.

It is more difficult in all countries surveyed to get the required documents for foreign films as it may take a considerable amount of time, for instance, to get dialogues translated, or to make sure that copies of the different contracts are available.

The administrative burden and the time spent in collecting the different documents requested from the national boards of classification consequently constitute a cost for companies operating on a Pan-European basis.

In addition, boards for film classification meet with varying frequency: twice a week in France, 4 times a year in Denmark.

**Fig. 3c Rating Process/Duration**

<b>Country</b>	<b>Duration</b>
Austria	No specific provisions
Belgium	No specific provisions
Denmark	No specific provisions
Finland	No specific provisions
France	No specific provisions
Germany	One week
Greece	No specific provisions
Iceland	No specific provisions
Italy	Classification wished by the applicant deemed accepted if the board has not communicated its decision two weeks after the submission is received.
Ireland	Up to two weeks
Luxembourg	No specific provisions
The Netherlands	Non-applicable (in practice 10 minutes)
Norway	No specific provisions
Portugal	Up to two weeks
Spain	Classification wished by the applicant is deemed accepted if the board has not communicated its decisions one month after the submission is received.
Sweden	One month
UK	Up to two months

#### *Nature of the Rating Authority*

<sup>12</sup> The average length of time for the BBFC to rate a film has been 6-7 days since 2001.

The rating of feature films is almost always in the hands of the State. This means that the rating body mandated and fully organised by law, ordinarily derives its power from the public authorities on which it is more or less dependent. Generally the rating is delivered on behalf of the minister in charge of culture or/and education. It is worth noting that in Belgium and Ireland the Board for Classification is attached to the Ministry for Justice. In other countries the classification Board derives its power from the Ministry for culture and/or education and there are a few exceptions to this State power.

- In Germany, the system of self-regulation was set up by the industry. This was also the case in the Netherlands, where a recent overhaul of the whole system of content classification led to the setting up of a cross-media agency, providing for a voluntary classification for its members (film and video/video games distributors, federations, TV channels), NICAM.
- In Germany, Austria and the Netherlands, France, Spain, the UK, the final word remains with the local authority, although in practice they follow the classification granted by the national Classification Board. For example: In the UK, the controversial feature film *Crash* (directed by David Cronenberg) was rated 18 (i.e. not to be viewed under 18) but was banned from exhibition in certain boroughs. Conversely film distributors can ask a local authority to overrule a certificate granted by British Board of Film Classification. (The system is different for video: the British Board of Film Classification is also the competent State authority to rate films, and has statutory power, its decisions can not be overruled by local authorities).
- In France, some municipalities decided to ban *The Life of Jesus*, or more recently, *Baise-Moi*. However, only 1 to 5 films obtain such treatment every year in France.

### 3.3.2 Video

Regarding heterogeneity between countries relating to the rating of video, the Consultants found that there were two common parameters for films released on the platform: the implementation of the same rating for a work released on video as that of its theatrical release, and that a single or double submission for films rated theatrically and for video exists.

#### *Implementation of Same Rating*

In the majority of the countries surveyed, video classification is subject to the same legal provisions, and enforced through the same authorities as films for theatrical distribution, except in Austria, Belgium, and Luxembourg.

In Iceland and Ireland, the classification applicable to video is slightly different, and has the possibility to be more 'strict' in its rating policy. The table below illustrates the differences between these two countries:

**Fig 3d Rating in Ireland and Iceland**

Iceland				
<b>Films for theatrical release:</b>				
10	12	14	16	
<b>Video:</b>				
Video not suitable for younger audience	12			16
Ireland				
<b>Films for theatrical release:</b>				
General	PG	12PG	15PG	18

<b>Video:</b>				
G	PG	12	15	18

The reasons for the imposition of stringent ratings for films released on video are that harmful scenes occurring in films can be replayed, and that parental control is more difficult to exert on video access than on the access to theatres.

In Austria, Belgium and to a certain extent France (except for films that have been previously released for theatrical distribution), Luxembourg and Norway, video classification is ruled by self-regulation schemes or is subject to the discretion of the publisher/distributor. They often implement the classification used in neighbouring countries, as these countries account for the bulk of their distribution material. This is true of Germany for Austria, France-Germany for Luxembourg, and the Nordic countries and the UK for Norway.

The following table summarises this state-of-play:

**Fig. 3e Video Rating in European Countries**

Country	Legal provisions applicable to video	Implementation of same classification for films and videos	Possible implementation of a different classification to videos
Austria	No	No	Yes: German classification
Belgium		Yes (through the Belgian Video Federation) No	Yes: Implementation of the SEV three-category classification (whereas film classification consists of 2 categories only) + Implementation of classification from neighbouring countries
Denmark	Yes	Yes	No
Finland	Yes	Yes	No
France	Yes, for films previously theatrically released.	Yes	No
Germany	Yes	Yes	No
Greece	Yes	Yes	No
Iceland	Yes	Yes but stricter	Only three age categories for video compared to four for theatrical distribution
Ireland	Yes	Yes but stricter	Video stricter (no 12PG/15PG categories)
Italy	Yes	Yes	No
Luxembourg	Yes	No	Implementation of classification from neighbouring countries applied to imported videos
The Netherlands	Yes	Yes	No
Norway	Yes	Yes	Yes (Nordic countries and the UK)
Portugal	Yes	Yes	No
Spain	Yes	Yes	No
Sweden	Yes	Yes	No
United Kingdom	Yes	Yes, but stricter	No – Ratings may be stricter due to additional material on DVDs

*Single or Double Submission for Film and Video Ratings*

Fig 3c “The price of rating an audiovisual work in European countries” shows that when a film has already been rated for theatrical release, its release on video and consequent rating may be conditioned by the need for a second submission to obtain further ratings, which is true of Denmark, Ireland, Portugal, and the UK.

This second submission may require the payment of a full price, or may be subject to a reduced fee, as in Denmark, Ireland, Portugal. It may also happen that classification is not mandatory, although registration of the audiovisual work is still an obligation.

In Finland, Italy, and Spain, once the audiovisual work is rated, the rating applies, whatever the work is released theatrically or on video or DVD, however, the video distributor must mark the video accordingly.

Whilst the above highlights where the differences lie between countries' video rating practices, there is specific legislation regarding video packaging.

#### *Legal Provisions Concerning Packaging*

The manner in which a video is marked with the relevant rating granted by the national rating authority is dependent on the policy of the legislator.

In the UK, the Netherlands, Denmark, Norway, Sweden and Finland, specific provisions detail how this mark must be displayed: size of the logo, colours to be used, typography, location on the video sleeves and/or on the cassette of the disc itself. Some provisions have been introduced into the recent German legislation: the "Act on the protection of the youth", already approved by the Parliament in 2002 but not yet put into practice. It states that the Supreme Youth Authorities of the German Länder have power of decision over content, size, form, colour and place of the rating label to be put on video and DVD products.

The UK is an example of industry self-regulation with regard to packaging. The Video Packaging Review Committee ("VPRC")<sup>13</sup> is a voluntary scheme set-up by the industry. It regulates the manufacturing of sleeves for video cassettes, and ensures that packaging does not contain any material which might be judged to encourage illegal activities such as drug abuse, incitement to racial hatred, and so on.

Whilst Belgium, Luxembourg, Austria and Denmark accept the labelling of neighbouring countries, Ireland is currently opposing the marking of UK logos on works distributed in Ireland, on the grounds that they are confusing consumers.

Fig 3f on page 55 sums up the legal provisions implemented in all the countries surveyed. The consequences of these legal requirements for video ratings, specifically regarding packaging, inevitably fall onto the distributor.

#### *Impact on the Business of Video Distributors*

Videos (VHS cassettes) are always different from country to country, varying from the original soundtrack with local subtitles or dubbed versions, subtitles, Southern Europe systematically dubbed versions and so on. This is also the case for DVD, although in theory, technology could allow multi-language tracks on a single disc. In practice, it is not always possible to have space for all possible permutations on one disk, as well as the film in high quality format.

In Denmark, Finland, the Netherlands and Norway, the "rating logos" placed on the video sleeves can be easily downloaded from the Board of Classification's website once the audiovisual work is registered and/or classified. The websites ease public access to databases listing audiovisual works and their rating, as well as access to rating procedures and methodologies used

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<sup>13</sup> The Video Packaging Review Committee is composed of three members of the video industry, two members of the BBFC, the Chair – Deputy director of BBFC plus observers – representatives from the Advertising Standards Authority, Video Standards Council and the British Videogram Association

in defining age categories. Therefore, the Danish MCCY website is a prime example because it is divided into two parts, one for the industry and another for the public (refer to Appendix 5 for a contact and Appendix 6 for website address list).

It includes clear and didactic notes on rating and on how the Danish system is being implemented. It gives access to databases including rated films. Therefore, the Consultants concluded that the rating authorities' websites set up by the Nordic countries' authorities are particularly user-friendly and clear.

Both German self-regulation boards, FSK (for films and videos) and FSF (for TV) provide extensive and up-to-date information on their rating practices on-line. The Italian Film Classification Commission presents on its website the list of all the members of its eight committees. Such websites facilitate the business of video distributors and contribute to raising the awareness of citizens. They contrast with, for instance, the Irish system where there is no accessible website for the Board of Irish Censors, or with the French or Spanish Classification Commissions that are not easily accessible on-line either.

In the Netherlands, the classification process itself can be completed online within 10 minutes, although it requires the applicant companies to have staff trained by NICAM in order for them to become official "coders" and consequently legitimately responsible for the in-house rating procedures. This use of online procedures constitutes a case for "best-practice". In the other countries, the process is more time consuming. Often, the producer/distributor must write to the classification board and attach all the requested documentation, wait for its film to be screened within a special committee, wait for the decision and for further rating delivery.

In the UK, where a specific "Labelling Act" was enforced, this issue was taken into account, and since many companies need to print their labels as early as possible (and cannot wait until final delivery of the classification certificate) the BBFC Board has been supplying the "registration number" (classification being part of the mandatory registration process) on an interim clearance form as well. In other words the manufacture process of the videos is made possible without having to wait for the full completion of certificate delivery (but customisation of the videos can not be initiated until the full completion of the process).

The Consultants have not been aware of any particular complaints from consumers. Even when consumers purchase videos from different European territories and are faced with a wide diversity of ratings marked on the videos, confusion does not appear to arise.

**Fig. 3f Packaging and Labelling of Video/DVD in European Countries**

Countries	Legal provisions (providing for details on colours, shape and location of the symbols to mark videograms)
<b>Austria</b>	No specific legal provisions (the German labelling system is often used)
<b>Belgium</b>	No specific legal provisions
<b>Denmark</b>	Chapter 4 Order n°30 of 13.01.1998 Videos that have been classified by MCCY must be labelled in accordance with the information as to their suitability to children under 12 and 16. The order gives details on colours, size, typography, location on the packaging. Stickers can be downloaded from the website.
<b>Finland</b>	Act 775/2000 all the audiovisual programmes exhibits and supplies shall have enclosed: title, identification number, name of the producer/importer, information on the approval for children under 18, age category, cuts ordered have been made. No label or sticker required on the recording itself. Identification number + age category to be marked either on the backside or on the front (and lower part) of the packaging. The rest of the information must be placed freely. Models for stickers can be provided by the Board for Film Classification. Details given on size, colours, fonts and font sizes



<b>France</b>	Legal provisions on the information to be displayed both on the pack and the videotape The videotape must be marked with the age category mentioned in the classification certificate. No specific provision as to the size/colour/typography.
<b>Germany</b>	New legislation grants regional authorities the power to decide on the size, colour, form and position of labels.
<b>Greece</b>	No specific provision
<b>Iceland</b>	No specific provision
<b>Ireland</b>	Under the Video recording Act of 1989, once a video was rated it must be labelled according with the labelling legislation: the video spool or disk as well as the box shall have affixed to it a label in the prescribed form which can be obtained from the Official Sensor
<b>Italy</b>	No specific provision
<b>Luxembourg</b>	No specific provision (imported products carry neighbouring countries' labels)
<b>The Netherlands</b>	Video publishers that are members of NICAM (members actually represent 75% of the Dutch market) use NICAM classification and corresponding logos. Online classification process and access to printable stickers.
<b>Norway</b>	Videos and DVD must display the registration number, genre of the audiovisual work and age category. Sticker can be downloaded from the Norwegian Board of Film Classification website
<b>Portugal</b>	Legislation provides for many details: see country profile attached.
<b>Spain</b>	No specific legal provision
<b>Sweden</b>	No specific legal provision on the applicable marking/labelling
<b>United Kingdom</b>	Video Labelling Act 1995. Title as classified by BBFC + registration number. Both the cassette/disc and the box must be marked. Under a self-regulation scheme, the Video Packaging Review Committee regulates the manufacturing of sleeves for videocassettes. The finished sleeve must incorporate a small button logo in black, one centimetre high on the back cover either above or beside the box, containing BBFC classification symbol and explanatory statement.

### **3.3.3 DVD**

The issue of DVD has not been specifically addressed by all the EU and EEA Member States with regard to legislation. When DVDs are submitted for the rating classification process in each territory, they are subject to the legal provisions of that territory, and generally the same rules apply for the discs as for video.

In Iceland, Ireland and the UK, however, DVDs face a stricter rating process than that applied to the traditional video due to the bonus/additional material contained on the disc, which needs to be taken into account during the rating process. Such bonus material can include “behind the scenes” documentaries, but often also cut scenes from the main feature, which may be rated differently to the rest of the DVD.

The countries, which use the ratings applied to DVDs and videos from neighbouring countries (Austria, Belgium, Luxembourg, Norway and Sweden) do not have specific laws pertaining to national rating practice. Although in practice the issue of additional material on DVDs (material which could change potential change the rating the film received) is taken into account and dealt with accordingly.

### **3.3.4 Video-on-Demand**

Video-on-demand blends issues pertaining to video, as well as to broadcasting. As a service it has not yet become common in Europe, and consequently has not been integrated into the media sector. However, it has already courted controversy, raising questions concerned with Internet ratings, legislation and rights as well as issues regarding piracy.

Only Finland has explicitly included video-on-demand in its legislation applicable to the rating of audiovisual content. The Finnish Board for Film Classification is entitled to monitor video-on-

demand as well as film, videos, DVDs and video games. The remaining countries have so far neglected to address the issue of video-on-demand directly.

With regard to Internet video-on-demand, most of the video-on-demand websites apply their own rules and guidelines. These websites include [moviesystem.com](http://moviesystem.com), [netcine.com](http://netcine.com), [videonetworks.com](http://videonetworks.com), YesTV and [sexyavenue.com](http://sexyavenue.com).

Access to these websites is currently restricted to the territory where the provider is established. Under the procedures implemented by the website, the customer must certify he/she subscribes to the self-regulatory rules in use on the website, and must certify his/her age. He/she may then access the film according to the classification, which was provided to the video-on-demand site by the local right holder.

Sometimes an “official” classification is additionally given, purely for information. Hence, the French video-on-demand site [netcine.com](http://netcine.com) gives the classification, which was previously granted by the *Conseil Supérieur de l’Audiovisuel* when the audiovisual work was broadcast on TV channels.

In France, video shops can be subject to impromptu visits from inspectors from the national board of film classification, or representatives from local authorities, which is not the case for video-on-demand websites.

### **3.3.5 Video Games**

A pan-European rating system is currently being developed in order to address the special characteristics of the video games market, where products are generally designed for a global audience, under the auspices of the Interactive Software Federation of Europe (ISFE), which was established in 1998.

In 1994, ELSPA the UK-based trade association responsible for the video game industry was the first body to initiate a voluntary system of rating for interactive leisure software. This was adopted by many of the EU and EEA Member States, for example France and Germany. Some of them, like Portugal and Finland, established legally binding rules for the classification of video games whilst others adopted self-regulatory schemes or mixed systems, such as the UK and Ireland, where legislation intervenes in a limited number of cases. Germany has recently revised its legislation in order to make the rating of video games a legal obligation.

The proliferation of different national rating systems for video games was provoking negative consequences both for the industry and for the consumers. Video games distributors had to face increased costs in order to produce different versions of the same product for each European country. It was also becoming an issue for consumers, who were either confused by the lack of any rating label or by the presence of additional foreign rating marks on imported products. The problem was also complicated by the fact that many video games could be directly downloaded from the Internet, thus avoiding any form of public authority control over their content.

Following a conference held in Brussels on 2-3 May 2001, representatives of governments, public and private rating bodies and trade associations in Europe, with the support of the European Commission, decided to create a harmonised European rating scheme. An *ad hoc* working group was appointed, in order to develop the characteristics of this scheme. The result of the process was the establishment of a common European rating system for interactive leisure software products, with full-scale implementation starting in 2003.

The main features of the system can be outlined as follows:

*Self-regulation:* This voluntary model is being put into practice throughout the European interactive software industry. The system is based on the self-regulation principle, whereby it will be up to the publishers to complete a specific questionnaire assessing the content of the product and determining the corresponding age rating. The system will be administered by the Dutch rating authority NICAM but subject to a three-year contract. It will develop on-line application processes as well as establish an information website, an industry/consumer complaints board and a legal committee.

*Consistency with existing national systems:* Some Member States (UK, Ireland, Portugal, Finland and in the forthcoming months, Germany) have legal provisions restricting the circulation of video games rated as unsuitable for minors. In order to avoid legal problems with national authorities the assessment forms will request that publishers check whether the product is subject to legal requirements in the aforementioned countries.

*Age categories:* These are based on descriptive criteria, such as violence, sex, explicit language, discrimination, and exaltation of crime. The following breakdown has been adopted, with five age categories:

**Fig. 3g**

<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
<u>3</u>	<u>7</u>	<u>12</u>	<u>16</u>	<u>18</u>

*Consumer information:* Age recommendation is provided through a harmonised system of visual logos easily recognisable throughout Europe. Furthermore, content descriptors on the model of the Dutch system implemented by NICAM will potentially help consumers to understand the reasons underpinning the age category chosen by the rating authority.

*ISFE Codes of Conduct:* The ISFE age rating system is to be part of a larger code of conduct currently under consideration. The code will secure the enforcement of the age rating system and also the consistency of related advertising, promotion and marketing by any means with the basic aim of protecting minors from exposure to unsuitable material.

### **3.3.6 Broadcasting Sector**

Following the adoption by all the surveyed countries of the *Television Without Frontiers* directive<sup>14</sup>, feature films are either screened on television pre or post a designated watershed and are accompanied by an informative rating, which can be tonal or visual or both. If a numerical rating is given it is the practice of the majority of the countries that the rating is in line with the rating decisions made by the national board for film classification at the time of theatrical release.

Viewing films in the home, whether on television, video or DVD is an individual activity that cannot be controlled in the same way that a cinema can monitor access, with the use of box office ‘gate keepers’. Therefore, parents’ control of what their children watch is becoming far more complicated. As such, it is the Consultants’ view that broadcasting ratings have to be clear

<sup>14</sup> *Television Without Frontiers* directive (89/552/EEC) adopted on 3 October 1989 by the Council and amended on 30 June 1997 by the European Parliament and the Council Directive 97/36/EC

and comprehensive in getting their message across. Two characteristics of current broadcasting rating practices have been identified by the Consultants:

1. The classification must be communicated in an appropriate way to the audience. Systems like oral warnings or on-screen icons are used, although some may argue that they may end in the opposite result, as they trigger curiosity. Another (often complementary) approach consists in using a time watershed which means that content considered only suitable for adults can only be shown after the time imposed. Yet, the ‘watershed’ does not necessarily give detailed information on the age categories the audiovisual work is directed to. Neither does this system inform on the content itself (i.e. why was the content deemed harmful? Does it include sex, violence or the promotion of drugs?).
2. “Parental control systems” are being developed. They aim to empower parents with appropriate tools for blocking the access to specific programmes.

The classification used by broadcasters may be explicitly required under legal provisions – law or regulation.

In France, a labelling system was implemented in 1996 by the terrestrial broadcasters under the initiative of the Conseil Supérieur de l’Audiovisuel. The regime was then introduced into the licenses of the broadcasters concerned: TF1, France 2, France 3, France 5, ARTE, M6Canal Plus, Canal Antilles, Canal Calédonie, Canal Réunion, Canal Polynésie, Canal Guyane. The system consists of a system of age categories that are systematically signalled through the same on-screen icons. Such an attempt to apply the same labelling system across a national audiovisual sector constituted an unprecedented initiative. A similar process was adopted in the Belgium French Community, in Portugal and in Spain.

In other countries legal provisions only require that broadcast programmes not be harmful to the physical, mental or psychological development of children, without prescribing the use of a specific classification, which is when the watershed is applied, in such cases broadcasters often set-up specific programming departments in charge of implementing a content policy on the basis of specific internal guidelines.

As a general rule, broadcasters apply the rating previously granted by the authority in charge of classifying films for theatrical release in their country of establishment. This is the case in Denmark, Finland, France, Norway, Spain and Sweden. In Austria, the public service broadcaster ORF refers to the Austrian as well as the German film classification board decisions. A broadcaster may desire the classification granted by the official board for film classification, and yet ask for a different classification than that granted when the film was theatrically released. This is the case in Italy with what is called “*derubrificazione*” (i.e. de-classification).

In Germany, even though broadcasters usually refer to the film classification made by the FSK, they can make some exceptions if the film they intend to broadcast was rated more than 15 years before, or in case of programmes especially conceived for the TV. Danish broadcasters follow the same practice.

It may also happen that broadcasters decide to apply a rating, which differs from the one granted by the national classification board at the time of theatrical release. This was the case in Ireland, where *Natural Born Killers* was broadcast, contradicting the prohibition imposed by the Irish Censor.

With regard to rating law and practice in the broadcasting sector the Consultants identified two areas where the broadcaster takes control of an otherwise un-regulated situation and imposes rating practices to a film screened through their network: watershed and the use of tonal and visual signals.

### *Watershed*

The watershed is a definitive time imposed on television schedules to indicate a cut-off point in the evening. After the watershed, content screened may be deemed unsuitable for children, because it is harmful or explicit or the use of bad or inappropriate language is heard. It varies from one country to another but as a general rule, harmful content is not broadcast between 9am and 9pm. The obligation for TV channels to foresee the implementation of watershed may be laid down by legislation (Germany, Italy, Greece, Portugal) or in other secondary legal texts (decrees such as in France). In most of the cases the television channel defines the watershed.

When implemented without visual icons, and with a tonal signal that only lasts for seconds previous to the broadcast, the watershed cannot be considered as a true rating system since it does not give any idea of the exact content of the programme and to which age group the content should be prohibited from.

In Germany and Italy, film classification age categories are linked to watershed. In Italy, films rated as unsuitable for people under 14 may not be broadcast before 10:30pm, whilst films rated as unsuitable for minors may not be broadcast at all. In Germany, films rated as unsuitable for people under 16 have to be transmitted after 10pm, and films prohibited to minors after 11pm.

### *The use of visual and tonal signals*

In the North of Europe (Denmark, Finland, Norway, Sweden), the use of visual signals is not welcomed as it is often felt that visual icons end up with the reverse effect of triggering the curiosity of viewers instead of deterring them. Tonal signals are generally used instead. They are given before the broadcast of the programme, lasting approximately 5 seconds.

Only in the Belgium French Community, France, Portugal, and Spain are on-screen visual signals systematically implemented by all broadcasters. Visual symbols are placed at the bottom of the screen and consist of a combination of forms and colours that are aimed to ease the identification of the level of “danger” represented by the programme.

In France, at the request of the *Conseil Supérieur de l’Audiovisuel* a system was agreed upon by all terrestrial channels. It is based on the assessment of violence, sex and pornography. The system covers all programmes. A similar system was adopted by the Belgian broadcaster (French Community) “RTBF”, although only applied to fictional films or programmes, as well as Spain and Portugal. In Italy, such a system is implemented by the sole Mediaset Channel on a voluntary basis. This is also the case for the Austrian public broadcaster ORF.

In the Netherlands NICAM launched a uniform voluntary system across all media. As already mentioned above, the system consists of a rating including age and other descriptive considerations. As a consequence, Dutch broadcasters that are members of NICAM implement a classification, which is signalled through the use of visual symbols for film or videos. Current discussions at the Dutch Parliament could lead, in the near future, to making this system mandatory for all broadcasters.

Apart from in France, where the encrypted channel Canal Plus is submitted to the same regime as other channels (although some flexibility was introduced in the applicable watershed), encrypted channels are not obligated to use either watershed and visual/tonal signals. The encryption in itself is considered to constitute a way of blocking the access to specific programmes. This is in line with the revised *Television Without Frontiers* directive<sup>15</sup>, which reads under article 22:

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

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

*3. Furthermore when such programmes are broadcast in un-coded form Member State shall ensure that they are preceded by an acoustic warning or are identified by the presence of a visual symbol throughout their duration?”*

A recent development reported in the film industry press cited the announcements by the French political establishment and the broadcast regulator (the CSA), who are considering banning X-rated films from television. With this news the Association of Cable and Satellite Channels (A.C.C.e.S) has stated that if an outright ban was to come into effect it would have a major impact on channel operators and their film production investment activity, with an estimated loss of €30 million. Furthermore, if pornography were to be banned from television altogether, cable and satellite operators would witness 10 to 15 per cent fallout in the number of their subscribers. Such a reaction highlights the problem attached to a new broadcasting environment characterised by thematic channels and increasing specialisation.

### *V-chip*

Even when visual/tonal signals are well implemented by broadcasters, it is difficult for parents to have total control over what their children actually watch on TV. If children are left on their own at home, tonal and visual signals do not necessarily deter them from watching. Hence, there have been initiatives to enable parents to block the access to specific content.

The V-chip is aimed at providing automatic control of access to the television receiver, based on programme content rating. The idea is that a code is broadcast alongside the television programme and the television receiver is able to recognize and interpret it. Parents or guardians can pre-programme their television receivers to allow through only programmes with a given range of content ratings, and block other ranges of content ratings. Yet, for technical reasons, and because technology has not followed the same path in the US and in Europe, it was not possible to implement the V-chip in Europe (European countries do not broadcast text in the same manner as in the US). Other technical measures, based on digital technologies, have been developed in Europe for digital TV (see further below, 3.3.7).

### *Authorities of control*

A few broadcasting authorities are entitled to exert ex-ante control on the programmes broadcast. This is the case in France and Belgium, although not systematically. In Austria, the public broadcaster ORF methodically examines all the programmes intended for transmission. In

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<sup>15</sup> *Television Without Frontiers* directive (89/552/EEC) adopted on 3 October 1989 by the Council and amended on 30 June 1997 by the European Parliament and the Council Directive 97/36/EC

Germany, private TV channels have to apply to the self-regulatory board FSF in order to receive the permission to broadcast programmes potentially harmful for minors.

In the other countries the broadcasting authority is in charge of ex-post control of compliance with the national broadcasting act. They may also receive complaints from viewers, investigate their complaints, inform the broadcaster if it was found to violate legal provisions, and possibly take sanctions against them. The table on the next page summarises the situation of rating practices in the broadcasting sector

**Fig. 3h Broadcasting rating practices in Europe**

Country	Watershed	On-screen Warning	Tonal warning	Rating body	Control (see contact details in the Appendix 7.1)
Austria	Yes	Yes (ORF public broadcaster)	No	Broadcaster	KommAustria for private channels
Belgium French Community	Yes	Yes <sup>16</sup>	No	Broadcasters	CSA
Belgium Flemish Community	No	No	Yes	Broadcasters	<i>Vlaamse Kijk- en Luisteraad voor Radio en Televisie</i>
Denmark	Yes (9pm)	No	Yes	Broadcasters/programme departments	Radio and TV Board
Finland	Yes (9pm)	Yes (TV Guides and teletext)	Yes	Broadcasters/ programming departments	The Mass Media Authority
France	Yes	Yes	Yes	- CNC (films) + - Broadcasters/internal committees	CSA
Germany	Yes 16+: 10pm/6am 18+ : 11pm/6am	Yes	Yes	FSF (private broadcasters)/ Broadcasters/Public broadcasters ARD & Zweite Deutsche Fernsehen ("ZDF")	FSF for private channels (self-regulation) Local authorities
Greece	Yes → "less harmful": 9.30pm → "more harmful": 12pm	Yes (on ERT only)	No	Broadcasters	National Radio and Television Council (ESR)
Iceland	N.A	N.A	N.A	N.A	RUV – Ríkisutvarp Icelandic National Broadcasting Service
Ireland	RTE (public): 9 p.m.	Commercial TV channels: no Public TV channel: No	Commercial TV channels: no, but announcement Public TV channels: Yes	Broadcasters	Broadcasting Commission of Ireland.
Italy	Yes 14+: 10.30pm/7am 18+ can not be shown on TV	Yes (FRT channels only)	Yes	Broadcasters	Autorità per le Garanzie nelle Comunicazioni
Luxembourg	No	Yes	Yes	Broadcasters	CNP
The Netherlands	Yes 8pm	Yes	Yes	Broadcasters	Commissariat voor de Media

<sup>16</sup> Order of 12 October 2000 (defines applicable age categories and corresponding visual icons)

Country	Watershed	On-screen Warning	Tonal warning	Rating body	Control (see contact details in the Appendix 7.1)
Norway	9pm	No	No (spoken announcements only)	Broadcasters	The Mass Media Authority
Portugal	Yes 10pm	Yes	Yes	Film Classification Board (Film) Broadcasters	Alta Autoridade para a Comunicação Social (AACS)
Spain	Yes	Yes	Yes	Broadcasters	Ministry of Sciences and Technology – sub-directorate for contents in the information society
Sweden	Yes 9pm	Yes (one channel TV 1000)	Yes	Broadcasters	Swedish Broadcasting Commission
United Kingdom	Yes 8/ 9 p.m.	No	No	Broadcasters Broadcast Standard Commission	ITC (Commercial TV) BSC

### 3.3.7 New Technologies

Digital technologies have complicated the procedure for checking broadcasting content employed by statutory bodies. This is the result of the following:

1. An increase in the number of channels and as a consequence in the number of programming hours that cannot be systematically controlled.
2. The traditional way of controlling broadcast content being put into question, not only as a result of an increase in the number of programming hours but also because traditional tools are not adaptable to the new technological environment. For instance, the effectiveness of the watershed concept is questioned in the case of pay-per-view channels or other Internet applications.
3. The Internet challenging all the existing systems, which are territorially based and depend on the effective control of a central (or local) authority, a condition, which does not exist on the web.
4. New possibilities brought by new technologies such as the development of digital coders equipped with hard disks enabling viewers to compile their own viewing schedule and giving them access to the Internet

#### *Digital Television*

The issue of content made available through digital channels has not been consistently dealt with under national legislation, at a time when most broadcasters do not yet have digital transmission. Yet, the *Television Without Frontiers* directive applies to digital television also, and as a result broadcasters cannot broadcast any content, which could be harmful to the mental, physical and moral development of children and must use the traditional tools such as watershed and visual or tonal signals.

The key questions are whether traditional technical means and watershed are efficient, and whether they need to be re-enforced. In view of re-enforcing the means aimed at controlling content, digital broadcasting offers the technical capacity to provide parental control systems. New developments include the national “electronic programming guides”, which are pertinent issues in this section.



The Electronic Programming Guide is the digital version of “Teletext” and its format has the capacity to carry data streams and is used by analogue broadcasters. The EPG is a similar system in the digital world. It provides the viewer with standard codes that are automatically broadcast with digital television - title of the current programme and of the next one. If the receiver is so equipped, the broadcaster can broadcast a more sophisticated electronic programming guide to help the viewer choose his programmes. It could include detailed information on the classification of the programmes broadcast. Yet, a difficulty with such a system including standardized elements is that it could be difficult to find common grading systems that applied equally well across the different cultures of Europe.

Additionally, such new tools are not sufficient in view of setting-up a comprehensive rating policy as was highlighted by the Oxford Study – *Parental Control of Television Broadcasting, University of Oxford, PCMP*<sup>17</sup>, and the following Commission’s Communication. The Commission published a Communication on July 12, 1999<sup>18</sup> on the results of the study, which had examined the possible advantages and disadvantages of measures other than the watershed and acoustic or visual warnings designed to help parents control what television programmes their children watch. The study revealed that technical measures alone could not be a complete substitute for broadcasters’ liability.

### **3.3.8 Broadcaster and Internet services**

Internet services related to broadcasting activities include broadcasters’ websites (including presentation of programmes, previews), and the prospect for quality streaming services (e-channels, pay-per-view).

In view of the open structure of the Internet the question of protecting minors has to be approached in a different way. Monitoring all the content available on the Internet is an impossible task. The main problem lies in the absence of a central authority. For the time being, some systems aimed at controlling the content made available on the web have been developed:

#### *Warning pages and systems for checking the age of the user*

As already described under the video-on-demand section, some video-on-demand websites request the user to certify his age and warn him against the potential harmful content. The system relies on the viewer good faith and does not include any possibility for controlling his/her declaration.

#### *Classification of content*

Broadcasters are currently operating different ratings systems for their Internet services to those they impose on their networks.

Some websites in France refer to the classification granted by the authority in charge of broadcasting control, the Conseil Supérieur de l’Audiovisuel. This initiative could be generalised but, today, it remains informal.

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<sup>17</sup> The Oxford Study, *Parental Control of Television Broadcasting*, University of Oxford, Programme of Comparative Media Law and Policy (“PCMLP”), the study is available at

[http://europa.eu.int/comm/avpolicy/legis/key\\_doc/parental\\_control/index\\_en/htm](http://europa.eu.int/comm/avpolicy/legis/key_doc/parental_control/index_en/htm)

<sup>18</sup> COM/99/379 final, [http://europa.eu.int/comm/avpolicy/regul/new\\_srv/comparent\\_en.pdf](http://europa.eu.int/comm/avpolicy/regul/new_srv/comparent_en.pdf)

Other sites and broadcasters make use of the system proposed by ICRA (the Internet Content Rating Association). It empowers parents to make informed decisions about what they and their children watch on the Internet. Under this system, web-authors fill-in an online questionnaire describing the content of their site, and the ICRA generates a Content Label (a short piece of computer code) that the author adds to his site. Users can then set their Internet browser to allow or disallow access to websites, based on the objective information declared on the label. In other words, the Internet Content Rating Association does not rate Internet content (these is the responsibility of the content provider). Content Labels generated by the ICRA conform to the guidelines set by the Platform for Internet Content Selection (“PICS”). This Internet classification was developed by the World Wide Web Consortium and is advocated by the US industry and supported by the European Union.

The German ARD channel uses ICRA’s rating systems, however, no agreement has yet been reached among the members of ARD on the use of a common rating system for their Internet site. NOS also envisages working with ICRA. In the UK the BBC has chosen to work on developing a system, which would be valid for both television and on-line services.

### *Authorities*

Convergence of broadcasting and telecommunication services has led to major restructuring in some countries where new agencies were set up to deal with both sectors, for example the Austrian RTR authority, Italy’s AGCOM or the UK’s OFCOM:

In **Italy**, legislative changes created a so-called integrated authority with responsibility for regulating telecommunications and the audiovisual media. AGCOM, was established by law in 1997 and started its operational activities at the end of July 1998. AGCOM is responsible for regulatory affairs in the fields of telecommunications, audiovisual media and press and publishing. The internal organisation of the AGCOM is built around the technological convergence of these three related sectors. AGCOM is divided into two main sections (supervised by a Council): the Commission on infrastructure and networks, dealing with the technical supports used by the media, and the Commission on products and services, dealing with rules and criteria on commodities supplied through the networks. As a result, each Commission intervenes in all the fields of activity of the AGCOM.

In **Austria**, legislation designed a so-called integrated authority responsible for regulating telecommunications and the audiovisual media. For telecommunications a new body, the *Rundfunk und Telekom Regulierungs GmbH* (“RTR”) incorporating the former *Telekom Control GmbH* (“TKC”) was created under the terms of the *Komm.Austria Gesetz* (“KOG”). It is responsible for routine regulatory tasks in the telecommunications sector and the *TelekomControl Kommission* also functions as a regulatory body in this field. Separate authorities and channels of appeal for telecommunications and media issues were retained since *Komm.Austria* was set up as a regulatory authority for the private media sector to function in parallel with the *TelekomControl Kommission* (“TKK”).

In the **UK**, in an effort to rationalise the existing structures in charge of regulations in the field of communications, and in an attempt to adapt to technological convergence, a consultation document on the communications industry was published at the end of 2000 by the UK Government outlining plans for a new body called OFCOM, which will take the role of the following bodies:

- ITC (which regulates commercial TVs)

- BSC (which set up guidelines applicable to the broadcasting sector)
- The Radio Authority
- The Radio Communication Agency
- OFTEL (The Office of Telecommunications)

The proposed joint regulatory framework will be responsible for regulating electronic communications networks and services including telecommunications systems and for broadcasting services. The structure was established under the draft Communication Bill (ISBN 010 153872 3) presented to Parliament by the Secretary of State for Trade and Industry and the Secretary of State for Culture, Media and Sport in May 2002 and was passed by Parliament on November 19 2002, with plans to instigate the framework in 2003.

Yet it is a dominant view among broadcasters that the two sectors are very different, and should remain with their own specific classification rules for the time being.

### **3.4 National Practice in Context of EC Law**

The general practice amongst the EU and EEA Member States regarding imposing film ratings is that films and other audiovisual content are classified by specific boards which indicate the age category the work to be shown would be suitable for. This practice derives mainly from the will to protect the youngest audience from seeing scenes that could endanger their physical or moral development. Each Member State of the European Union has rules and regulations concerning the protection of minors and the rating of audiovisual works. The European Union itself considers this issue as a priority of its audiovisual and media policy, which is evident in the various initiatives and legislative actions that have been carried out at a European level on the subject.

#### ***3.4.1 Background***

The European Union has been a forerunner in the field of protection of minors and human dignity from harmful audiovisual content. The first relevant legislative act regulating the audiovisual landscape in Europe, the so-called ‘*Television Without Frontiers*’ (TVWF) directive<sup>19</sup>, was approved in 1989. Article 22 of the directive pertains to the issue of protecting minors’. Its provisions run as follows:

*“Member States shall take appropriate measures to ensure that television broadcasts by broadcasters under their jurisdiction do not include programmes which might seriously impair the physical, mental or moral development of minors, in particular those that involve pornography or gratuitous violence. This provision shall extend to other programmes which are likely to impair the physical, mental or moral development of minors, except where it is ensured, by selecting the time of the broadcast or by any technical measure, that minors in the area of transmission will not normally hear or see such broadcasts.”*

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<sup>19</sup> Council directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities.

Full text available at:

[http://europa.eu.int/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&numdoc=31989I.0552&model=guichett](http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&numdoc=31989I.0552&model=guichett)

*Member States shall also ensure that broadcasts do not contain any incitement to hatred on grounds of race, sex, religion or nationality”*

The TVWF directive (revised in 1997<sup>20</sup>) represented the first important step at European level toward a comprehensive strategy focused on protecting minors in the media field. Rapid technological development and the growth of the *Information Society* necessitated, however, a need to extend existing measures to cover the new services sector. In this connection, the European Commission published in 1996 a *Green Paper on the protection of minors and human dignity*<sup>21</sup>, which opened the debate on the forms and means of protecting minors from harmful content whatever the origin of this content (television, digital content, on-line services).

The Green Paper placed the issue of minors’ protection at the forefront of discussions on any issues concerning the rights of minors, which resulted in the new information services having the opportunity to develop in a climate of trust and confidence. Its relevance consists in the fact that it identifies a number of problems that are going to be central in the forthcoming discussion on the protection of minors in the audiovisual media field:

- The distinction between content, which is *illegal* (such as child pornography) and prohibited by law, and content, which is potentially *harmful* to the development of children (sex, violence) but is admitted by law. This issue is linked to the conflict, inherent in European juridical systems, between the principle of freedom of expression and the necessary safeguard of general public interests, among which is the issue of protecting minors.
- The *technological developments* (appearance of Internet, pay-TV, DVD, video-on-demand), led to an evolution in patterns of content consumption from a mass-media linear model to an individualised communication model marked by interactivity. This change was accompanied by a de-localisation and multiplication of content providers, and consequently witnessed the globalisation of the sector, which acted beyond borders.
- The concept of *content rating* emerges as central in this perspective, together with the need for an increased *self-regulation* from the industry. These “bottom-up” solutions seem to the Consultants the best way to conciliate differences in national sensitivities and social attitudes with regard to the notion of harmfulness with the international character of new services and content.

### **3.4.2 The Council Recommendation of 24 September 1998**

As a follow-up to the publication of the Green Paper, on 30 June 1997 the Commission issued a working document, addressed to the Council and the European Parliament, which contains the results of the consultation process conducted among European institutions, the EU and EEA Member States and the interested parties as groundwork to the Green Paper<sup>22</sup>. This document listed the points of consensus and divergence, which emerged during the consultation process. Besides a common agreement on general principles such as the necessity of safeguarding the

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<sup>20</sup> Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities. Full text: [http://europa.eu.int/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&numdoc=31997L0036&model=guichett](http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=en&numdoc=31997L0036&model=guichett)

<sup>21</sup> COM (96)483 final. The Green Paper’s summary is available on-line at

[http://europa.eu.int/comm/avpolicy/regul/new\\_srv/gp\\_re\\_en.htm](http://europa.eu.int/comm/avpolicy/regul/new_srv/gp_re_en.htm)

<sup>22</sup> SEC(97) 1203, available at [http://europa.eu.int/comm/avpolicy/regul/new\\_srv/gpconen.pdf](http://europa.eu.int/comm/avpolicy/regul/new_srv/gpconen.pdf)

protection of minors and human dignity without bringing freedom of expression into question, different opinions were expressed with regards to the role of the state vis-à-vis the industry in the implementation of new forms of audiovisual content control and monitoring. Some countries favoured voluntary measures by the private sector and others supported direct intervention of the state through legislative instruments. All parties however recognised the importance of the European Union's role in the coordination of national initiatives on the matter.

Encouraged by the Council's support the Commission presented a proposal for a Council Recommendation, considered as the appropriate legal tool to face the issue of minors protection<sup>23</sup>. In its proposal, the Commission outlined the priorities of the European strategy for the fight against harmful content in the media field, namely the importance of fostering self-regulation and cooperation among public authorities and the industry sector, as well as the added value that European institutions could give by coordination of national measures and exchange of best practices.

On 24 September 1998, the Council adopted a Recommendation "*on the development of the competitiveness of the European audiovisual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity*"<sup>24</sup>. This was the first legal instrument at EU level concerning the content of audiovisual and information services made available on-line.

The Council addressed its Recommendation to three main actors:

- The EU and EEA *Member States*, which should have established national frameworks for the protection of minors fostering the participation of all the interested parties (users, consumers, public authorities, industries), risen *awareness* among parents and teachers on the dangers implicit in the new technologies and taken measures to fight illegal and harmful content in the on-line services
- The *industries*, which should have cooperated in the drawing up of *codes of conduct* for the protection of minors and collaborated with national authorities in the implementation of established guidelines
- The *European Commission*, which should have helped through financial instruments the *networking* of the bodies responsible at national level for regulatory frameworks and encouraged cooperation and the exchange of experiences and best practices.

The Council stressed in particular the importance of *self-regulation*, as a flexible normative tool, which could adapt best to the continuously changing technological landscape.

The Council Recommendation was followed by a detailed list of guidelines for the implementation at national level of a *self-regulatory* framework for the protection of minors in the on-line services. These guidelines underline the importance of the *representation* of the parties concerned, the voluntary nature of *self-regulation* schemes demanding an effective involvement of all the relevant actors at public and private level. They also foster the creation of national bodies facilitating the cooperation at Community level.

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<sup>23</sup> Communication COM(97) 570 final, [http://europa.eu.int/comm/avpolicy/regul/new\\_srv/comly-en.htm](http://europa.eu.int/comm/avpolicy/regul/new_srv/comly-en.htm)

<sup>24</sup> Council Recommendation 98/560/EC, published on the Official Journal L 270 of 7 October 1998, p. 48. Full text available at [http://europa.eu.int/comm/avpolicy/regul/new\\_srv/recom-intro\\_en.htm](http://europa.eu.int/comm/avpolicy/regul/new_srv/recom-intro_en.htm)

Finally, the Council asked the Commission to present an evaluation report, two years after the Recommendation adoption, on its reception and its effects in the EU and EEA member states of the European Union.

The 1998 Recommendation marked a turning point in European policy towards harmful audiovisual content, as it adopted a horizontal approach covering all the means of content conveyance, and it focused on new on-line services as the sector in need of a common European strategy. In fact, in relation to traditional audiovisual media such as cinema, video and TV, regulation dealing with the protection of minors already existed at national level. Moreover, this regulation often reflected the local traditions and cultures, which were different in each Member State. The TVWF directive, in effect, provided some general basic rules which are easily adaptable to national broadcasting systems and which do not push towards harmonisation of criteria at EU level.

With regard to the Internet, the situation is quite different. This new electronic medium presents characteristics (its global nature, the lack of a central control), which make it difficult for public authorities to manage the content on a local basis. It is difficult for national monitoring boards to block the access to harmful websites located outside their jurisdiction. Governments and the public opinion feel the need for a coordinated approach, both at European level and among the interested parties (the industry, service providers, users and consumers and parents' associations).

### ***3.4.3 The Safer Internet Action Plan***

In response to the challenges that new on-line services represent for the protection of minors and human dignity, the Council and the European Parliament adopted an Action Plan on Promoting Safe Use of the Internet<sup>25</sup>. The Internet Action Plan ("IAP") was the first full-size initiative at EU level aimed at ensuring effective coverage and support to projects dealing with the issue of creating a safer environment for on-line services.

The IAP covers a period of four years stretching from 1 January 1999 to 31 December 2002. Its budget is set at €25 million. It supports non-regulatory measures directed mainly to industry players, users, consumers, families and teachers in order to foster cooperation and the development of self-regulation frameworks. The IAP follows three principal guidelines:

1. The creation of a safer environment, namely through the establishment of networks of hotlines and the encouragement of self-regulation and codes of conduct
2. The development of filtering and rating systems
3. The promotion of awareness raising actions

The IAP is intended to foster cooperation from the industry and to establish a valid system of self-regulation, as an essential means of limiting the flow of illegal and harmful content on the Internet. The responsibility to assure the implementation of the foreseen action lines shifts from the public authorities to the private sector, namely Internet Service Providers and Consumers

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<sup>25</sup> Decision no 276/1999/EC of the European Parliament and of the Council of 25 January 1999 adopting a Multiannual Community Action Plan on promoting safer use of the Internet by combating illegal and harmful content on global networks, full text available at [http://www.europa.eu.int/information\\_society/programmes/iap/docs/html/decision/276\\_1999\\_EC.htm](http://www.europa.eu.int/information_society/programmes/iap/docs/html/decision/276_1999_EC.htm)

and Families Associations. Practical enforcement is left to the interested parties, the media and service industry on one side and the users and consumers on the other side, who collaborate in order to restrict circulation of harmful content and promote awareness raising activities.

### **3.4.4 Other Initiatives**

With the launching of the IAP, the European Institutions made a first concrete step in tackling the diffusion of harmful content through new on-line services. At the same time, a series of actions was initiated to update the legislative framework covering the audiovisual sector, including measures dealing with the protection of minors. The TVWF directive was revised in 1997<sup>26</sup>. Provisions concerning minors' protection remained unchanged, except for a new obligation imposed on broadcasters to signal through visual icons or acoustic warnings the presence of content potentially harmful for children and minors.

The new broadcasting landscape, dominated by the appearance of cable and satellite operators, demanded, however, a re-thinking of established measures. This topic constitutes the subject of a major study conducted by the Oxford University Centre for Socio-Legal Studies for the European Commission on the theme of "*Parental control of television broadcasting*"<sup>27</sup>. The study, as required by article 22.b.2 of the amended TVWF directive, explores the possible opportunities and drawbacks of measures facilitating parental control over TV programmes potentially harmful for children.

The main conclusions of the study, as outlined in the communication from the Commission "*Study on parental control of television broadcasting*"<sup>28</sup>, sketch out a changing broadcasting landscape at European level. The explosion of multi-channel, trans-national TV operators, together with evolutions in TV consumption patterns, makes it difficult for traditional regulatory bodies to monitor the growing amount of audiovisual content. Additionally, the study recognises that the adoption of the so-called "V-chip" technology, as used in the USA and Canada, is not technically feasible in Europe. European countries would rather exploit the possibilities that the forthcoming digital technology will offer in terms of more reliable and sophisticated filtering systems.

Linked to the Oxford University study, another research paper was contracted by the European Commission to the Digital Video Broadcasting Group (DVB), a network of broadcasters, TV operators and regulatory bodies fostering the development of self-regulation in the broadcasting sector. This paper<sup>29</sup> focuses on the technical and commercial feasibility of implementing special technological devices aimed at facilitating control exercised by parents over TV programmes. Its conclusions show that as a consequence of current technological developments, the responsibility to filter harmful audiovisual content should become more widely shared among government authorities, the industry, third-party agencies and consumers. The preconditions of such a shift lay in the creation of a clear rating terminology capable to be filtered by adequate technical devices. Digital technology allows this kind of operations, especially through the so-called EPG. Moreover, the development of the ("MHP") may lead to common data descriptors

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<sup>26</sup> European Parliament and Council directive 97/36/EC amending directive 89/552/EEC, see at [http://europa.eu.int/comm/avpolicy/regul/twf/newint\\_en.htm](http://europa.eu.int/comm/avpolicy/regul/twf/newint_en.htm)

<sup>27</sup> The study is available on-line at [http://europa.eu.int/comm/avpolicy/legis/key\\_doc/parental\\_control/index\\_en.htm](http://europa.eu.int/comm/avpolicy/legis/key_doc/parental_control/index_en.htm)

<sup>28</sup> COM/99/379 final, [http://europa.eu.int/comm/avpolicy/regul/new\\_srv/comparent\\_en.pdf](http://europa.eu.int/comm/avpolicy/regul/new_srv/comparent_en.pdf)

<sup>29</sup> "*Parental Control in a Converged Communications Environment. Self-regulation, technical devices and Meta-information*", available at [http://europa.eu.int/comm/avpolicy/regul/new\\_srv/dvbgroup.pdf](http://europa.eu.int/comm/avpolicy/regul/new_srv/dvbgroup.pdf)

adaptable to a converged media environment. During the transition towards the digital era, however, current analogue TV control mechanisms will retain their central role in protecting minors from harmful content.

By means of a report drawn by Roberta Angelilli<sup>30</sup>, the European Parliament welcomed the results of the studies conducted for the European Commission. It stressed the importance of the fight against illegal and harmful content, especially on new on-line services, and recalled the need to conjugate self-regulatory measures with the necessary state intervention to ensure adequate prosecuting of law infringements.

### ***3.4.5 Seminar on Children and Young People in the New Media Landscape***

The Swedish Presidency of the European Union<sup>31</sup>, in collaboration with the European Commission, organised a meeting in Stockholm on 12 and 13 February 2001, under the title “Children and young people in the new media landscape”. The purpose of the seminar was to explore the question of minors in the rapidly evolving media scene, especially with regard to the issue of protection of minors from harmful content on the Internet, in computer and video games and on television. The seminar was organised around three thematic workshops:

1. The protection of minors from harmful content on the Internet
2. The protection of minors from harmful content in a digital and global television environment
3. Television advertising directed at children

The main outcome of the seminar was the recognition of the necessity of a strengthened action to combat the proliferation of harmful content linked to media development. Even if the concept of harmfulness varies across different cultures, it was underlined that a common approach had to be adopted in order to implement sustainable forms of protection of minors regardless of the media. Rating and filtering systems were welcomed as effective means of content control, but the need was expressed for other awareness measures such as media education and adequate consumers’ information. The European Commission granted its support to initiatives to be taken at European level and expressed its willingness to receive advice and opinions from all the parties concerned with the view of updating the current regulatory audiovisual framework.

### ***3.4.6 Follow-up to the 1998 Council Recommendation<sup>32</sup>***

As requested by the Council Recommendation of 1998, the European Commission issued an evaluation report of its application two years later. Published on 27 February 2001<sup>33</sup>, this document is based on the information gathered among EU Member States through a questionnaire distributed in August 2000.

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<sup>30</sup> Italian MEP, Union for Europe of the Nations Group, now member of the Committee on Citizens’ Freedoms and Rights, Justice and Home Affairs. The report is available at <http://www2.europarl.eu.int/omk/sipade2?PUBREF=-//EP//NONSGML+REPORT+A5-2000-0258+0+DOC+WORD+V0//EN&L=EN&LEVEL=2&NAV=S&LSTDOC=Y>

<sup>31</sup> Sweden held the EU Presidency from 1 January 2001 to 30 June 2001

<sup>32</sup> Information regarding the Council Recommendation can be found in the Appendix.

<sup>33</sup> COM(2001) 106 final, available at [http://europa.eu.int/comm/avpolicy/regul/new\\_srv/ermin\\_en.pdf](http://europa.eu.int/comm/avpolicy/regul/new_srv/ermin_en.pdf)



The report draws up a first assessment of the implementation of the measures indicated in the Council Recommendation. Even though it covers all the media, most of the information it supplies concerns the Internet, as this is the field where relevant changes have taken place both at national and European level.

With regards to self-regulation measures, the report shows that in most of the EU and EEA Member States associations of Internet operators have been founded, and most of these have established codes of conduct for the protection of minors and human dignity. Moreover, Internet Service Providers (ISP) from nine EU Member States<sup>34</sup> are members of the European Internet Service Providers Association (EuroISPA)<sup>35</sup>. EuroISPA promotes the development of self-regulation through the creation of codes of conduct dealing with the responsibility of providers with respect to the content hosted, the protection of minors and the management of complaints. Very often, relevant parties such as public authorities, users and consumers associations have been involved in the drawing up of such codes.

The main disparity still existing among EU Member States concerns the existence of specific additional legal requirements on minors' protection in the on-line services, with some countries providing strict legal rules on the subject and others leaving that to the responsibility of ISPs. On the contrary, most EU Member States have conducted campaigns for the safer use of the Internet.

For the other sectors analysed in the Commission report, the principle of self-regulation seems less developed than in on-line services. The report indicates that broadcasting remains mostly a matter of national legislation, with self-regulatory and rating practices varying greatly not only from country to country but also across different TV channels. The sole common regulatory background is represented by the loose norms contained in the TVWF directive.

With regard to video games, the Commission signals the almost total lack of any legal provisions in Europe. However, following a recent Resolution of the Council "*on the protection of consumers, in particular young people, through the labelling of certain video games and computer games according to age group*"<sup>36</sup>, a shared voluntary self-rating system is on the way to be implemented throughout Europe<sup>37</sup>.

The Commission's evaluation report was welcomed by the Council in charge of culture in its meeting of 21 June 2001<sup>38</sup>. The Council invited the EU and EEA Member States to continue their work in promoting the application of the Recommendation and invited the Commission to draw another report on the effects of the Recommendation before the end of 2002.

### ***3.4.7 Second phase of the Internet Action Plan***

The decision establishing the IAP<sup>39</sup> provides under article 6(4) that the programme be submitted to an intermediate evaluation two years after its start. This evaluation has taken place between

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<sup>34</sup> Austria, Belgium, Germany, Spain, France, Ireland, Italy, Netherlands and United Kingdom

<sup>35</sup> <http://www.euroispa.org>

<sup>36</sup> Council Resolution of 1 March 2002, text available at

[http://europa.eu.int/smartapi/cgi/sga\\_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32002G0314\(01\)&model=guichett](http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32002G0314(01)&model=guichett)

<sup>37</sup> See the chapter of this study devoted to video games

<sup>38</sup> <http://europa.eu.int/comm/avpolicy/c2361.htm#minors>

<sup>39</sup> Text available at

[http://www.europa.eu.int/information\\_society/programmes/iap/docs/html/decision/276\\_1999\\_EC.htm](http://www.europa.eu.int/information_society/programmes/iap/docs/html/decision/276_1999_EC.htm)

November 2000 and April 2001<sup>40</sup>. Its main findings show that the three action lines chosen should be maintained, but their scope should be extended in order to include new technological and regulatory developments. The IAP should moreover consider more links to activities outside the EU area.

Besides the formal evaluation report, other factors contributed to the debate around the effectiveness of the IAP and its need for improvement. A workshop held in Luxembourg on 11 and 12 June 2001 about the impact of new technologies on existing regulatory frameworks provided some useful information on the matter. First of all, research shows that new technologies, along with new users and new usage patterns, create new dangers for consumers and especially for minors. The consequence is a greater need for co-ordination at European level by concrete measures being taken by competent actors (national authorities, industry, civil society associations) and with the Commission acting as a facilitator and foster the development of self-regulatory bodies. With regards to guidelines, emphasis was put on the fact that new technologies (Instant Messaging, Peer to Peer networks, Wireless Application Protocol (“WAP”), 3G Mobile telephony and Interactive TV) could render existing filtering and rating systems outdated, so much more importance has to be given to actions aimed at raising awareness among consumers and families. Moreover, content rating may not be limited to on-line services, but following the convergence trends it should be extended to cover all forms of audiovisual delivery (TV, video, video games and mobile technology).

Following these inputs, the Commission issued, on 22 March 2002, a communication proposing a Council and Parliament decision for the follow-up to the IAP until 2005<sup>41</sup>. This two year extension was intended to both correct and ameliorate the existing IAP and to allow some time for an overall assessment of all the measures the Community is implementing in the field of IS technologies, with a view to establish a new framework initiative to cover Internet and new media in the future.

According to the Commission’s plans, the second phase of the IAP should focus more on trans-national networking through the creation of a European Safer Internet Forum gathering all relevant players at national and industry level. It should also ensure a more active involvement of media and content industry, and it should be enlarged to candidate countries. Moreover, the scope of the programme will be extended to cover both new technological developments, such as mobile and broadband content, online games, peer-to-peer file transfer, chat rooms and instant messaging. The Commission proposal also envisages an extension of the IAP to include a broader range of areas of illegal content like violence and racism.

### **3.5 Conclusion**

The Consultants noticed a trend toward a common approach, when examining the developments of the European Institutions’ opinions and policies, especially after the follow-up 1998 Council Recommendation. This trend toward a uniform system focuses on the issue of the protection of minors, where self-regulation is considered a useful instrument adaptable to the changing media landscape in Europe. The Council, the Commission and the Parliament agree on the perspective that shifting responsibility from national public authorities towards the private sector (industry, service providers) and the civil society is the appropriate response to the

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<sup>40</sup> The results of the evaluation report can be found at

[http://europa.eu.int/information\\_society/programmes/evaluation/index\\_en.htm#iap](http://europa.eu.int/information_society/programmes/evaluation/index_en.htm#iap)

<sup>41</sup> [http://www.europa.eu.int/information\\_society/programmes/iap/programmes/followup/index\\_en.htm](http://www.europa.eu.int/information_society/programmes/iap/programmes/followup/index_en.htm)

challenges represented by globalisation – reflected by rapid technological changes and increased content delivery.

Traditional censorship and control systems are outdated in the face of multi-level and multi-media content overflow, and as such responsibility has to be shared across multiple partners, including public bodies, the media industry, users and consumers associations, parents and teachers organisations.

Partnership and collaboration should be fostered through all these levels in order to achieve effective results in the protection of minors without causing prejudice to fundamental principles such as freedom of expression, or the right to privacy. The European Union has an important role to play in this field, acting as a provider of expertise, facilitating the exchange of best practices and fostering co-operation at European and international levels. Moreover, with regard to rating and filtering practices as means to develop an effective self-regulatory system of minors' protection, the European Union seems to be the appropriate level on which to act. EU initiatives can conciliate the respect for established national rating traditions, which are reflective of different cultures and mentalities, and the need for an integrated approach able to take account of the growing internationalisation affecting media and communication.

## 4. Presentation and Discussion of Samples

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### 4.1 Analysis of the Film Samples

The two film Samples that follow each contain the 60 selected films, from which the final 50 will be selected for the final Sample. The number of territories indicates in how many territories we have determined thus far the film has been released theatrically, followed by the individual countries, with a “y” indicating release. The absence of a “y” does not necessarily mean that a film has not been released theatrically in that country; rather, we have been as yet unable to obtain the information (see Appendix 3 for some notes on compiling the Samples and the difficulties therein).

The following International Organisation for Standardisation (“ISO”) country codes were used:

**Fig 4a:**

ISO Country Code	Country Name
AT	Austria
BE	Belgium
DE	Germany
DK	Denmark
ES	Spain
FI	Finland
FR	France
GB	United Kingdom
GR	Greece
IE	Ireland
IT	Italy
LU	Luxembourg
NL	Netherlands
PT	Portugal
SE	Sweden
LI	Liechtenstein
IS	Iceland
NO	Norway

Global Sample					EU States															
Title	Year of production	Country of origin	Genre	International Distributor	No. of territories	AT	BE	DE	DK	ES	FI	FR	GB	GR	IE	IT	LU	NL	PT	SE
1 54	1998	US	Drama	Miramax	12		y	y	y	y	y	y	y			y		y		y
2 10 Things I Hate About You	1998	US	Drama/Comedy	Buena Vista	13	y		y	y	y	y	y	y			y		y	y	y
3 102 Dalmations	2000	US	Family	Buena Vista	13		y	y	y	y	y	y	y	y		y		y		y
4 28 Days	2000	US	Drama	Columbia TriStar	14	y	y	y	y	y	y	y	y	y		y		y		y
5 8mm	1999	US	Thriller	Columbia TriStar	14	y	y	y	y	y	y	y	y			y		y	y	y
6 A Bug's Life	1998	US	Family	Buena Vista	14	y	y	y	y	y	y	y	y			y		y	y	y
7 Almost Famous	2000	US	Drama	SPE	14		y	y	y	y	y	y	y	y		y		y	y	y
8 American Beauty	1999	US	Drama	UIP	16	y	y	y	y	y	y	y	y	y		y	y		y	y
9 American History X	1998	US	Drama	New Line	13		y	y	y	y	y	y	y			y		y	y	y
10 American Pie	1999	US	Comedy	Universals/Summit	15	y	y	y	y	y	y	y	y			y	y	y	y	y
11 American Psycho	2000	US	Drama/Thriller	Columbia/Lions Gate	13		y	y	y	y	y	y	y	y		y		y	y	y
12 Amores Perros	2000	Mexico	Action/Drama		12		y	y		y	y	y	y			y		y	y	y
13 An Ideal Husband	1999	US/GB	Comedy	Miramax	15		y	y	y	y	y	y	y	y		y	y		y	y
14 Analyze This	1999	US	Comedy	Warner Brothers	14	y	y	y	y	y	y	y	y			y		y	y	y
15 Apt Pupil	1998	US	Drama	Columbia TriStar	13			y	y	y	y	y	y			y		y	y	y
16 Being John Malkovich	2000	US	Drama	UIP	15	y	y	y	y	y	y	y	y	y		y		y	y	y
17 Big Daddy	1999	US	Comedy	Columbia TriStar	13		y	y	y	y	y	y	y			y		y	y	y
18 Boys Don't Cry	1999	US	Drama	Fox Searchlight	14		y	y	y	y	y	y	y	y		y		y	y	y
19 Brokedown Palace	1999	US	Thriller	20th Century Fox	13		y	y	y	y	y	y	y			y		y	y	y
20 Cast Away	2000	US	Adventure	UIP	14		y	y	y	y	y	y	y	y		y		y	y	y
21 Central do Brasil	1998	Brazil/FR	Drama	Buena Vista	14	y	y	y	y	y	y	y	y			y		y	y	y
22 Charlie's Angels	2000	US	Comedy	Columbia TriStar	17	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
23 Coyote Ugly	2000	US	Drama/Comedy	Buena Vista	16	y	y	y	y	y	y	y	y			y		y	y	y
24 Dancer in the Dark	2000	DK/DE/NL/US/GB/FR/SE/FI/IC/NO	Drama	Trust Film Sales SE	16	y	y	y	y	y	y	y	y	y		y	y	y	y	y
25 Deep Blue Sea	1999	US	Action	Warner Brothers	14	y	y	y	y	y	y	y	y			y		y	y	y
26 Elizabeth	1998	GB	Drama	Polygram	16	y	y	y	y	y	y	y	y	y		y	y	y	y	y
27 Enemy of the State	1998	US	Thriller	Buena Vista	14	y	y	y	y	y	y	y	y			y		y	y	y
28 Eyes Wide Shut	1999	US	Drama	Warner Brothers	16	y	y	y	y	y	y	y	y	y		y		y	y	y
29 Fear and Loathing in Las Vegas	1998	US	Drama/Comedy	UIP	14	y	y	y	y	y	y	y	y			y		y	y	y
30 Fight Club	1999	US/DE	Drama	20th Century Fox	16	y	y	y	y	y	y	y	y	y		y	y	y	y	y
31 Gladiator	2000	US	Action	MCA/Universal	16	y	y	y	y	y	y	y	y	y		y	y	y	y	y
32 High Fidelity	2000	US/GB	Comedy	Buena Vista	13		y	y	y	y	y	y	y	y		y		y	y	y
33 Hollow Man	2000	US	Thriller	Columbia TriStar	16	y	y	y	y	y	y	y	y	y		y	y	y	y	y
34 I Still Know What You Did Last Summer	1998	US	Horror	Columbia TriStar	14	y	y	y	y	y	y	y	y			y		y	y	y
35 La Vie Révée Des Anges	1998	FR	Drama	Mercure	16	y	y	y	y	y	y	y	y	y		y	y	y	y	y
36 Lethal Weapon 4	1998	US	Action	Warner Brothers	15	y	y	y	y	y	y	y	y			y	y	y	y	y
37 Lost in Space	1998	US/GB	Action	New Line	15	y	y	y	y	y	y	y	y			y		y	y	y
38 Magnolia	1999	US	Drama	New Line	14		y	y	y	y	y	y	y	y		y		y	y	y
39 Man on the Moon	1999	US/DE/JP/GB	Drama	MCA/Universal	14		y	y	y	y	y	y	y	y		y		y	y	y
40 Mission Impossible: II	2000	US	Action/Thriller	UIP	16	y	y	y	y	y	y	y	y	y		y	y	y	y	y
41 Notting Hill	1999	US/GB	Romance/Comedy	MCA/Universal	17	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
42 Out of Sight	1998	US	Action/Thriller	MCA/Universal	15	y	y	y	y	y	y	y	y	y		y		y	y	y
43 Quills	2000	US	Drama	20th Century Fox	13	y	y	y	y	y		y	y			y		y		y
44 Requiem for a Dream	2000	US	Drama	Summit	12		y	y	y	y	y	y	y			y		y		y
45 Romance	1999	FR/ES	Drama	Flache Pyramide	16	y	y	y	y	y	y	y	y			y	y	y	y	y
46 Romeo Must Die	2000	US	Action	Warner Brothers	15	y	y	y	y	y	y	y	y	y		y		y	y	y
47 Run Lola Run	1998	DE	Action/Thriller	Columbia TriStar/Bavaria Film Intl.	16	y	y	y	y	y	y	y	y	y		y	y	y	y	y
48 Saving Private Ryan	1998	US	Action/Drama	UIP	16	y	y	y	y	y	y	y	y			y		y	y	y
49 Scary Movie	2000	US	Comedy/Horror	Dimension	14	y	y	y	y	y	y	y	y			y	y	y	y	y
50 South Park: Bigger, Longer, and Uncut	1999	US	Comedy	Warner Brothers	13		y	y	y	y	y	y	y			y		y	y	y
51 Star Wars Episode I: Phantom Menace	1999	US	Action/SciFi	20th Century Fox	16	y	y	y	y	y	y	y	y	y		y	y	y	y	y
52 Stuart Little	1999	US/DE	Comedy/Family	Columbia TriStar	16	y	y	y	y	y	y	y	y	y		y	y	y	y	y
53 The Cider House Rules	1999	US	Drama	UIP/Miramax	14		y	y	y	y	y	y	y			y		y	y	y
54 The Matrix	1999	US	Action/SciFi	Warner Brothers	17	y	y	y	y	y	y	y	y	y		y	y	y	y	y
55 The Truman Show	1998	US	Drama	UIP	17	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
56 The World is Not Enough	1999	US/GB	Action/Thriller	UIP	16	y	y	y	y	y	y	y	y	y		y	y	y	y	y
57 Todo Sobre Mi Madre	1999	ES/FR	Drama	Sony Classics	17	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
58 Wild Wild West	1999	US	Action/Comedy	Warner Brothers	15	y	y	y	y	y	y	y	y			y		y	y	y
59 Wo Hu Cang Long	2000	China/HK/TW/US	Action/Romance/Drama	SPE	16	y	y	y	y	y	y	y	y	y		y		y	y	y
60 Waking Ned Devine	1998	GB/IE/US	Comedy	20th Century Fox	15	y	y	y	y	y	y	y	y			y	y	y	y	y
* A gap indicates that distribution has not been confirmed, and not that the film has not been distributed in that territory					Total	42	58	60	59	60	58	60	60	35	13	59	26	60	54	60

European Sample				EU States																	EEA States			
Title	Year of production	Country of origin	Genre	International Distributor	No. of territories	AT	BE	DE	DK	ES	FI	FR	GB	GR	IE	IT	LU	NL	PT	SE	IS	LI	NO	
1 A Midsummer Night's Dream	1999	GB/IT	Romance/Comedy	Fox Searchlight	15	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
2 A Vendre	1998	FR	Drama	Flache Pyramide	12	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
3 Alice et Martin	1998	FR/ES	Drama		15	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
4 Amelie	2000	FR/DE	Comedy/Romance	UGC Intl.	14	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
5 Anatomie	2000	DE	Horror	Columbia Tristar	12	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
6 Aprile	1998	FR/IT	Comedy	Canal +	12	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
7 Asterix et Obelix contre Ceasar	1999	FR/DE/IT	Comedy/Family	President Films	16	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
8 Au Coeur du Mensonge	1998	FR	Crime		11	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
9 Baise Moi	2000	FR	Drama	Wild Bunch	11	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
10 Beautiful People	1999	GB	Comedy	Fortissimo International Film Sales	12	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
11 Billy Elliot	2000	GB/FR	Drama	USA Films	14	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
12 Black Cat, White Cat	1998	FR/DE/YU	Drama	Goldwyn Films Intl.	14	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
13 Bread and Roses	2000	GB/FR/IT/ES/DE/CH	Drama	The Sales Co.	10	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
14 Chicken Run	2000	GB	Comedy/Family		16	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
15 Code Inconnu	2000	FR/DE/Romania	Drama	MK2 Diffusion	9	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
16 Conte d'automne	1998	FR	Romance	Les Films du losange	16	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
17 Cosi Ridevano	1998	IT	Comedy	Cecchi Gori	9	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
18 East is East	1999	GB	Drama	Film4 Intl.	17	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
19 Eight and a Half Women	1999	GB/NL/LU/DE	Drama	TF1 Intl.	11	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
20 Festen	1998	DK	Drama	Christa Saredi	17	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
21 Fucking Amal	1998	SE/DK	Drama/Romance	Trust Film Sales DK	14	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
22 Get Real	1998	GB	Drama/Romance	Distant Horizon	10	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
23 Gouttes d'eau Sur Pierres Brulantes	1999	FR	Drama	Celluloid Dreams	10	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
24 Goya en Burdeos	1999	ES/IT	Drama		12	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
25 Hideous Kinky	1998	GB/FR	Drama	The Sales Co.	10	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
26 Hjaelp, Jeg er en Fisk	2000	DE/DK/IE	Family	Hanway	10	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
27 Idioterne	1998	DK/NL/FR/IT	Drama	Trust Film Sales DK	15	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
28 Juha	1999	FI	Drama	Christa Saredi	10	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
29 La Fille Sur Le Pont	1999	FR	Drama/Comedy		13	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
30 La Leggenda del pianista sull'oceano	1998	IT	Drama	Medusa Films	11	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
31 La Stanza del Figlio	2000	FR/IT	Drama	Wild Bunch	11	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
32 LA Without a Map	1998	GB/FR/FI	Comedy/Romance	The Sales Co.	10	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
33 Le Diner de Cons	1998	FR	Comedy		13	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
34 Le Gout des Autres	1999	FR	Drama	Pathé Intl.	11	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
35 Little Voice	1998	GB	Romance	Miramax Intl.	13	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
36 Lock, Stock, and Two Smoking Barrels	1998	GB/US	Crime	Summit Entertainment	12	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
37 Love is the Devil	1998	GB/FR/JP	Drama	bfi Sales	14	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
38 Luna Papa	1999	AT/CH/DE/FR	Drama	Christa Saredi	13	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
39 Malena	2000	IT/US	Romance	Miramax Intl.	11	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
40 Merci Pour le Chocolat	2000	FR/ES/CH	Drama		9	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
41 Mia aiwniothta kai mia mera	1998	GR/FR/IT	Drama	Classic	14	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
42 Mifunes Sidste Sang	1999	DK/SE	Romance/Comedy	Trust Film Sales DK	16	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
43 My Name is Joe	1998	GB/FR/IT/DE/ES	Drama	The Sales Co.	16	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
44 Place Vendome	1998	FR	Drama	Canal +	15	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
45 Plunkett and Maclean	1999	GB	Thriller	Working Title	13	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
46 Rosetta	1999	BE/FR	Drama	ARP	13	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
47 Saving Grace	2000	GB	Comedy	Portman Entertainment Group	11	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
48 Sitcom	1998	FR	Comedy	Celluloid Dreams	12	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
49 Smilla's Sense of Snow	1998	DK/DE/SE	Thriller	Summit Entertainment	10	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
50 Sous le sable	2000	FR	Drama		10	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
51 Taxi	1998	FR	Action/Comedy		15	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
52 Taxi 2	2000	FR	Action/Comedy		12	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
53 Tea with Mussolini	1999	GB/IT	Drama	G2 Films	12	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
54 The Acid House	1998	GB	Drama	Film4 Intl.	10	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
55 The General	1998	IE/GB	Crime	J&M Entertainment	14	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
56 The Land Girls	1998	GB	Drama	Intermedia Arc Pictures	10	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
57 The Tango Lesson	1998	GB/DE/NL/FR/Argentina	Drama	The Sales Co.	14	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
58 The War Zone	1999	GB/IT	Drama	Film4 Intl.	12	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
59 Une Liason Pornographique	1999	BE/FR/LU/CH	Drama	Art Box	16	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
60 Venus Beauté (Institut)	1999	FR	Drama/Comedy	Mercure	11	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y	y
* A gap indicates that distribution has not been confirmed, and not that the film has not been distributed in that territory					Total	36	54	58	42	50	33	59	55	35	14	57	34	48	34	47	34	0	46	

The study of the legislation and practice of different ratings systems was undertaken primarily through desk research and interviews with the relevant classification authorities and other knowledgeable parties. These include organisations involved in the classification or rating of content, regulatory bodies, industry bodies, consumer groups (including parental organisations), broadcasters, distributors and sales agents. Interviews were conducted both by telephone and in person.

The analysis of the systems concentrated on identifying the different ratings categories in each country, and how they are implemented. This included important distinctions such as accompanied as opposed to unaccompanied ratings. However, much of the analysis of ratings systems was accomplished through analysing the Samples.

## 4.2 Sample and Standards Analysis

### 4.2.1 *Data gathering*

The Brief required the Consultants to supply and examine two Samples of fifty films each, through which the impact of different ratings methods could be assessed. The Samples were defined as follows:

Sample 1 – is a representative Sample of 50 films of European and non-European origin, which have been distributed throughout all EU and EEA Member States<sup>42</sup> via cinemas, on DVD/videocassettes and on television (the “Global Sample”).

Sample 2 – is a representative Sample of 50 films of European origin, which have been distributed in the majority of the EU and EEA Member States via cinemas, on DVD/videocassettes and on television (the “European Sample”).

The criteria for the selection of films were such that exhibition should have taken place, but demanded that they be recent enough to minimise the number of changes in any of the ratings systems. Accordingly, the films were selected on the following basis:

- Films released between January 1999 and June 2001
- Films produced between 1998 and 2000

These criteria, applied to the Internet Movie Database Pro (“IMDB Pro”), resulted in a universe of 420 films for the Global Sample and 70 films for the European Sample. The plan was to select 60 films from these universes (of which 50 were to be selected for final analysis) so as to be broadly representative with respect to genre and country of origin.

However, the Global Sample’s initial universe of 420 films did not contain any European films distributed in all territories. The European films that are included in this Sample were brought over from the European Sample in an attempt to make the Global Sample more representative. The difficulty incurred in finding a sufficient number of European films is indicative of the fact that “only a minority of European titles manage to cross the borders of their country of origin.”<sup>43</sup> Indeed, it was for this very reason that the MEDIA Salles database, which was consulted in the construction of this Sample, was set up.

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<sup>42</sup> EU states are Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and the UK; EEA states are Iceland, Liechtenstein, and Norway.

<sup>43</sup> From MEDIA Salles database <http://www.mediasalles.it/econline.htm>

Number of Films per Territory (Global Sample)

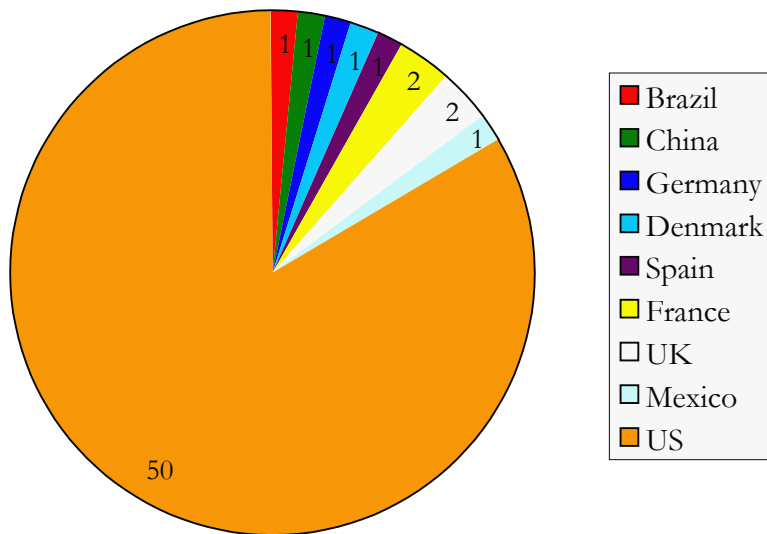


Fig 4b.

Number of Films per Territory (European Sample)

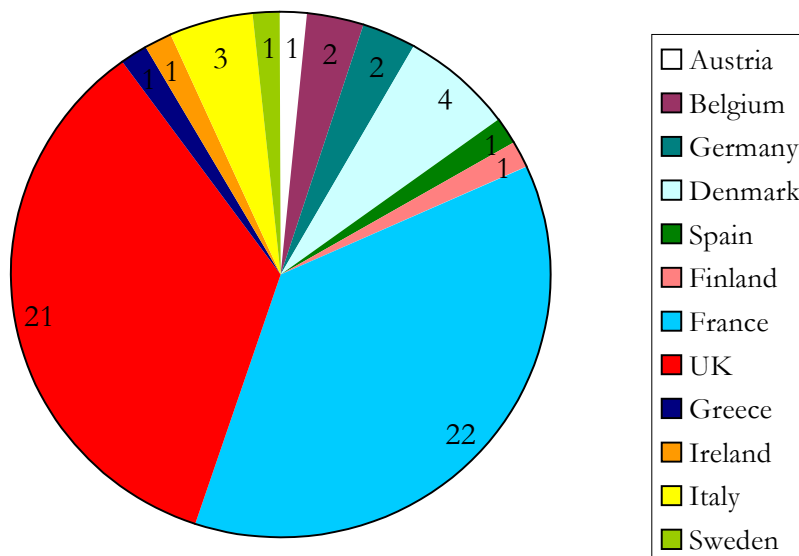


Fig 4c.

Chart 4b shows the country of origin of the films in the Global Sample as finally determined. Where more than one country was associated with a production (as in a treaty co-production), the



above chart shows the lead country. This country was determined by the order of importance as determined by IMDB Pro, where possible<sup>44</sup>.

Chart 4c shows the country of origin of the films in the European Sample as finally determined. The country of the lead production company was again used, although many productions were co-productions, involving countries that are not included in the chart, such as the Netherlands and Luxembourg.

Clearly this chart is not representative of the size of the various countries, the size of their industries, or the numbers of films produced. It is, however, representative of the degree to which the countries' films obtain wide distribution throughout Europe.

A detailed discussion of the Sample methodology is presented in Appendix 2.

### 4.3.2 Ratings Comparison

The heterogeneity that we have been tasked with examining has two dimensions: heterogeneity of *systems*, and the heterogeneity of *standards*. It is easy to see the heterogeneity of systems by examining a chart that details the various classification schemes used by the different countries. However, those differences across systems make it very difficult to compare differences in *standards*. Therefore, in order to assist comparisons of ratings *standards* across different systems we have created a 'ratings comparison model' that groups various theatrical ratings into common categories. No such attempt will perfectly take into account the wide variation in ratings across Europe, both in terms of numbers of rating categories for each country (the minimum being two and the maximum being seven), as well as differing cut-offs for key stages such as the end of childhood and beginning of adulthood. Despite this, some common stages can be identified. The two most obvious are a highest or most restrictive rating, and a lowest or most permissive rating, which are common to all countries for which we have data. Following those, we identified three less distinct break points, which apply to young children under the age of seven, to children under the age of 13, and to young teenagers under the age of 16. This structure is common to many of the countries examined, including Finland, Germany, Norway, and the UK. Portugal and Spain also make use of five ratings. This led to the following set of rating categories being created for comparison:

**Fig4d.**

Comparative rating				
0	1	2	3	4
Universal	No young children (under 7 years)	No children (under 13 years)	No young teenagers (under 16)	Adults: the highest rating.

In some cases a national rating is eligible for two ratings categories. For instance, the 15 rating in Denmark could receive a category of 3, but it is also the highest rating in Denmark, and thus receives the 4 rating. In Austria, the 16 rating does not receive the 4 category, even though it is more restrictive than the Danish 15 rating, because it is not the highest rating (Austria also has an 18 rating).

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<sup>44</sup> Where it was not possible to determine the most important country, the co-producing countries were listed in alphabetical order.

It is worth noting here that the nature of the territorial ratings (whether they are mandatory or voluntary, and if they forbid those under the age limit or accept parental accompaniment) is not taken into account explicitly in this process.

**Fig 4e.**

<b>Austria</b>	All (A)	6	10	12	14	16	18
	0	1	1	2	3	3	4
<b>Belgium</b>	All	16					
	0	3					
<b>Denmark</b>	All All (NR 7)	11 (A)	15 (A)				
	0	1	2	3			
<b>Finland</b>	All	7	11	15	18		
	0	1	2	3	4		
<b>France</b>	All	12	16	18			
	0	2	3	4			
<b>Germany</b>	All	6	12	16	18		
	0	1	2	3	4		
<b>Greece</b>	All	13	17				
	0	2	3				
<b>Ireland</b>	General	12 PG (A)	15 PG (A)	18			
	0	2	3	4			
<b>Italy</b>	T	VM14	VM18				
	0	3	4				
<b>Luxembourg</b>	All	14	17				
	0	3	4				
<b>Netherlands</b>	Al (A)	MG6 (A)	12	16			
	0	0	2	3			
<b>Portugal</b>	M/4	M/6	M/12	M/16	M/18		
	0	1	2	3	4		
<b>Spain</b>	All (R)	All	7 (NR)	13 (NR)	18 (NR)		
	0	0	1	2	4		
<b>Sweden</b>	Alle	7 (A)	11 (A)	15			
	0	1	2	3			
<b>United Kingdom</b>	Universal	PG	12A	15	18		
	0	1	2	3	4		
<b>Iceland</b>	All	10	12	16			
	0	1	2	3			
<b>Liechtenstein</b>	-	-	-	-	-		
	-	-	-	-	-		
<b>Norway</b>	Alle	7 ar	11 ar	15 ar	18 ar		
	0	1	2	3	4		
<b>US</b>	G	PG (A)	PG-13 (A)	R (A)	NC-17		
	0	1	2	3	4		

The symbols in brackets (A, R, and NR) indicate additional attributes of the rating:

A = Accompanied – the minor must be accompanied by an adult/guardian

R = Recommended – recommended for children

NR = Not Recommended – not recommended for children, or for children below the indicated age.

Unless otherwise indicated by an “(A)”, the national ratings do not allow accompanied minors to view restricted films.

### 4.3 Econometric Analysis of the Rating Heterogeneity

In order to provide quantitative results in measuring the impact of heterogeneity amongst the film Samples, the Consultants have subjected the 120 films and their ratings results to econometric testing. As the ratings for each film released theatrically matched the ratings for the other measurable mediums, namely video and DVD, the Consultants only produced econometric results for the theatrical ratings found for each of the 120 films. The econometric analysis was made possible by the Consultants' production of a standard comparative rating (explained in section 4.4.2).

A range of analytical tasks concerning the heterogeneity of the films ratings was undertaken:

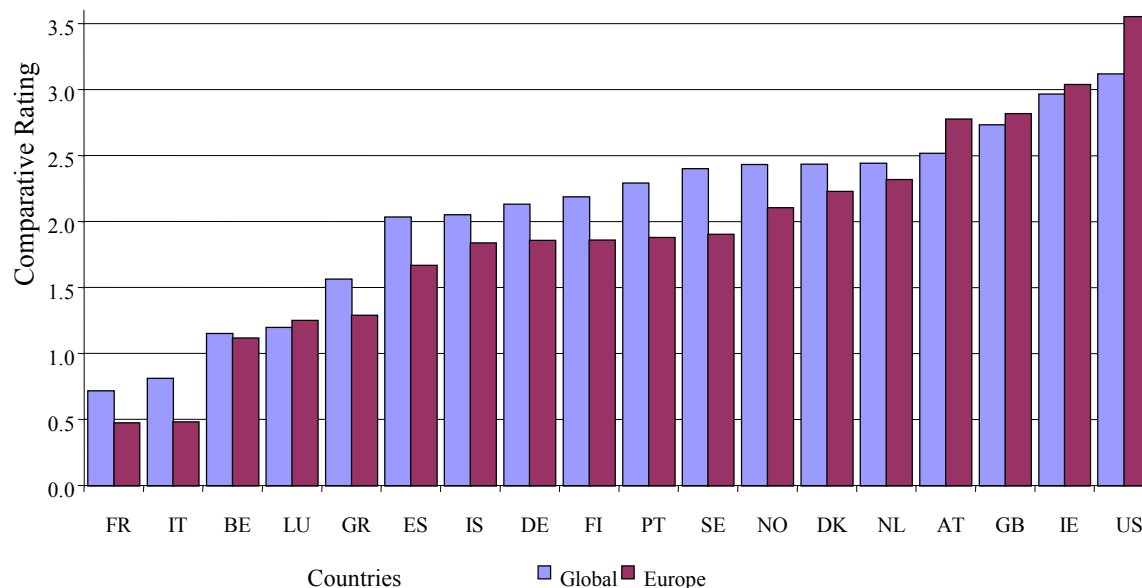
- By mean
- By standard deviation
- With graphs illustrating the trends

Each of these tasks have been applied to:

- Global full Sample
- European full Sample
- Global consistent Sample (smaller)
- European consistent Sample (smaller)

It is worth noting however, that the usefulness of the analysis, which follows is dependent on the reasonableness and consistency of the method used to produce a comparative rating scheme.

#### 4.3.1 Global and European Average Film Rating – Full Sample (Fig 4f)



*Global Sample: 18 countries by 55-60 films*

*European Sample: 18 countries by 18-60 films*

The graph above depicts the overall average film rating of the Global and European Samples in each of the 17 EU territories and the US. The countries are presented in the order of their

average rating in the Global Sample – with the countries with the lowest rating average being represented at the beginning of the graph.

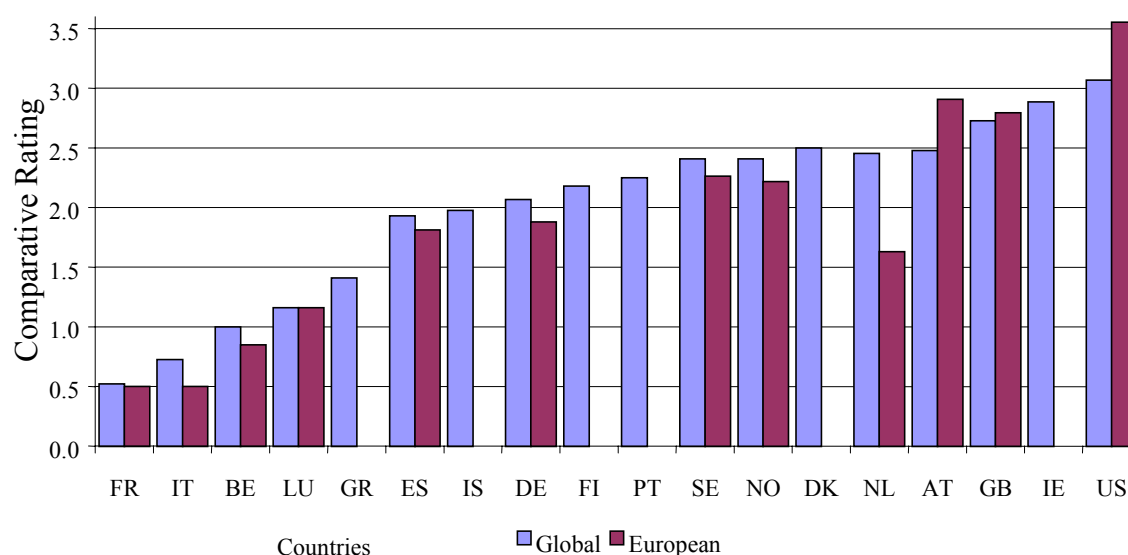
It is clearly visible that the US gives the most restrictive ratings – in terms of rating the films in the Sample with the highest rating possible – in other words the least inclusive rating, 3-4.

It is also apparent that the English language territories all gave the European Sample a slightly higher than average rating than the Global Sample. Thirteen out of fifteen non-English language territories gave the European Sample a slightly lower than average rating than the Global Sample. However, the differences are not significant enough to be able to draw definitive conclusions from this. In addition, the Samples may not contain an identical balance of films (i.e. controversial versus non-controversial).

The full Sample includes all films regardless of whether they have been released in all territories – therefore, the average ratings of the countries in the full Sample will be slightly biased with some countries’ average based on more films (by virtue of the fact that more of the Sample’s films were released in their territory than others). Not all of the films were released in all of the territories and consequently there were not ratings for all of the films in all of the countries. Therefore, the Consultants repeated the exercise for the Global Sample, excluding those films, which had rating data gaps. The resulting consistent sample contains 44 films, which had data points in all 17 EU countries and the US.

#### 4.3.2 Global and European Average Film Rating – Consistent Sample (Fig 4g)

To determine whether our analysis would still hold true when we adjusted for gaps in our data, we repeated the exercise using the “consistent” samples. Therefore, below we present a bar chart depicting the average rating for the consistent Sample from the Global and European Samples in each of the 17 EU territories and the US.



*Global Sample: 18 countries by 44 films*

*European Sample: 12 countries by 27-34 films*

The broad patterns noted in the full Sample analysis were also apparent in the consistent global Sample.

The films in the European Sample did not enjoy as widespread a release as the films in the global Sample. To create a consistent Sample, the Consultants excluded six countries because of the larger number of data gaps in those territories. Only 13 films from the European Sample had data points in all of the remaining 12 countries. Thirteen films is insufficient to perform a meaningful analysis and therefore, the Consultants included films, which had data points in at least 10 of the 12 countries – thus raising the consistent European Sample to 34 films. The Netherlands notably experiences a lower average rating for the films of the European consistent Sample, but despite this slight anomaly, the analysis is broadly similar to that obtained through the use of the full European Sample.

### **4.3.3 120 Feature Films Categorised by Average Standard Comparative Rating (Fig 4h)**

In order to analyse in more detail how the different countries rate different types of films (i.e. family films compared to controversial films etc) we calculated the average rating received by each film across all territories. The results are as follows:

#### **Films with an average rating between 0-1**

##### **Global Sample**

- Stuart Little
- 102 Dalmatians
- A Bug's Life
- An Ideal Husband
- Notting Hill
- Big Daddy
- Star Wars Episode 1:
- Phantom Menace
- 10 Things I Hate About You

##### **European Sample**

- Chicken Run
- Asterix et Obelix contre Ceasar
- Conte d'Automne
- Hjaelp, Jeg er en Fish (Help, I'm a Fish)
- Tea with Mussolini
- Le Diner de Cons
- The Tango Lesson

#### **Films with an average rating between 1-2**

##### **Global Sample**

- Juha The Truman Show
- Cast Away
- High Fidelity
- Central do Brasil
- Wild Wild West
- Almost Famous
- The World is Not Enough
- The Cider House Rules
- 28 Days
- Charlie's Angels
- Man on the Moon
- Wo Hu Cang Long
- Being John Malkovich
- American Pie

##### **European Sample**

- La Leggenda del Pianista Sull'Oceano
- La Stanza del Figlio
- Le Gout des Autres
- Sous le Sable
- Merci Pour le Chocolat
- Mía Aiwnothta Kai Mia Mera
- Taxi 2
- Code Inconnu
- Luna Papa
- Così Ridevano
- Little Voice
- Bread and Roses
- The Land Girls
- Taxi
- Aprile
- Vénus Beauté
- Juha
- Fucking Âmál
- East is East
- LA Without a Map
- Saving Grace
- Place Vendome
- Hideous Kinky
- Black Cat, White Cat
- Malena
- Goya en Burdeos
- Rosetta
- Au Coeur du Mensonge
- Alice et Martin
- Get Real
- La Fille Sur Le Pont

### Films with an average rating between 2-3

#### **Global Sample**

- Analyze This
- Mission Impossible:II
- Dancer in the Dark
- Run Lola Run
- Magnolia
- Out of Sight
- Enemy of the State
- Elizabeth
- The Matrix
- Lethal Weapon 4
- Gladiator
- Deep Blue Sea
- Scary Movie
- Romeo Must Die

#### **European Sample**

- Smilla's Feeling For Snow
- Une Liason Pornographique
- Todo Sobre Mi Madre
- Beautiful People
- My Name is Joe
- Mifunes Sidste Sang
- A Vendre
- The General
- Gouttes s'eau Sur Pierres Brûlantes
- Plunkett and Macleane
- La Vie Rêvée Des Anges
- The Acid House
- Eight and a Half Women
- Lock, Stock and Two Smoking Barrels

### Films with an average rating between 3-4

#### **Global Sample**

- American Beauty
- I Still Know What You Did Last Summer
- Eyes Wide Shut
- Hollow Man
- Quills
- Amores Perros
- American History X
- American Psycho
- 8mm

#### **European Sample**

- Festen
- Sitcom
- Anatomie
- Love is the Devil
- Idioterne
- The War Zone
- Romance
- Baise Moi

The above lists clearly indicate that the genre of a film has a direct effect on the rating applied. Those films with an average comparative rating of 0-1 are family orientated films and animation whilst the films with an average comparative rating of 1-2 and 2-3 are dramas (with more adult themes) and comedy dramas. Those films with an average comparative rating of 3-4 have been classified as thus due to the usage of sex, violence and language, and it is apparent that the films from the Global Sample in this category have a high use of violence in them and whilst the European films in this category could be considered more sexually explicit.

#### 4.3.4 Country Ranking by Average Film Rating Category (0-1, 1-2, 2-3, 3-4) (Fig 4i)

	Global Sample					European Sample				
	0-1	1-2	2-3	3-4	Overall	0-1	1-2	2-3	3-4	Overall
France	1=	1=	1=	1	1	1=	1=	2	2	1
Italy	1=	1=	1=	2	2	1=	1=	1	3	2
Belgium	1=	1=	3	4=	3	17	6	3	8=	3
Luxembourg	1=	1=	4	8	4	1=	3	4	8=	4
Greece	1=	5=	5	9	5	1=	4=	5	14=	5
Spain	8	7	7	12=	6	1=	8	7	14=	6
Iceland	7	5=	13=	11	7	1=	4=	14	10=	7
Germany	9=	10	8	4=	8	8	12	6	5=	8
Finland	11=	11	9	4=	9	11	10	10	5=	9
Portugal	17=	14=	6	3	10	18	13	11	10=	10
Sweden	11=	9	13=	12=	11	9=	11	12	14=	11
Norway	13=	14=	11=	4=	12	13=	14	9	7	12
Denmark	9=	8	17	12=	13	13=	9	13	1	13
Netherlands	1=	12	13=	12=	14	1=	7	8	4	14
Austria	13=	13	10	10	15	16	17	16	14=	15
United Kingdom	15	16	11=	12=	16	15	15	15	13	16
Ireland	17=	17	13=	12=	17	9=	16	17	14=	17
USA	16	18	18	12=	18	12	18	18	12	18

For the lists of films set out above, we then repeated our analysis to determine, for example, which countries rated family films (i.e. those which have an overall average rating between 0 and 1) most leniently, and which countries rated controversial/explicit films (i.e. those with an overall average rating between 3 and 4) most leniently.

Fig 4i sets out the ranking of each country for each category of films in each sample. 1 indicates that country was most lenient for that category of films. 18, indicates the most restrictive. To aid interpretation, the table is also colour-coded. The darker the colour, the more restrictive the country is for that category of films.

The analysis was carried out on the consistent Global Sample and the full European Sample (because the consistent Sample would have meant excluding six countries and would make comparisons difficult).

The overall conclusion to be drawn from this further analysis is how consistent most countries are in their relative conservatism or leniency regardless of the type of film. It has been made clearly evident from all of the sample charts that certain territories are consistently more liberal in their application of ratings, no matter what the type of film, or how controversial it is. For instance, France and Italy are consistently the most liberal. The US, however, is the visibly the least inclusive.

The UK also generally rates films on the restrictive side. Ireland is also generally more restrictive in average ratings, but appears slightly less so with European films, which were given on average a rating between 0 and 1 across all territories. A review of the specific titles in this category (e.g. *Tea With Mussolini*, *Le Diner de Cons*) suggests that Ireland may have deliberately given such relatively uncontroversial “art house” fare (which is unlikely to reach a large audience) a very lenient rating – if the same film was in English it may have been rated more strictly. By comparison, in other countries these would be mainstream films, and as such perhaps not rated so leniently.

Most countries are remarkably consistent between the Global and European Samples in terms of their relative restrictions or leniency. However, there are also a couple of anomalies, with the Netherlands appearing to be more lenient on European films and Belgium appearing to be relatively more restrictive on European films with an average of 0-1 than on Global films where

an average of 0-1 is applied. It is worth noting with the Netherlands that the a new NICAM rating scheme was only adopted in 1999 and therefore, a proportion of the films in the Samples were rated by the previous Dutch rating system and inconsistencies will exist, (the individual film Samples in Appendix 2 are clearly marked showing when the NICAM predecessor rating system applied the rating).

Belgium only has two rating categories, and therefore can only rate films at extremes, either of a totally inclusive or restrictive nature. Austria appears to be relatively less restrictive on Global films rated 2-4 than on European films of rating 2-4. Denmark and Portugal prove to be the most inconsistent.

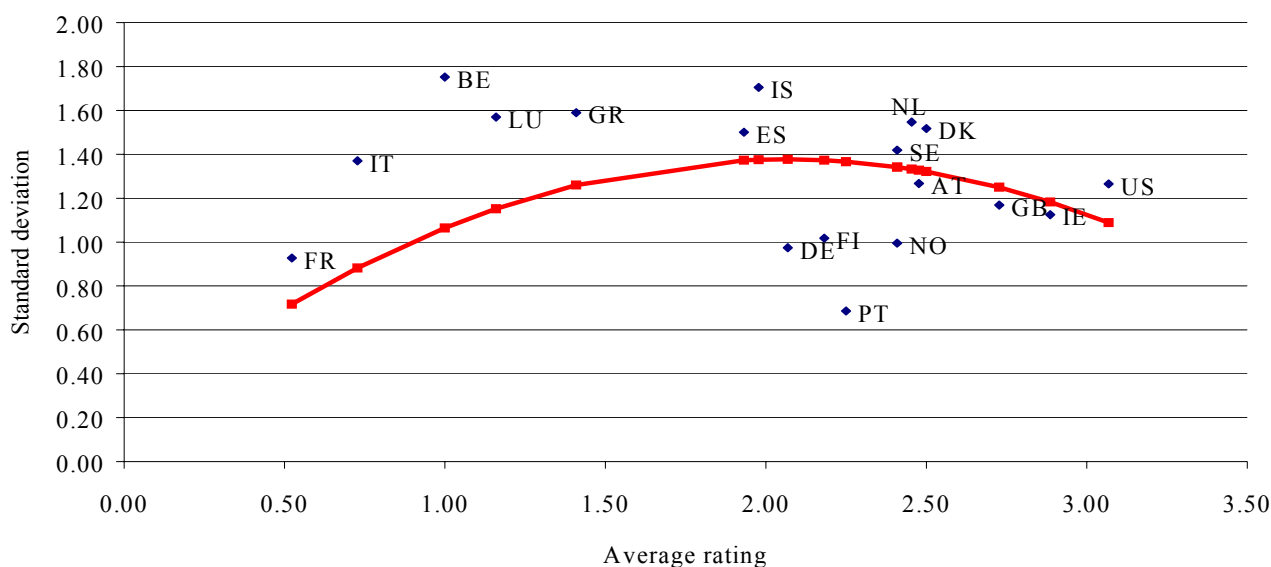
#### 4.3.5 Standard Deviation

Standard deviation is a measure of the spread of the ratings being awarded by each country. If a country has a very low or a very high average rating, then the spread of those ratings cannot be large. If a country has an average rating of 4.0 (the highest rating), then all films must be rated 4 in that country, and therefore the standard deviation is zero. By contrast, if a country's average rating is 2 it could have a standard deviation of 2. This would be the case if half of the films in this country were rated zero, with the other half rated 4 and there were an infinite number of films in the Sample. Therefore, there is an exception that standard deviation will change depending on the average rating given to films in that country. The Consultants calculated the expected standard deviation given a certain average rating by analysing the:

- Full Global Sample and consistent Global Sample
- Full European Sample and consistent European Sample

A limitation of the analysis is that standard deviations are dependent on the number of observations. They tend to be higher with a lower number of observations, and with a small sample individual anomalies may skew the results.

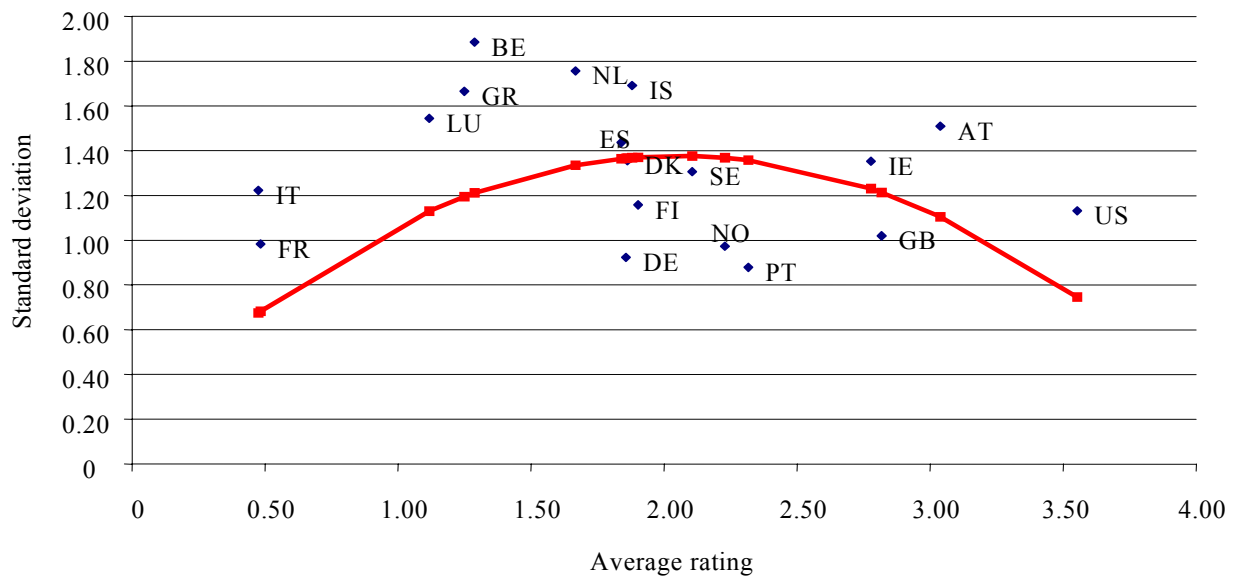
#### Results for Global – full Sample (Fig 4j)



*Global Sample: 18 countries by 55-60 films*



## Results for European – full Sample (Fig 4k)



*European Sample: 18 countries by 18-60 films*

Belgium has a relatively large standard deviation, which is to be expected given that the territory appears to have polarised ratings of either zero or four.

By contrast, Portugal has a relatively low standard deviation. From the Sample it would appear that it hardly ever awards films its highest or lowest ratings, with the vast majority are rated 2- 3 (under 13 years of age and under 16 years of age), which implies that it does not make use of its full spread of rating categories.

Germany, Finland, Iceland and Spain all have similar average ratings of between 1.5 and 2.5 (under 7 years of age and under 13 years of age). However, the standard deviation of ratings awarded by Germany and Finland are visibly in a cluster and therefore, less pronounced than that of Iceland and Spain.

Despite having similar average ratings to the Netherlands, all of Denmark, Sweden and Norway appear to have a much lower spread of ratings.

Standard Deviation charts for the consistent Global and European Samples are contained in Appendix 10.

## 4.4 Conclusions

In conclusion there are certain key observations that the Consultants have highlighted through their analysis of the heterogeneity of ratings. The main effect is that of the heterogeneity of standards as it exists specifically with regard to English language territories. A widely held belief (which appears to have been confirmed through our analysis) is that the English language territories or territories where films in the English language or with English language subtitles are prevalent (UK, Ireland, Norway) clearly rate feature films more strictly than other European territories, such as France and Italy – which are considerably more lenient and more inclusive in their ratings.

Another observation worth noting is that the English language territories appear to be relatively stricter on films from the European sample than on films from the Global Sample, compared to other territories. The most controversial films from the European Sample tend to contain more sex scenes than violent scenes while the most controversial films from the Global Sample appear to be more explicit with the use of violence and language than with sex. This highlights the cultural differences that exist between the EU and EEA Member States with regard to sex and violence. For instance, would *Spiderman* have been re-rated and given a more inclusive “12A” rating in the UK had the controversy been about scenes of a sexual nature as opposed to the violent simulated fight scenes that were the original cause of concern and the stricter “12” rating?

The Consultants have found that the rating heterogeneity has not impacted on distribution costs (see Section 5.1, 5.2 and 5.3 for detailed discussion on this issue), or on circulation of works in the EU (see Section 6.2 for a detailed discussion of this issue), or on the potential of confusion for those responsible for minors and children (see Section 5.2).

With regard to the issue of confusion, we discuss in Section 5.2, how rating heterogeneity does not appear to cause confusion because generally people are not exposed to ratings from a different country and even when works do cross-borders (as is the case with, for instance, German rated works going to Austria and UK rated works being distributed in Ireland) consumers appear to have a ready understanding of the cultural standards of the neighbouring country. Our analysis in this section supports this finding by demonstrating that the UK and Ireland appear to have similar cultural standards, rating films with similar severity; the same is true of Austria and Germany.

In conclusion with regard to the issue of the spread of ratings a country has the Consultants have found that just because a country has a broad range of ratings it does not necessarily mean that they fully utilise them, such is the case of Austria, Iceland, Germany Portugal and Spain, which can be seen to cluster ratings.

## 5. Key Observations

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### 5.1 Economic Impact of Ratings Heterogeneity

As previously established, the economic impact of ratings heterogeneity is twofold, existing both between systems across countries, and within countries across media. These costs, due to varying systems and standards, are also the consequence of the desire to preserve and accommodate cultural differences, and are classified here as *administrative*, *standards*, and *opportunity* costs.

#### 5.1.1 Administrative Costs

Administrative costs incorporate all expenses incurred by the industry, imposed as a necessity of rating; direct costs, which include application for a rating, screening costs (sometimes an additional cost to the rating application); and indirect costs, which include personnel, courier, postage and packing.

These costs differ as to the nature of the party incurring the costs due to the varying nature of distribution. For international (generally US) feature films released by major distributors, the costs across Europe will be incurred, generally speaking, by one party – the international distributor. Due to the territory-by-territory nature of the distribution of most European films, costs will be incurred in each territory by a different entity – the distributor in that particular territory. Accordingly, it is necessary to consider these different scenarios.

The Consultants estimated the total cost of rating:

- a 110 minute international feature film released theatrically by a major international distributor in the majority of European territories (15) on between 30-300 prints
- and a 95 minute European feature film released theatrically by national independent distributors in each of the 17 European territories on five prints

The Consultants estimate the direct costs for the international feature film at €26,430 and the indirect costs at €950. The Consultants further estimate the direct costs for the European feature film at €5,085 (€7,695 when also rated for video and DVD distribution), and the indirect costs at €3,000.

There are certain factors to be taken into consideration regarding direct costs and indirect costs.

*Direct costs:* Each territory has established a different cost for application, registration, and appeal, as well as the actual rating of a film by their regional standards. In general, these are based on a rate per minute, per metre, or per unit (print). Furthermore, the cost of rating is subject to national variables relating to genre, whether or not the film has been rated previously and whether or not the film is intended for the festival circuit.

*Indirect costs:* The indirect costs are different for the international work and the European work in a number of respects. First, the indirect costs for the international work are actually incurred by one single company, the international distributor, while the indirect costs for the European work are more theoretical, since they are incurred by the different national distributors, and, since the European work is less likely to be distributed in every territory, the costs are less likely to be incurred. Secondly, the costs for the international work are lower since the international

distributor is able to spread rating costs over every territory it is active in, whereas the national distributor will not be able to take advantage of these economies of scale.

#### *International Work*

The following chart gives the costs of rating a 110-minute international film released theatrically in the majority of European territories by a major international distributor on 45-300 screens depending on the territory. The costs are based on actual figures from a major international studio distributor. Note that they include the costs of the theatrical release only and do not include the costs of the video/DVD release.

<b>Territory</b>	<b>Direct costs : rating application, screening costs</b>	<b>Indirect costs – personnel, courier, postage and packing</b>
Austria	€1,700	€20
Belgium	€75	€20
Denmark	€190	€50
Finland	€290	€20
France	€210	€175
Germany	€2,120	€250
Greece	€80	€20
Ireland	€890	€100
Italy	€800	€45
Netherlands	€0	€75
Norway	€8,200	€25
Portugal	€150	€25
Spain	€4,365	€25
Sweden	€5,625	€50
United Kingdom	€1,735	€50
<b>Total</b>	<b>€26,430</b>	<b>€950</b>

The direct costs vary between territories (especially when compared with the analysis of the European film below) because the number of prints on which the international film is released will differ from territory to territory. Therefore note that Norway and Sweden are the most expensive territories due to their per print charge.

#### *European Work*

The Consultants calculated the approximate costs of rating a 95-minute work in the 17 territories of the EU (that provided data), both for theatrical release, and for video/DVD distribution. In light of the many variables upon which ratings are based, they made several assumptions, which include:

- that a total of 5 prints would be distributed territorially
- that the video and DVD was distributed on the rental and sell through markets
- that the number of videos shipped would be less than 500.

The duration selected by the Consultants was based on the length of a film from their European Sample. The assumption that 5 units (prints) were distributed for theatrical release, and that the minimum possible number of videos were shipped, was based on the relatively small scale upon which European distributors operate. Furthermore, it was also assumed that this was the first rating of the film, and that it was rated for film prior to seeking a rating for video and DVD. The conversion ratios used by the Consultants can be found in Appendix 9.

The total costs estimated for the theatrical release of a European feature film in the 17 EU and EEA Member States are €5,085, and €7,695 when also rated for video and DVD distribution.

The UK is the only territory to distinguish between English (national) language films and foreign language/subtitled films and consequently charges more to rate an English language film. Therefore, taking this into account the cost to rate an English language film for theatrical release in the 17 EU and EEA Member States would be €5,522, compared to €8,132 when further rated for distribution video and DVD.

As a result of consultation with national distributors, the Consultants estimated the indirect costs at approximately three times the indirect costs incurred by international distributors. The details on these costings are shown below.

**Fig 5a Approximate Cost of the first Rating of a Feature Film in the 17 EU and EEA Member States**

Countries	Direct rating application costs	Video/DVD rating	Number of times the film is rated	Indirect costs including personnel, courier, post and packing
Austria	€156		1	€60
Belgium	€65		1	€60
Denmark	€162	€81	2	€150
Finland	€190		1	€60
France	€78		1	€525
Germany	€1,584		1	€750
Greece	€60		1	€60
Iceland	€215		1	€150
Ireland	€751	€331	2	€300
Italy	€50		1	€135
Luxembourg	Information not available			€
The Netherlands	No specific cost		1	€225
Norway	€3		1	€75
Portugal	€150	€8	2	€75
Spain	€36	€14	2	€75
Sweden	€639	€639	2	€150
United Kingdom	€1,383 for an English language film €946 for a foreign or subtitled work	€1,537	2	€150
<b>Total</b>	<b>€5,085 (€5,522 with UK added costs to rate and English language film)</b>	<b>€7695</b> (added to theatrical costs) <b>€8,132</b> (with UK added costs to rate an English language film for theatrical release)	22 times in total for release in 17 EU and EEA Member States theatrically, on video and DVD (and additional platforms in some cases)	<b>€3,000</b>

It is worth noting that the costs of rating tend to be higher in countries with more stringent rating practices, such as the UK, Ireland, and Germany. The most expensive territorial rating is that of the United Kingdom where it costs €1,383 to rate an English language work theatrically, compared to €946 for a foreign language film, with a further €1,537 to rate the work for video release (the same costs apply for both foreign films, and films that have previously been awarded a certificate for theatrical release). The Netherlands appears to have the least in out-of-pocket-costs, as it operates on a voluntary system, though there are training costs for people at the companies that submit the information required for rating content. NICAM estimates these costs at €700,000 borne by NICAM itself and €900,000 by NICAM members.

Indirect costs include the costs of management time (to supervise and administer the rating process), which are difficult to quantify, amounting to the hourly salaries of the local employees who handle the rating process for feature films. Furthermore, the time taken to get a film rated can impact the distributor's ability to capitalise on the film's marketing and success in other

territories, as well as affect cash flow. This varies markedly between territories as revealed in Section 3, where rating a work in the Netherlands takes only 10 minutes as it is completed online, but rating a work in the UK can take up to 2 months, in cases where a film's rating is in dispute<sup>45</sup>.

In certain countries, such as the UK, Ireland, Denmark, Portugal, and Sweden, a film is rated multiple times for various forms of media. In these countries videos must be rated independently of feature films, whether or not a different classification is achieved. In the UK and Ireland, it is not possible to obtain both ratings at the same time, as the film must be submitted for classification on two different occasions for the two media. These countries would, in theory, incur greater expenses due to the length of time taken and increased cost up front. According to Fig 5a, however, while a work in Germany is submitted for rating only once for release in theatres, video and DVD, its out of pocket costs will be greater than in Portugal, which requires multiple ratings.

### **5.1.2 Standards Costs**

Standards costs are those costs resulting from varying standards between countries or media platforms, beyond their having different systems. These costs include that of reversioning, where the standards of a different country may require additional rating applications or appeals to award a classification that is appropriate to the film's intended audience. However, the Consultants found that for the most part, any film that crossed territories in the European Union had gained somewhat of a specialised status, often as respected "art" films. As such, a cut to achieve a more inclusive rating would only serve to diminish those factors that rendered it successful or noteworthy. On the other hand, US based distributors of American works will from time to time cut their film to adhere to national standards allow them greater paying admissions. This is estimated by the Consultants to occur in less than one in twenty of all circumstances, and therefore the economic impact of heterogeneity in standards between countries can be seen as minimal.

As mentioned previously, many countries have not distinguished varying systems or standards for different forms of media. Those systems that do may incur increased costs in cutting the film for distribution on video and DVD and also for television. However, in the case of television, this cost is absorbed by the broadcaster, and therefore incalculable.

Additional costs resulting from varying standards become evident should distributors disregard or overlook rating practices, as discussed at length in Appendix 1. Certain countries, such as Belgium and Denmark, impose considerable fines, legal costs, and even imprisonment in the face of a rating inappropriate to a corresponding territory.

### **5.1.3 Opportunity Costs**

Any quantitative analysis of opportunity costs is problematic in that they result from the absence of revenue due to the heterogeneity of ratings. A film encounters opportunity costs if it is not released in certain territories because the expected rating might be such as to limit audiences. The Consultants found no evidence, however, that a certain rating requirement prevented a film's distribution in a given territory.

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<sup>45</sup> The average length of time for the BBFC to rate a film has been 6-7 days since 2001.

Additionally, a film's release could be impeded by the extent of costs involved in obtaining ratings across the numerous territories. As previously discussed, it is clear that major pan-European distributors' can easily absorb the costs of multiple national ratings especially ratings for large numbers of units or prints. Smaller national distributors are potentially limited by their economies of scale even though most European distributors are small independents, which specialise in individual markets, and even larger US distributors, which own rights to film in multiple territories distribute in this way.

Furthermore, opportunity costs can result from limited revenues once distribution has occurred. These costs are represented by the total possible paying admissions of the (legal) theatrical audience. The Consultants noticed a great deal of variance in box office receipts corresponding to fluctuation in classification. In Belgium, *Batman's* original release received its highest (and only) classification, for 16 years of age and over. Warner Bros lost money on the film, as their advertising campaign was targeted at the 10-12 years of age range. Ultimately, they appealed the decision and all ages were awarded access, but this could have spelled financial disaster for the company. Another example is that of the UK release of the French film *Les Visiteurs*, distributed by Momentum, which received a high classification preventing children from attending the film and consequently damaging Momentum's potential profits because the advertising campaign had been targeted toward children. These sorts of problems are less pronounced in countries with more stratified ratings systems, and therefore do not face a completely inclusive or exclusive classification.

However, even said 'stratified' rating systems are dependent on the possible theatre going audience. It should be noted that the UK's newly modified classification of '12A' resulted in more than 1000% increase in the box office receipts for *Spiderman*. In its twelfth week of release, shown in 56 locations, *Spiderman* collected €31,630 (£20,000) in box office receipts, compared to the thirteenth week, after the implementation of the new rating, when the movie grossed €428,590 (£271,000) in 305 locations. It is clear, however, that were this amendment to the '12' rating implemented earlier the final box office cumulative would have been several million more.

The DVD represents the opportunity to move a single product, through multiple language versions, across several territories. Most distributors however, manufacture regional masters rather than sharing costs with other companies. This results from a desire to avoid stockpiling DVD's and thereby minimising theft and piracy, as well as the ability to cater the additional material to regional markets. Furthermore, current licence practices often stipulate that small distributors gain rights to films in a dubbed or subtitled form.

## **5.2 Confusion Amongst Public**

The impact of ratings heterogeneity in systems and standards can also be gauged in the confusion generated amongst parents and those responsible for the care and protection of minors.

### ***5.2.1 Confusion Caused by Heterogeneity of Ratings Between Countries***

Varying rating standards between territories provide more confusion for pan European regulatory bodies and the industry itself than for parents and caregivers. The European Children's Film Association, and the Euro Kids Network (two organisations responsible for the protection of minors through upholding ethics in the media and promoting children's films), experience confusion or at least complication when faced with the deviation in standards between countries.

In Nordic countries, for example, nudity is not a subject for concern, whereas tolerance for violence is low. The reverse is true in the United Kingdom. Differing political climates and sensitivities also influence a territory's notion of what is appropriate for children. When faced with recommending works, the volume of films they can "ethically" promote is decreased due to these discrepancies. It is of note that, according to Media Salles research<sup>46</sup>, children's reasons for attendance at movie theatres are heterogeneous themselves, with young people in Denmark and France motivated by trailers, compared to critical acclaim in Britain, and prizes won or advice from peers in France. This embodies the respect for cultural differences that must be upheld by said pan European organisations.

Furthermore, those dealing in the distribution and exhibition of children's films can experience complication when attempting business in or with other territories. For example, a film considered to be a "children's film" in Belgium (thereby rated 'All') will have had only one alternative rating, that of '16' and above. A Belgian distributor then, in approaching another territory, can only attest for the nature of the film's content in a Belgian context, as in Portugal or Germany, rating standards have necessitated children's categories of both '6' and '12'. These discrepancies further complicate ethical or youth centred business. Should a sale not occur due to these differences, a distributor or sales agent is faced with the opportunity costs previously discussed in section 5.1.3.

The confusion amongst parents and caregivers caused by ratings heterogeneity between countries is not substantial, as most European consumers are not exposed to material of different national standards or systems unless visiting that territory. However, Belgian films are generally co-productions with France or the Netherlands, and the ratings of these territories are prominent on packaging of videos and DVD's within Belgium. Similarly, Austrian films regularly exhibit German ratings, and distributors of imported works in Luxembourg keep the ratings of the works' origin. As this exposure is of a consistent nature, the Consultants have found that the consumer can adapt to multiple rating standards and systems, except in the case of Ireland, which is attempting to shut of the distribution of works rated, and packaged accordingly, for the UK, which is due more in part to political considerations as opposed to consumer confusion. The Irish film censor wants to maintain control over films imported, especially those from the UK, through its national rating practices as a matter of principle.

### ***5.2.2 Confusion Caused by Heterogeneity of Ratings Between Media***

The greatest degree of confusion for parents and caregivers is the product of heterogeneity between media platforms. This is often a result of a lack of understanding of the different rating systems at work within a territory. The UK's BBFC and Denmark's MCCY are amongst the only rating bodies to, and are particularly comprehensive in, making public their system. The BBFC reports rating information on the back of a video and on its spine, as well as on their website. The MCCY has streamed its website to provide necessary information for both industry and the public. The standards applied to rating a film however, meaning the justification for these categories, are rarely made fully public, which prevents the parents from being well informed about decisions made on behalf of their children.

A prime example of the confusion caused by the heterogeneity of rating systems between media is that confusion generated by the aforementioned *Spiderman* when it was released in the United Kingdom. The film was released in July of 2002 as a 12-certificated movie. However, the

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<sup>46</sup> Cited by MEDIA Salles database <http://www.mediasalles.it/ksbensgb.htm>



advertising and the general marketing of the film and character was directed toward children 12 years of age and under and therefore the rating of the movie not only prohibited the majority of the targeted audience from seeing the film but also caused confusion amongst parents who were faced with children wanting to see the film (that had been so directly marketed to them) but could not actually see the film. Several of the London councils then re-certified the film to allow the under '12's entrance.

Various countries, such as the UK and Ireland, experience heterogeneity of systems and standards in requiring an additional rating for video and DVD following theatrical release. Parents regard video ratings with a degree of certainty, according to the British Video Association, especially in relation to other forms of domestic viewing, such as television. However, confusion occasionally arises when a parent wants to rent or purchase a video for his or her child, and is unable to understand why it has a restrictive rating, even though it was shown (in cut form) on television. Furthermore, in the United Kingdom there was no '12' category on video until July 1<sup>st</sup> 1994, while the '12' category was applied to films in 1989 (such films were adjusted to '15' or 'PG' for video release). Those affected are the consumers, who may become frustrated, and the ratings system as a whole, which has its integrity weakened, particularly with regard to cinematic and video ratings.

Television poses a unique set of problems for parents, as in every territory (except for the Netherlands, in which NICAM regulates all media) it subscribes to a different set of content standards than for theatrical release and for video/DVD. There is often discrepancy between competitors on this same media platform. For example, Austria's public ORF channels adhere to a code to protect minors, but its private and cable channels answer to an independent body, KommAustria. The same two-tier system is implemented in Germany whereby public broadcasters ARD and ZDF have internal guidelines for the protection of minors whilst private TV channels are submitted to the FSF control under the self-regulation principle. In particular confusion may arise due to a broadcaster's imposition of symbolic rating, through auditory or visual symbols. In Sweden, certain television stations display symbolic ratings, while others rely on voice-overs or colour warnings.

The notion of a watershed hour, before which inappropriate material cannot be aired, is central to the monitoring of content for minors. These watersheds may also vary, or not apply, between terrestrial and cable/satellite channels. According to the UK based "BSC", most parental ratings complaints are about terrestrial programming, with SKY (UK satellite network) complaints generally related to graphic content in trailers. Similarly, whilst the Belgian public broadcaster for the French community must show visual warnings of violence or sexual imagery throughout the programmes, which may be seen as a weaker form of notice to the public. NICAM, however, has stipulated that a complaint can be made should their pictograms not be adequately displayed.

As the broadcasters themselves are responsible for any necessary reversioning to meet perceived national standards, there is room for a great deal of viewer confusion. They may not make public their standards, or even advise that a film has in fact been edited. When cut for television, films may be shown earlier in the schedule than if they had not been edited. Consumers may therefore have difficulty in understanding why a film that they could not take their child to at the cinema because of a restrictive classification is now being broadcast to a wide audience before the watershed. In this case, confusion arises because of a lack of information and implies that a large amount of faith is placed in the governing authorities as to what their children can and cannot watch. It raises questions concerning the cultural outlook of a nation, which may be liberal in terms of its citizens' attitudes towards what children and minors should and should not be

allowed to watch but is ultimately confined by the governing institution's more 'conservative' views and policies.

The watershed hour, as well as the aforementioned, tonal and visual symbol signals, represents a degree of broadcaster accountability in what is frequently self-regulated, and thereby subjective rating process. According to the Belgian-based European Children's Film Association ("ECFA"), the Swedish Broadcasting Authority, as well as the UK's Voice of the Listener and Viewer, viewers are aware of the watershed hour, and understand its implications in their territory. However, the regional watersheds often do not take into account shifting trends in behaviour. Children in the UK are staying up later, and the territorial 9pm watershed hour does not reflect this. A recent study by the London School of Economics<sup>47</sup> revealed that 25% of parents feel the watershed in the UK should be pushed to 10 o'clock. It is of note that a recent study revealed that 50% of 6 and 7 years olds in the UK have television sets in their room, compared to the 25% in Sweden, 21% in Spain 17% in Germany, 16% in France and 12% in Holland. This clearly represents a new age of increased and unmonitored television exposure that should be taken into account by the broadcast industry.

The pervasive influence of television was also demonstrated in a study carried out by Media Salles<sup>48</sup>, which from November 2000 to February 2001, surveyed children between the ages of 8 and 11. Completed surveys were received from France, UK, Portugal, Sweden, Switzerland, Norway, Finland, Denmark, Italy, Spain (and Hungary). It revealed that many of the top 30 feature films favoured by children of this age group received a classification that should have denied them admission. These films included larger North American releases, such as *Scary Movie*, which received a 14 rating in Denmark, a 15 in Norway and 16 rating in Switzerland. It is also of note that inappropriately mature European and domestic releases were also mentioned by children, such as *La Vita e Bella*, which achieved a '12' years of age rating in Finland and Switzerland. Heterogeneity of rating systems between media is problematic for parents here, as cinematic marketing operates through other forms of visual media, and is inconsistent with regional watershed hours.

These cross-sector complications will only increase as lines between technologies are broken down. The digital age will enable one to surf the Internet on a television screen, or download an entire film onto a computer. The Internet Content Ratings Association, understanding the nature of cross media confusion, is currently seeking to develop regional templates based on territorial film rating systems. Implemented by parents, these templates will provide instantaneous and culturally specific filtering in a language (that of theatrical ratings) they can comprehend. The degree to which parental observance and intervention is steadily increasing will be further explored in section 5.8.

### **5.3 Exhibition, Video and DVD Distribution Issues**

#### ***5.3.1 Rating Differences Between Film Exhibition and Video Distribution***

In some cases, films shown in cinemas are rated and treated differently from videos released for sale or rental. This is particularly the case in the UK and Ireland, where the manner in which material is consumed is a factor in determining ratings.

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<sup>47</sup> Cited by BBC News <http://news.bbc.co.uk/1/hi/uk/298380.stm>

<sup>48</sup> Cited by MEDIA Salles database [http://www.mediasalles.it/journal/ecj1\\_01ing.pdf](http://www.mediasalles.it/journal/ecj1_01ing.pdf)

By contrast, elsewhere there are movements toward a single content rating system that applies across all media and channels. The most notable of these systems are NICAM, Denmark's MCCYP, and Finland's Board of Film Classification, all of whose decisions are applicable across different media, including films, video/DVD, and video games. Likewise, in France, Germany, Greece, Italy, Portugal and Spain the classification given to a film applies to the video/DVD.

Following in the footsteps of the Netherlands' NICAM system, Belgium is looking to adopt a single content rating system. In September 2002, theatre owner Kinopolis presented its own system of classification. The system is aimed at guiding parents and is a replication of NICAM. The rating of content will consist of visual symbols giving indications on the content of the audiovisual work, and whether it contains drugs, violence or sex, swearing, horror, humour, romanticism or has an educational purpose.

The Belgian Association of Distributors (ABDF) was annoyed that the theatre owner had acted without industry consent, but was ultimately supportive of the idea of a single content rating and called for several general systems which would be applied, not only by theatre owners and distributors but also by the video-DVD sector and by broadcasters.

The philosophy of rating theatre exhibition and video differently, which is prevalent in the UK and Ireland, has two primary distinctions. The first is that, as mentioned above, videos are harder to control once they have left the shop. It is difficult to ensure that children will not manage to find and view a video that they should not see. Cinemas can control the entrance to a film and therefore control who actually views the films because there is a "gatekeeper", either at the box office (selling tickets) or controlling access to the film (at the door). However, when a video is sold or rented, it leaves the control in the hands of the seller or renter. But once the video or DVD leaves the shop or rental outlet there is no-one controlling who can view it.

The above point leads us onto the second distinction which is that videos can be paused, rewind, or played in slow motion, while cinematic films obviously cannot. This allows viewers to isolate certain parts and study them closely. Behaviour that is prohibited or harmful can more easily be studied and copied if viewed on a video. Examples of this include criminal behaviour, like stealing a car, drug-related behaviour, such as demonstrating how to take a certain drug, or scenes of extreme violence.

### **5.3.2 Rating Video and DVD**

DVD technology has generated additional issues concerning ratings, particularly due to its increased capacity for content. Apart from the need to rate the main feature, all additional material on the DVD must be classified as well in some cases. The material that needs to be rated depends on the rating of the original: for example, in Denmark if a film receives a rating under 15, then the additional material must be rated; if the film received a 15 rating, there is no need for additional rating. The material with the most stringent classification sets the rating for the entire product. This constrains extra features such as director's commentaries, out-takes, and even the re-inclusion of cuts made in order to obtain a specific theatrical rating. The UK distributors of *Bridget Jones' Diary* neglected to obtain a rating for the director's comments before releasing the DVD. For video release, the distributors accepted a British Board of Film Classification ("BBFC") recommendation to make a certain cut. Commenting on this, the director showed the excised clip in her director's comments section. This material rendered the DVD illegal, and the distributor was forced to withdraw the entire release. Although this was due to an error on the part of the distributor, it illustrates the added complexity that DVDs face.

Different interpretations of the same work, specifically director's cuts, also face problems, for example in the UK. If a film and video received a certain rating, and the distributor wanted to release a director's cut with a higher rating, they may be prevented from doing so on the basis that the target audience for the work has not changed, and that higher rating that the director's cut would incur may not be appropriate for that target audience. Many American directors, who are used to constitutionally enshrined freedom of speech, have difficulty understanding why they cannot release a director's cut at a higher rating than the original video release. This is a legislative constraint that is intended to reduce confusion in the market and ensure that content is rated at an appropriate level for the audience it is aimed at.

### ***5.3.3 Packaging Issues***

The space taken up in providing rating information both on the packaging itself and, in certain circumstances, the DVD disc is an issue of some significance.

#### *Packaging space*

The added capacity of DVDs allows them to hold music soundtracks, additional language dialogue tracks, and subtitles for many countries, which makes it theoretically possible to sell one copy of the disc throughout numerous territories. Many countries require rating information to be placed on the packaging. However, distributors are being increasingly pressed for space, as they not only have to include information on the different languages, but also ratings data (where required) for the countries in which they wish to distribute the DVD. As the trend toward self-regulation and descriptive ratings gathers momentum, an increasing amount of information will be required on packaging, further exacerbating this problem. If more countries start requiring ratings to be placed on the discs themselves, as, for instance, Ireland does, this space problem will extend to the disc itself.

#### *Double-sided discs.*

If a DVD uses both sides of the disc, placing a rating on the disc itself presents problems, as there is no free surface large enough for even one marking of the mandated size. The compromise reached in the UK and Ireland is that the rating will be included in the small text that surrounds the inner hole of the disc, but this is not ideal from anyone's perspective, and if numerous territories were to make this request there would soon be a considerable space problem. Admittedly, this situation is unusual, but again serves to illustrate the potential pitfalls that are caused by ratings.

### ***5.3.4 Territorial Integrity and Piracy***

Ratings may also play a role in the preservation of territory-by-territory releasing. In certain territories, such as Spain, an audiovisual work may not be sold or rented unless it has been classified, and that classification is displayed on the video or DVD packaging in the prescribed place. Given that an Italian film, for example, may be released in Italy on DVD or video months before it has been released for theatrical exhibition elsewhere in Europe and the DVD or video distributor in Italy could, in theory, sell those DVDs and videos in Spain (although not authorised to do so in that territory), this would ruin the prospects for theatrical release, harming the holder of the Spanish rights. However, those works must first be classified by the Commission for Film Classification in Spain before they can be sold, and if they do not bear the approved agency markings, they will be confiscated upon importation.

The European Court of Justice has ruled that EU and EEA Member States are empowered to provide window releases for video distribution to give priority to cinema exhibition over video distribution. This is in reference to the European Court of Justice case law of 11 July 1985. *Cinethèque SA contre Federation Nationale des Cinemas Français*. However, ratings may act as an additional deterrent to videos being released prior to their official release date.

In the same way, the enforcement of packaging regulations also adds another hurdle to DVD and video piracy, since the markings of the rating agencies are required to be displayed upon the packaging may be more difficult to counterfeit than a disc and the rest of the packaging.

## **5.4 Broadcast Issues**

### ***5.4.1 Broadcast Types***

Television broadcasting has at least three modes of distribution – unencrypted, encrypted and pay-per-view – with content being rated and shown differently on each one. Moreover, in a multi-broadcaster environment, each broadcaster, although following common rules and guidelines, may choose to implement those rules and guidelines differently from other broadcasters, and differently across the three modes. This model does not apply uniformly throughout Europe. In Denmark there is consensus amongst broadcasters to use the ratings defined by the MCCY. In Spain the broadcasters are obliged to use the film's existing ratings, but have to classify other content themselves.

#### *Unencrypted*

Films are frequently shown on unencrypted television (television which can be viewed without a decoder of any kind). This is often a terrestrial broadcaster, perhaps state-run, but could also be a private broadcaster. Of all methods of exhibition, this reaches the largest audience. In addition, there are few controls, if any, on who can watch a film. Accordingly, films that have potentially damaging or offensive content are broadcast late at night, are edited for content, or both.

In some territories, (Austria, Germany, Italy, the UK and Ireland) it is customary for films to be edited for broadcast purposes, and their contracts with rights holders specifically give them the permission to do so. However, in most territories, films are not edited for broadcast purposes, due to the legal precedent of author's rights.

#### *Encrypted*

Encrypted services require some sort of intermediary between the signal and the television in order to be watched. Satellite television and cable services that require a set-top box to decode the signal are examples of encrypted services. Encrypted services may enable a greater control of access (depending on their technological sophistication, often allowing certain content that may be harmful to minors to be restricted, for example, by blocking movies which have certain broadcaster-assigned ratings or attributes), and in some cases are thus freer to show unedited works. The difference between encrypted and unencrypted services has been widely recognised throughout Europe, with differing watersheds (e.g., Canal Plus in France and BSkyB in the UK), programming standards and visual icons.

In addition, there are premium channels, as well as standard cable or satellite channels, which may be devoted to movies or other specialised content. In those counties in which broadcasters may

trim films, broadcasters often treat content shown on these channels differently, being less eager to make cuts to movies shown on premium channels than on standard channels.

#### **5.4.2 Pay-Per-View**

Pay per view services generally require some sort of passcode or PIN to access content, and are therefore the most secure way of delivering content. Watersheds do not always apply to pay per view services, and in some cases they are able to show programming (such as pornography) that other services may not. In certain instances, though, watersheds do apply, giving rise to an anomaly in that a consumer can purchase or rent and watch a classified video with adult content at any time of the day, yet cannot view the same content on an encrypted service before a watershed time.

Pay-per-view movies may also be treated differently from encrypted and unencrypted movies in the same way as described above, in that unedited versions may be shown on pay-per-view, whilst edited versions may be shown on encrypted and unencrypted services, which have less access control.

In reference to territorial issues, an interesting example is that of the Danish Satellite versus the European Commission jurisprudence (case T-69/99 of 13 December 2000). It relates to a Denmark-based television company, which was broadcasting pornographic material to the UK. The UK government blocked the TV service on the basis of article 22 of the *Television Without Frontiers Directive* (Directive 89/552 as amended). The European Commission supported the measure adopted by the British government as appropriate to protect minors and stated that the measure was deemed compatible with European law. In its decision the court dismissed the application of the Danish broadcaster seeking to cancel the European Commission's decision.

#### **5.4.3 Video-on-Demand and Satellite and Cable**

Pilot projects of video on demand systems are already in place throughout Europe, and it is increasingly likely that commercially based video on demand will be widely available within the next decade. If video on demand is received through a set-top box, like satellite or cable television, some method of access control is available. However, the films will have to conform to each country's specific rating system. This could have two economic effects: firstly it could create barriers to entry by increasing the set up and running costs of a Pan-European system; and secondly, it could reduce the possible economies of scale to any operator wishing to implement a European system of video on demand by increasing the costs of territorial expansion, in addition to the territorial problems already present.

Under the current system of territory-by-territory distribution, video on demand, when commercially viable, will need to be configured on a territory-by-territory basis in any event, with the associated duplication of administrative functions and overhead structures. Therefore, the limiting factor is the distribution structure rather than the rating structure. However, it may well be the case that in the future, the distribution structure issues are dealt with, at which time the ratings structure may come forward as a key constraint.

## 5.5 Video Games

The relationship between video games and movies is often a tenuous one. In most cases, the film producer sells the rights to the game to a game publisher, who then creates a game based on that movie or franchise. Examples of these include a *Harry Potter* game, which is similar to the movie, and the James Bond *Agent Under Fire* game, which makes use of the James Bond character but is not related to a film. What is of particular interest in the video games arena is the proposed creation of a Europe-wide ratings system, led by the Interactive Software Federation of Europe (ISFE). This will be a voluntary system of rating video games and attaching an evaluative rating as well as visual content descriptors to games. Distributors and producers will self-assess games, with the system monitored and administered from a central location by a nominated agent. Representatives from the video game hardware and software industries, voluntary and statutory ratings boards, and all 15 European governments are participating in the design and the development of the programme.

The potential for confusion amongst consumers from the wide array of ratings information for video games has increased, due in part to the roles played by the Euro and the Internet in increasing cross-border trade. As this trade increases, and as more games become downloadable, a unified system of ratings will become more useful. If a game is downloaded from a Belgian server to a Swedish user, there are fewer regulatory concerns if Belgium and Sweden use the same video game rating system, and accordingly, the seller of the game only has to institute one age-control mechanism. The alternative, which is a different mechanism for each country that is sold to, is unwieldy, difficult to operate and implement, and presents a barrier to the electronic distribution of age-sensitive software.

Conversely, a single system could prove problematic in practice. The differences between a film and its corresponding video game are vast in content and technology, and while a film takes two hours to watch and further explore, video games can require up to 100 hours of playing time to complete. Furthermore, even the most skilled players can still miss parts, or whole levels of the game. It is unlikely that a general rating board would successfully uncover all possible content in such a way as to rate the game in its entirety, and therefore provide caregivers with comprehensive data. Self-regulation could conceivably counteract this difficulty.

Economics plays a powerful role too. A single ratings system, or at least one that is applicable in many European countries, provides assistance to games publishers and distributors in Pan-European distribution. When coupled with online instructions or multilingual manuals, one package can be used across many territories. This leads to economies of scale in European distribution. Smaller distributors, or those with less successful games, will also find it easier to shift games from territories where they are not selling well to those where they are in demand, without the need for repackaging or additional ratings. The introduction of a voluntary system is also evidence of the shift in philosophy toward placing the burden on protection of minors on the parent, and not the state.

At this point in time, the only ratings system found on the back of every game's packaging is that of the Entertainment Software Rating Board ("ESRB"). The ESRB is an independent, self-regulatory organisation, which provides comprehensive support services to companies in the interactive entertainment software industry. It was established in 1994 by the Interactive Digital Software Association ("IDSA"), the trade association for the interactive entertainment software industry, and is the USA's leading non-profit, entertainment software rating body. The rating system is an unbiased, standardised way to help determine what age group a game is appropriate

for, similar in style to film classifications. Ratings are determined by the ESRB in collaboration with the computer and video game industry.

Despite the fact that this system is perhaps not universally accepted by all European ratings agencies it is the most visible and therefore the most likely to affect consumer decisions. Furthermore, US Congress, leading child advocacy organisations, and multinational retailers have praised and supported the ESRB rating system. One leading Member of Congress called ESRB ratings, “the most comprehensive system of any entertainment medium in [the United States]”. The ESRB has become the most ubiquitous games rating system by far, and is also supported by the majority of games developers and publishers. Therefore it may be prudent to incorporate this pre-existing system in some way into any new method of certification<sup>49</sup>.

According to the ISFE’s provisional timetable the system will be initially subject to an information and education campaign directed towards publishers, retailers and consumers, while effective implementation will start after Christmas 2002, with the system to be fully operational from April 2003.

Out of all the 120 films subjected to our analysis, only eight had associated computer game releases. These films were:

- *102 Dalmatians*
- *A Bug’s Life*
- *Chicken Run*
- *South Park*
- *Star Wars: Episode One*
- *Stuart Little*
- *The World is not Enough*
- *Wild Wild West*

There are areas of contention for several of the above games. *Stuart Little* and *South Park* releases are not directly linked to their respective movies, despite containing all the characters. For the films *South Park*, *Star Wars: Episode One*, *The World is Not Enough* and *Chicken Run*, more than one tie-in game was released (in an effort by publishers to cash in on an already successful film’s profitability). In fact for *Star Wars*, nine films were released in total, all with different levels of graphic content, therefore jeopardising any attempt to link the film’s rating with any of the games.

All the games were released on different games consoles (such as PC, PlayStation, Gameboy etc). The same game may receive a different rating depending on the platform it was released on. For example, *The World Is Not Enough* received a “Teen” rating from the ESRB for the majority of platforms it was released on, however it received an “Everyone” rating on the Gameboy, perhaps reflecting the age of its core audience and the relative lack of sophistication of its graphics

## 5.6 Internet Page

The EC’s brief stipulated that the Consultants include feature films in the two Samples that have an Internet page. The Consultants have incorporated in the 120 individual feature film sheets (refer to Appendix 2) a row, which indicates whether the film has a designated Internet page.

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<sup>49</sup> Cited by ESRB website: [www.esrb.com](http://www.esrb.com)



Only films with a so-called 'official' Internet page have been indicated. The term 'official' refers to Internet pages specifically established for the film in question by the production company or the distributor, and does not include fan-sites.

In brief, out of the 60 films in the Global Sample, 56 of the films had an 'official website', which corresponds to 93 per cent, and out of the European Sample 29 of the films had 'official' Internet pages, which corresponds to 48 per cent. Therefore, in total 71 per cent of the 120 film samples have an Internet page.

The Internet Content Ratings Association ("ICRA") has developed a filter, which is a transparent freely available tool for parents to use in order to control their children's access of Internet content. Whilst the filter acts to prevent children accessing content deemed inappropriate and harmful, it also aims to protect freedom of expression.

The filter is based on the premise that self-labelling is the most democratic way to control the vast amount of information and images that are available on the Internet. The filter can be used in conjunction with other blocking technologies, such as block lists (established between the Internet content provider and the parent or guardian). However, it is apparent that no amount of filtering and blocking can completely protect one's child from inappropriate or harmful content and that nothing can replace parental (guardian) care and accompaniment whilst a child is online. Ultimately, filters are only part of the answer to protecting children and it is advisable to seek advice on this issue from relevant children and parental organisations.

ICRA website has a 'Label Tester' capability which is accessible via their website. The Label Tester enables the user to check whether a website has an ICRA rating by testing the URL address. None of the feature films from the Global or European samples had an ICRA rating – either because the films' website producers were not members of ICRA or they did not chose to rate the internet site via the ICRA process.

The majority of films from the Global and European samples were US studio pictures and the US Studios are not ICRA members. There are many independent Internet rating systems operating at present, the MPAA (Motion Picture of America Association) is just one example of an organisation with an independent rating system for members' websites.

ICRA are hoping to develop, in accordance with the alternative rating systems and operators, a common Internet rating language, which will quell any confusion over the numerous Internet rating systems.

## **5.7 Internet Distribution**

The globally accessible nature of the Internet makes regulation difficult, if not wholly unfeasible, except at considerable cost to free access to information. Accordingly, the major forms of child protection on the Internet are self-regulated, both from a content provider's perspective, and a parent's. Both have to actively participate for the system to work: the content provider, by assessing its site in accordance with a third-party's rating system, such as the dominant body's, the ICRA, and the consumer, by activating the child protection feature that makes use of the third-party's rating system when browsing. ICRA are currently working with Microsoft Internet Explorer to implement their software in place of the current RSACi (Recreational Software Advisory Council), in order to control access to restricted or unsuitable content. The individual

user would then be able to select a national template based on regional film classifications in the (password protected) content filter provided free on their Internet browser. In this way, information would travel digitally coded, or be filtered in such a way as to respect cultural differences. As previously discussed, Internet Explorer also has the capacity to search for and use other third-party ratings systems, but again this demands the active participation of the caregiver. Some classification authorities, such as Norway's, have turned their attention toward the Internet, but see their role as being more an educational and informative one, rather than engaging in content rating. At EU level the Safer Internet Action Plan addresses this range of problems with the aim of facilitating exchanges of experiences and best practices among European players (see above, 3.4).

### ***5.7.1 Web Marketing***

An area of interaction between film works and the Internet is in marketing websites, which are developed to promote a film. These may be standalone sites, or they may be part of a studio's or distributor's website. There are no indications that the major studios subscribe to the ICRA system, or engage in any form of explicit content rating. However, they are acutely aware of public opinion and sensitivity towards children, and their websites rarely contain material that is offensive or harmful. This is especially true of promotional websites or web pages for films that are aimed at children.

### ***5.7.2 Video on demand - Internet***

Video on demand over the Internet is not yet a widespread commercial reality, and there are no pertinent regulations, or ratings systems or standards at the national level. It is likely, though, that video on demand over the Internet will be a reality in the near future. It presents the same difficult issues regarding ratings as the Internet, as it bypasses existing regulated broadcasting channels. The location of the source and of the viewer may be different. Imposing the viewing location's classification system will be difficult, if not impossible. The ability to send video from one territory to another also threatens the receiving country's ratings system's integrity, and rendering it ineffective. It is unclear what effect this will have on ratings systems.

Pilot projects of video on demand systems are already in place throughout Europe, and it is increasingly likely that commercially based video on demand will be widely available within the next decade. If video on demand is received through a set-top box, like satellite or cable television, some method of access control is available. However, the films will have to conform to each country's specific rating system. This has two economic effects: firstly it creates barriers to entry by increasing the set up and running costs of a Pan-European system; and secondly, it reduces the possible economies of scale to any operator wishing to implement a European system of video on demand by increasing the costs of territorial expansion, in addition to the territorial problems already present. The consequences of this may be that each territory has its own video on demand service, with the associated duplication of administrative functions and overhead structures.

According to Maxime Japy, director of Movie System, the predominant video-on-demand site in France, harmonisation should be sought for. The Consultants support her view and would like to see the enforcement of the rules lying with the country of establishment and control of the server. In case different legislation is applied, there would be a consistent additional cost. Indeed, new versions of the same audiovisual work could be available online, which would imply new encoding, and new encryption for the different versions of a single audiovisual work. The issues

of “location” (and corresponding software and technology developments) would become even more complex to deal with. The initial rating costs would increase by €2,000 to €3,000.

## 5.8 State Intervention with Regard to Content Ratings – Self Regulation

### 5.8.1 *Movement towards Guardian Responsibility*

Apart from pornographic and extremely violent films for which there seems to be raising concerns and a demand for more direct state intervention, classification of audiovisual content is shifting from centralised and ‘arbitrary censorship’, towards the implementation of policies aimed at helping guardians protect minors from harmful content and empower them with the appropriate tools (descriptive ratings, screen icons, etc) to make their choice.

Films aimed at theatrical release have been subject to the censors’ scrutiny since the beginning of the 20<sup>th</sup> century, when the major concern was the protection of public morality and order. Hence, classification until recently was a function of public bodies such as the Ministries of Justice and Home Affairs. Rating processes are now controlled by bodies placed under the *aegis* of ministries of Culture and Education as well as Ministries of Transport and Telecommunication, and the notion of “censorship” which carries heavy ideological bias has progressively been abandoned. Today the term “morality” is not as much of a concern with the major reasons for classifying a film being:

- the protection of minors and young people – all European countries have adopted this as the main “*raison d’être*” for rating audiovisual content, though they may implement it on the basis of different criteria. National cultures and traditions may for instance lead to place emphasis on filtering either violence or sex.
- the protection of society as a whole from hard-core pornography and extreme violence. This is accomplished through banning or limiting access to films with such characteristics, for instance by submitting them to very strict conditions, which vary from ‘normal’ exhibition practices. Furthermore, there is a wish to protect society from any infringement of basic rights, which may be embodied by audiovisual works questioning religious freedoms, or inciting racial hatred, or discriminating on the basis of nationality or sexual orientation. As a consequence, in all European countries, audiovisual works are submitted to the provisions laid down under penal codes. In particular child pornography, pornography showing sexual relationships between human and animals, and extreme violence, are not acceptable.

It follows that rating practices are increasingly driven by a contractual approach. Public authorities act as a guardians aiming to guide citizens when they select audiovisual content, rather than as a censors imposing ‘arbitrary’ classifications.

This contractual approach is also triggered by technical constraints. The emergence of a multi-level, multi-channel, multi-media environment makes it impossible for a central authority to control all content, which is being made available for public and private use. The different public authorities in charge of the classification of audiovisual content may warn and inform the viewers/ audience, but are definitely not able to fully control and classify all the sold, rent or broadcast content anymore.

The shift from a “censor approach” to a “guardian approach” can be further demonstrated by:

- **Censorship-** The possibility of fully banning (censorship) or partially banning an audiovisual work is less and less used (as can be seen in Fig 3c – Rating process/duration)
- **Mandatory vs. voluntary procedures.** Systems of self-regulation are being promoted in place of the obligation to submit an audiovisual work for classification. This is particularly true for video/DVDs, videogames and broadcasting. This trend towards self-regulation is complemented by attempts to set-up homogeneous rating presentation process through the use of the same colours, size and symbols across all media so as to empower the viewers with adequate tools to make their own judgements and decide whether their children are mature enough to view a given film, France’s broadcasting rating system is a prime example (full details in Section 3 and Appendix 1).
- **More flexible age categories** – The introduction of additional age categories aims at bringing more flexibility to the classification of content, and at widening the access to ‘sensitive’ audiovisual works. Also, the introduction of PG (parental guidance) makes the categories more flexible: the indicated age represents an opinion from the board for film classification, but parents may make a different choice. Finally, with the introduction of new ‘advisory limits’, the rating indicates the recommended age of the viewer but children under this age limit may be admitted if accompanied by an adult, for example in Denmark, Sweden, Norway, Ireland, and recently (30 August 2002) the UK where the BBFC introduced a new ‘12A’ category this is in evidence.
- **The development of descriptive approaches** – These give information on the type of harmful content included in an audiovisual work (sex, violence, drug, etc.), and aim at empowering parents with the right tools to decide whether a sensitive film will be at odds with the education they wish to give their children.
- **Inclusion of civil society into the rating process** – The profile of people involved in the different committees in charge of rating films. These now include psychologists, experts in the young and in education, as well as, representatives from “civil society” (professionals, educators, family or consumers associations, representatives from the industry).
- **More efficient rating processes** – The path towards self-regulation assumes self-regulation to be easier, which means cost-efficiency and time saving processes. In this regard, many countries have developed online procedures and online access to packaging material (stickers).
- **The need to “guard the guardian”** – With self-regulation comes the need for the establishment of control mechanisms and effective *complaint* and *sanctions* procedures in order to legitimise the process. *Ex-post* control mechanisms must replace the previous *ex-ante* systematic action by State power.

Finally, the ability for the State to take action to maintain public order is generally held to be crucial. The sale, rental, or exhibition of audiovisual content remains subject to possible penal sanctions. The necessary maintenance of such prohibitive systems was determined in the *Green Paper on the Protection of Minors and Human Dignity*<sup>50</sup> which distinguished content which is illegal (such as child pornography) and prohibited by law from content which may be harmful to children (sex, violence) and yet admitted by law. It was deemed that a balance should be found between the principles of the freedom of expression and the safeguard of the general public interest. For many, this necessity has been emphasized by the recent drama in Erfurt (Germany) and in France where a teenager killed another teenager while replicating murder scenes taken from the thriller *Scream*.

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<sup>50</sup> COM (96) 483 final.

### ***5.8.2 Self-Regulation by the Industry***

In parallel to this change in the role of the State, the industry is encouraged to develop systems of self-regulation. Such system can be initiated on its own initiative, or following public regulation.

In the Netherlands, the Nederlands Instituut voor de Classificatie van Audiovisuele Media (“NICAM”) implements a rating system, which enables “parents themselves (to) ultimately determine whether they actually wish to make use of the information provided<sup>51</sup>”. The system is based on content owners or sellers completing a form, which describes the nature of the content. This form is then analysed by computer by NICAM resulting in the rating determination. This process requires an amount of work from content owners or sellers, i.e. it is clearly a process of self-regulation by the industry in describing content rather than external regulation.

Self-regulation also implies a relative ease, as well as cost-efficiency and time-saving processes. To this end, many countries have developed online procedures and online access to packaging material (stickers).

In Germany, the practice of classification of audiovisual products is mostly a matter of self-regulation by the industry. A law relating to the protection of young people exists, which sets out clear criteria (age categories, admittance hours for film theatres) for the exhibition and distribution of films, videos and DVDs. The actual rating process is implemented by voluntary boards of classification, created by the film industry and submitted to public control at the regional level. FSK is the board for film classification. USK classifies videogames on a voluntary basis. Besides regular classification, a special board (BPjS) deals with publications, which, on grounds of their particularly harmful content, are forbidden to minors and may not be accessible to everyone. It has to be noted that a new law on the protection of minors has recently been adopted by the German Parliament, following the incident in Erfurt, but it has not yet come into force. It foresees stricter criteria for the rating of audiovisual products and it makes video game classification mandatory by law.

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<sup>51</sup> Cited by NICAM “Kijkwijzer” website <http://www.kijkwijzer.nl/engels/ekijkwijzer.html>

## 6. Conclusions

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### 6.1 Pressures for Change

#### 6.1.1 *No Industry Pressure for Homogeneity*

The rating system as it exists today is well entrenched in the distribution system. Though there are, of course, complaints about individual rating decisions, and concerns with bureaucratic procedures and costs, in the main, both European distributors and US-based companies are used to dealing with heterogeneity and see no need of change. Moreover, the industry claims there are unintended benefits to the heterogeneity in that rating requirements have the effect of preserving territory-by-territory distribution and acting as something of an obstacle to pirate copying.

#### 6.1.2 *No Consumer Pressure for Homogeneity*

At the level of cultural and consumer groups, there is likewise no great pressure for change. In general, consumers first priority is an efficient and understandable process. If anything, ratings are seen to reinforce and preserve cultural norms, and consequently can often represent an obstacle, albeit a small one, to the imposition of the norms of other cultures. Amongst consumer organisations, there is, rather than pressure towards homogeneity, in most countries, a tendency to preservation of the current rating systems. Certainly there is, as between territories, no great fear of heterogeneity of ratings as a source of confusion.

As between media the situation is somewhat different, especially with regard to television. Though the *TV Without Frontiers* directive has resulted in some uniformity of treatment of content, there is no uniform rating system and many opportunities, detailed above, for potential confusion. Though consumer organisations have yet to focus on heterogeneity of ratings as a source of this confusion, it may be that this realisation is made over time, especially as consumers are exposed to an increasing number of channels (see 1.4.3 below).

#### 6.1.3 *Pressures Tending Towards Homogeneity*

Despite the lack of pressure from the industry or from the consumer for homogeneity, there are, however, structural pressures that are inexorably tending towards greater uniformity. Principal among these are the twin forces of globalisation and convergence – both driven by societal and technological changes.

The impact of globalisation is felt in the greater exposure and interest in the product of other countries and the trans-border nature of the Internet itself, the growing possibility of video-on-demand on an international basis as bandwidths increases, and the worldwide success of such non-localised content as videogames. Convergence represents the move of traditionally separate audiovisual content delivery channels onto a shared technological platform and the increasing interest of consumers in having access to information and entertainment any time and everywhere.

The Consultants believe that the combination of globalisation and convergence trends will, over time, create extremely strong pressures for a more homogenous system of content rating than exists at present. Moreover, these pressures will result in a volume and variety of delivery methods for content that will increasingly make it difficult to rate on an *ex ante* basis. There will

be increasing pressure to consider *ex post* methods of content rating, which will involve efficient and effective channels of consumer complaint.

## **6.2 Circulation Within the European Union**

It is clear that there is not a complete open and unimpeded market for audiovisual products across Europe. However, the most important reasons for this are language and the territory-by-territory nature of distribution. This last factor is the case even for the major distributors that own rights for many different territories. They structure their marketing campaigns and set their distribution strategies at the level of individual territories. The ratings systems and standards provide an additional level of 'friction' in the marketplace. However, there seems little case to state that they are a substantial obstacle or that the prevent works being distributed internally.

Language, culture and marketing strategies likewise constitute a barrier to the free circulation of videos and DVDs across European countries. VHS cassettes are always different from country to country, with variations on the original soundtrack, the addition, in some cases, of local subtitles or dubbed versions (Southern Europe systematically dubs feature films and other audiovisual content). This is also the case for DVD, although in theory, technology could allow multi-language tracks on a single disc. In practice, this is generally not the case for reasons outlined elsewhere in this document.

The question remains as to whether, if other obstacles were removed (to the extent possible), whether ratings would increase in importance as a serious issue. Again, the DVD is the object that makes consideration of this situation possible. If the necessity for marketing strategies tailored to each territory were removed, and distributors could plan to issue DVDs on a Europe wide basis at the same time, would ratings become a problem. The likely answer to this speculation is in the affirmative. Making a video according to different rating systems would be a time consuming, bureaucratic, and expensive endeavour. The different rules, procedures and time scales of the individual national rating authorities would likely be a serious obstacle.

## **6.3 Potential Confusion of Persons Responsible For Minors**

### ***6.3.1 Confusion Caused by Heterogeneity between Countries***

Though the Consultants clearly evidenced heterogeneity between countries both with regard to ratings systems and standards, there was little evidence of this causing substantial confusion on the part of those responsible for minors. The reasons for this seem to be as follows:

- except in a few cases (discussed below) consumers in one territory are generally not exposed to rated material from a second territory, unless they themselves are visiting that second territory. The industry in general does not use the identical (and identically packaged) product in different territories – this is because there is little incentive for either the distributors or the sales agents/ international distributors or even the rating bodies themselves to expose consumers in one countries to the ratings system in other countries. The market for audiovisual products and services is still fragmented across national boundaries.
- where there is exposure to material rated by a different system (e.g. in Belgium with regard to material from France, Austria with regard to material from Germany and

Luxembourg and the products imported from neighbouring countries) it is material from a consistent source and consumers learn to understand the specifics of the different system.

- the differences in rating standards between countries are generally consistent and well understood – the marketplace has an expectation as to how the French authorities will rate differently from the German authorities for example

Where confusion does arise sometimes it is in the mind of the distributors themselves – for example, it will sometimes be confusing as to whether a particular film is or is not a children’s film, given its different rating in different countries. However, this is not confusion among those responsible for minors, and is more in the way of an economic impact, as discussed in Section 5.

The Consultants have found that the lack of concern or complaints from the consumers’ organisations contacted or interviewed with regard to the issue of “confusion” is indicative of the general opinion of the film industry that rating heterogeneity is not an issue that causes any noticeable elements of confusion.

### ***6.3.2 Confusion Caused by Heterogeneity Between Media***

Consumers are, naturally, confronted far more with heterogeneity of ratings between *media*, than heterogeneity between *countries*, and it is this heterogeneity that causes the bulk of confusion among those responsible for minors. As noted, in general there is homogeneity of *systems* between the theatrical and DVD/video markets. Where there is substantial heterogeneity and opportunity for confusion is in the area of television broadcast of films.

- There is a great opportunity for confusion with regard to television because it is a substantially complicated area due to the numerous windows of free TV, pay TV, encrypted TV, pay-per-view.
- Only in the Netherlands (with its NICAM scheme), France (along with French speaking Belgium) and to a certain extent Spain is there a uniform rating in use across all television channels.
- In the UK, Ireland and Italy, the typical license agreement for television transmission grants broadcasters the right to trim the film for the purpose of fitting into the schedule or for content concerns. In Italy the *Derubricazione* is the de-classification policy that dictates the rights of broadcasters to cut films. Germany and Austria implement similar rules. Therefore, the content of a film may actually be different on TV compared to the version available in the cinemas and on video/DVD.
- In certain countries, the additional material carried on DVDs (i.e. interviews, short films and additional scenes) is often cause for enforcement of a more stringent rating of a film due to the nature of the added content.

Thus, not only is it quite possible that a young person might have seen a film in a cinema but be unable to rent or buy the DVD of the film, but it is also possible that the young person might see the film on television (not knowing it to be trimmed) and be unable to obtain the video or DVD.



## **6.4 Issues of Harmonising Rating Legislation**

### **6.4.1 Trends in Harmonisation**

The Consultants have described in this document how the 17 EU and EEA Member States use different systems when rating feature films. Even within a single country, classification may vary, depending on whether the film is released theatrically, on video or DVD, or whether it is broadcast on TV channels.

The coexistence of different rating systems has in some cases been the result of a clear will of the legislator, as it was felt that some media (e.g. video) would be more easily accessed by children than others (e.g. attendance to cinema screenings), which required different rules to be applied. In some cases, however, the existence of different systems has been more out of administrative accident.

However, today, two major structural trends drive organisations in charge of rating practices in the countries surveyed.

⇒ A first trend is towards the setting-up of “umbrella authorities”, in charge of rating films across the entire audiovisual sectors (film, video, DVD, video games). It derives from an attempt to rationalise complex systems that have developed over the years with a set of different institutions, procedures and classifications, resulting in a lack of consistency, in potentially confusing consumers and in creating discrimination amongst different media.

⇒ A second trend is directed towards integration, under a single authority, of the structures in charge of controlling the broadcasting sector on the one hand and the telecommunication sector on the other hand. This evolution results from ambiguous frontiers between “content” and “telecommunication”. Today films are already accessible over the Internet network and tomorrow they’ll be accessible through mobile phones and other devices. Such “convergence” has implication on content regulation. Hence attempts to integrate the audiovisual and telecommunication sectors.

### **6.4.2 Possible Models**

As mentioned, there are technological and societal changes, which may substantially increase the impetus towards harmonisation. In this regard, it is worth highlighting three models that exist currently – one that homogenises systems but preserves heterogeneous standards; one that homogenises both systems and standards in a particular media; and one that homogenises both systems and standards in a particular territory.

The Nordic countries have over the years moved to an almost uniform system of rating, which applies across the four countries of Norway, Sweden, Denmark and Finland, which have all incorporated the ‘7’, ‘11’ and ‘15’ rating categories. Norway and Finland have an additional rating ‘18’ and some of the countries enforce adult accompaniment whereas others do not. Though each country retains its own standards (particularly shown by the different most restrictive ratings), and rate films differently, the films are rated on the same ‘scale’, which allows for greater ease of understanding between countries. This system is regarded as a success in the Nordic countries.

The only sector where a significant common rating system has been established at European level is that of videogames. Although a full implementation of ISFE's guidelines throughout the whole of Europe is still taking place, ISFE has been visibly campaigning for a unified European videogame rating system. The ISFE system represents a total homogeneity – of systems and standards – albeit in a specific content platform. The ability to execute this has, in the opinion of some experts, only been possible because the form of content is so new and because it, in general, does not carry the 'cultural' connotations that may make it difficult to introduce changes to the systems applied to conventional content.

The Netherlands' NICAM scheme provides uniform rating of content across distribution platforms. It also provides readily understood (via symbols) content descriptors so that audiences may understand the reason for the rating. Furthermore, it is both voluntary and self-regulatory. Bodies submitting content for rating complete a detailed questionnaire, which is then analysed by computer resulting in a rating and the corresponding content descriptors. Though it is a recent innovation, and there have been some complaints about costs incurred by companies that submit films for ratings, this is a system with increasing success and acceptance among consumers. NICAM was an example for the ISFE initiative.

It is worth noting that it is possible to imagine a ratings structure that combines the best elements from these three examples to provide a harmonisation that reflects cultural differences. The EU and EEA Member States could adopt the Nordic example of harmonising their ratings systems in a way that allowed for the reflection of different standards. It could adopt the NICAM methodology of uniform rating across media and the ISFE example of applying uniform ratings across territories.

In the same way as NICAM, bodies would submit content with the appropriate questionnaire which would then be fed into a computer to result in the relevant rating for each one of the EU and EEA Member States, all configured on a system that each territory would understand.

### **6.4.3 Other Approaches**

According to the interviews carried out with film professionals (see list of the person interviewed Appendix 3a), the Consultants found that the differences in rating practices across the 17 EU and EEA Member States did not constitute a major obstacle to the circulation of audiovisual works.

Cultural differences determine the way so-called 'harmful content' is assessed (i.e. different rating "standards"). This does not preclude, however from encouraging exchanges of practices amongst national rating agencies, and from seeking to achieve uniform descriptive approaches across the different countries.

Exchange of experiences may also help determine, in the broadcasting sector, which *systems* are the most efficient: are visual signals a good way to inform the audience (and in that case, what is the best "graphic chart" to be implemented?) or do they trigger the temptation of 'forbidden fruit', as argued in some countries? Such exchanges would definitely be useful.

Language barriers will always remain a distinctive European pattern. As a result, videos and the packaging will always have to be printed in different versions, (although DVD formats enable the use of different languages on a single disc). Yet this does not prevent any of the territories taking steps towards the use of uniform symbols, colours and logos thereby, facilitating users' comprehension.

Despite the market reality that film businesses are territorially based, it is a truism that distributors acquire rights by territory and the whole business is structured along national divisions. Cost-saving procedures are always welcome, as well as efforts towards more homogeneous rating systems (and not necessarily rating standards). Such a wish is compatible with and supportive of the deepening of the internal market, since it would increase efficiency and encourage circulation of work through cutting red tape.

As a result, although complete “harmonisation” may seem impossible to achieve, there is definitely room for action in fostering common actions and exchange of good practices towards a more uniform system of European rating practices. Such measures are discussed further below. Prime examples to cite at this juncture are the recent developments in the sector of video games.

The *Internet* is global and not governed by a single centralised authority. It is impossible to exert a total control on the content, which is being made available through this new channel. Programmes broadcast by *satellite channels* are not easy to fully control, because of their mere trans-national nature, the development of *digital channels* results in thousands of hours of programme being broadcast and in the development of channels that are specialised in the provision of specific content. It is consequently impossible to apply identical rules to these channels, and difficult to control the actual implementation of content regulation.

In this context, traditional rating systems could become obsolete although the objective underpinning their original enforcement remains to be promoted.

Hence, notwithstanding the rationalisation and improvement of “traditional” rating practices in the traditional areas of films theatrically released, videos, DVDs, or video games, there is a need to consider alternative ways of protecting “minors and human dignity”. This includes:

- the development of self-regulation and co-regulation, which implies the awareness and involvement of all the parties: content producers, access providers, network operators, representatives from different parts of civil society
- the development of “umbrella authorities” that are competent in both the entire traditional audiovisual sector and in telecommunications (such as in Austria, Italy, and the UK in the near future)
- the education of the public and of the different operators
- additional technical measures to be applied on an individual basis (specific personal codes to access encrypted channels, filtering systems based on digital standards such as MHP, etc).

## **7. Recommendations for EU Action**

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The Consultants would like to propose a number of recommendations for EU action as they have developed as a result of the findings, which have risen out of the detailed study process.

### ***7.1 Encourage Homogeneity in Codification Across Territories***

In light of the technological and societal pressures that have been highlighted, it is at least necessary to develop common approaches. The concept of complete ‘harmonisation’ may be, for now, seen as unachievable due to the different public policy objectives that are being pursued in the different countries, and because the cultural traditions (rating standards) still lead the way. For instance, the issue of how violence and sex is handled in the different countries has often been put forward as examples of the typical disparities in what is considered as particularly harmful or sensitive.

Yet, it is imperative that the public has access to common references, and audiovisual professionals could increase the effectiveness of their business and increase the potential of their work to circulate across the countries through:

- the development of common descriptive criteria
- the use of common codification in signalling the age categories defined according to these criteria. The identification of colours, size, logos must be easy, even if it does not refer to the exact same classification.
- there is also a need to push further ahead a common reflection on the way to handle pornography and extreme violence in terms of standards (how to assess harmful content), systems (issue of classification, existence of specific classification categories,... possibility to ban or cut). Some national rating agencies have already taken the initiative to meet on a regular basis.

The European board of film classification meets every year to exchange “good practices” (in particular to discuss case studies). Additionally national rating agencies in Austria, Germany and the Netherlands meet on a regular basis and encourage their staff to get trained in another country.

It maybe useful to ensure that such events are not limited to film rating agencies and include other film and audiovisual associations and the programming department of the various TV channels on the various media platforms in charge of ratings videos or broadcast content in order to widen the scope of the territories represented.

### ***7.2 Encourage Standardisation of Rating through Different Media***

Basing a rating system on the Dutch NICAM model would ensure that all opportunities for consumer confusion with regard to the heterogeneity of ratings for the same content across different media (film in cinema theatres, on video/DVD and in TV) is avoided. Additionally, it could prevent competitive distortions, as they exist among different distribution channels (films on video, for instance, that have to be rated whilst video-on-demand or other Internet based services may escape the costs and time spending linked to formal classification processes).

As is the case with harmonisation between countries, complete standardisation may be some way off. However, the EC can encourage exchanges of good practice between different media platforms and other methods of cooperation.

There are currently numerous organisations and events that encourage ratings bodies from different countries to coordinate their practices, as mentioned. An emphasis needs to be made on routes by which bodies representing different media can also meet and consider options for coordination. This will be a first step towards encouraging uniformity of rating practice across different media, and considering models such as the NICAM system.

### **7.3 Encourage Cost-efficient and Time saving Best Practices**

With regard to the rating of videos and DVDs, as long as different languages are being used in Europe, there will always be the need to edit different versions of packages. Additionally, cultural differences appear to legitimise the enforcement of different rating systems (age categories). However, the video/DVD business would benefit from the use of:

- Uniform codification
- Accessible databases of rated films
- Efficient online rating processes, which includes:
  - online submission (paper work and forms to fill-in)
  - online possibility to check the classification granted to a given audiovisual product
  - online delivery of certificates
  - online access to packaging material
  - online access to legal information

### **7.4 Support Effective Complaint Mechanisms and a Uniform Jurisprudence**

It is acknowledged by many commentators that it is more and more difficult to exert *ex-ante* control, and as a result it is imperative that *ex-post* control mechanisms remain effective with people empowered to access information and to have their own opinions heard. This is a situation that is most currently applicable in the broadcast arena. However, technological change means it is likely to be more and more the case in media in general.

### **7.5 Support a Safe and Effective Self-regulation**

1. The development of 'Codes of Conduct' would support a plan of safer and effective self-regulation – Codes of Conduct trigger the commitment of video suppliers and broadcasters to respecting rules. They may be referred to *ex-post* in case of disagreement and complaints. Additionally, they trigger the uniform implementation of the general principles that are often stated under legal provisions (a prime example is the case of "broadcasting acts").

2. The dissemination of good practices in terms of asset management – user-friendly websites are acknowledged to be useful instruments, providing the public with clear information and the industry with easy-to-use procedures.

3. Centralised and co-ordinated initiatives for taming the Internet environment – this new electronic medium presents characteristics (its global nature, the absence of central control), which make it difficult for public authorities to manage any content on a local basis. It is difficult

for national monitoring boards to block the access to harmful websites located outside their jurisdiction. Both Government and public opinion has expressed the need for a co-ordinated approach, at European level and national level (by the industry, services providers, users and consumers and parent's associations). Therefore, it is clearly evident that there is room for further community as well as trans-national initiatives.

The EU Internet Action Plan on Promoting Safe Use on the Internet<sup>52</sup>, partly addresses this issue by aiming to promote self-regulation, codes of conduct, developing filtering and rating systems and raising awareness of these issues. The role of the State is to set out general guidelines and to monitor that they are practically enforced. The benefits at the European level are evident in the networking of initiatives available, which embrace common standards and encourage the dissemination of good practices.

### **7.6 *Encourage the active inclusion of civil society***

Rating bodies must include representatives from civil society as well as the industry. National and Community authorities agree on the perspective that shifting responsibility from national public authorities towards the public sector (industry, service providers) and civil society is the appropriate response to the challenges represented by rapid technological changes and increased content delivery. Traditional censorship and control systems being outdated to face the multi-level and multi-media content overflow, responsibility must be shared across relevant partners including public bodies, the media industry, users and consumers associations, parents and teachers organisations.

Many national bodies have already reflected this concern in the composition of their rating bodies. For instance in Italy, the Revision Commission includes:

- a law teacher who performs the duties of president
- a child psychology teacher
- a pedagogy teacher particularly competent in the field of social communication
- two cinema experts, chosen from among critics, researchers and authors
- four parents representatives chosen among parents associations
- two representatives of film trade associations

in Denmark, the MMCY includes:

- 3 experts on children
- 2 experts of the film sector
- 1 representative of the area of culture, media and research
- 1 representative of consumers' interests

and in France, the Film Classification Commission consists of; 1 president and 1 deputy president appointed by the French Prime Minister, 25 members (as well as 25 deputy members), all appointed by the Ministry of Culture.

They constitute four different colleges:

- a first college with representatives from the Ministries for Justice, Education, Home Affairs and Social Affaires

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<sup>52</sup> Decision n° 276/1999/ED of the European Parliament and the Council of 25 January 1999 adopting a Multi-annual Community Action Plan on promoting safer use of the Internet by combating illegal and harmful content on global networks

- a college of film professionals
- a college of experts (from the Ministry of Education and the Youth, the CSA Audiovisual Council – see part III. Broadcasting), National Union of Family Associations, and the Union of French Mayors.
- a college representative of “the young”

## **7.7 Education**

Finally, with the development of self-regulation there is a need for the State to switch from its traditional position of censor – fully in charge of rating on a few media channels, to the position of a regulatory authority – entrusted with the mission of setting-up a general framework, and controlling enforcement. Additionally, users must also be adequately ‘educated’ and aware of the rules. They must be able to answer the following questions: what has to be rated? According to what system of classification? What are the available means to block the access of children to specific channels and programmes? How can I complain? What additional safeguards could be implemented on an individual basis (system of access control and codes)?

Across Europe, increasing focus is being placed on issues of ‘media literacy’ – for the consumer to be aware of and understand the way media of all kinds communicates its messages – explicitly and implicitly – and how its impact can be affected. Education on the subject of ratings should be linked in with these media literacy initiatives – at all ages of the consumer.

In other words the information society requires an informed and reactive audience.

## Glossary

Acronym	Full title	English Translation
AACS	<i>Alta Autoridade para a Comunicação Social</i>	High authority for the mass media
ABDF	<i>Association Belge des Distributeurs de Films</i>	Belgian association of film distributors
ABMC	<i>Austrian Board of Media Classification</i>	
ACCeS	<i>Association des Chaînes du Câble et du Satellite</i>	Association of Cable and Satellite Channels
AGCOM	<i>Autorità per le Garanzie nelle Comunicazioni</i>	Authority for the control of communications
ARD	<i>Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland</i>	The Federal Republic of Germany's group of public broadcasters
BBC	<i>British Broadcasting Corporation</i>	
BBFC	<i>British Board of Film Classification</i>	
BCC	<i>Broadcasting Complaints Commission</i>	
BCI	<i>Broadcasting Commission of Ireland</i>	
BSC	<i>British Standards Commission</i>	
CCE	<i>Comissão de Classificação dos Espectáculos</i>	Commission for the classification of entertainment
CdS	<i>Commission de Surveillance</i>	Surveillance commission
CEO	<i>Chief Executive Officer</i>	
CFA	<i>Irish Censorship Film Act</i>	
CICF	<i>Commission Inter-Communautaire de Contrôle des Films</i>	Inter-communitarian commission for the control of films
CNC	<i>Centre National de la Cinématographie</i>	National Film Centre
CNP	<i>Conseil National des Programmes</i>	National council for programming
CNU	<i>Consiglio Nazionale degli Utenti</i>	National Users' Council
CSA	<i>Conseil Supérieur de l'Audiovisuel</i>	Superior Audiovisual Council
D.L.	<i>Decreto Legislativo</i>	Legislative decree
D.P.R.	<i>Decreto del Presidente della Repubblica</i>	Presidential decree
DR	<i>Danmark's Radio</i>	Denmark's Radio
DVB	<i>Digital Video Broadcasting</i>	
DVD	<i>Digital Versatile Disc</i>	
EC	<i>European Commission</i>	
ECFA	<i>European Children's Film Association</i>	
EEA	<i>European Economic Area</i>	
ELSPA	<i>European Leisure Publishers Association</i>	
EPG	<i>Electronic Programming Guide</i>	
ESR	<i>Greek national radio and television council</i>	
ESRB	<i>Entertainment Software Rating Board</i>	
EU	<i>European Union</i>	
EuroISPA	<i>European Internet Service Providers Association</i>	



<b>FCC</b>	<i>Film Classification Commission</i>	
<b>FICORA</b>	<i>Finnish Communications Regulatory Authority</i>	
<b>FRT</b>	<i>Federazione Radio Televisioni</i>	Federation of radio and televisions
<b>FSF</b>	<i>Freiwillige Selbstkontrolle Fernsehen</i>	Voluntary self-regulation board of the broadcasting sector
<b>FSK</b>	<i>Freiwillige Selbstkontrolle der Filmwirtschaft</i>	Voluntary self-regulation board of the film industry
<b>GjSM</b>	<i>Gesetz über die Verbreitung jugendgefährdender Schriften und Medieninhalten</i>	Law on the diffusion of writings and media content endangering the youth
<b>IAP</b>	<i>Internet Action Plan</i>	
<b>ICAA</b>	<i>Instituto de la Cinematografía y los Artes Audiovisuales</i>	Cinematography and Audiovisual Arts Institute
<b>ICRA</b>	<i>Internet Content Rating Association</i>	
<b>IDSA</b>	<i>Interactive Digital Software Association</i>	
<b>IGAC</b>	<i>Inspecção Geral das Actividades Culturais</i>	General inspectorate of cultural activities
<b>IMDB</b>	<i>Internet Movie Data Base</i>	
<b>IRTC</b>	<i>Independent Radio and Television Commission</i>	
<b>IS</b>	<i>Information Society</i>	
<b>ISFE</b>	<i>Interactive Software Federation of Europe</i>	
<b>ISO</b>	<i>International Organisation for Standardisation</i>	
<b>ISP</b>	<i>Internet Service Providers</i>	
<b>ITC</b>	<i>Independent Television Commission</i>	
<b>IuKDG</b>	<i>Informations- und Kommunikationsdienste Gesetz</i>	Law on information and communication services
<b>JMStV</b>	<i>Jugendmedienschutz-Staatsvertrag</i>	Act on the protection of the youth in the media
<b>JÖSchG</b>	<i>Gesetz zum Schutz der Jugend in der Öffentlichkeit</i>	Law on the protection of the youth in public places
<b>KOG</b>	<i>KommAustria Gesetz</i>	Act on KommAustria
<b>MCCY</b>	<i>Media Council for Children and Young People</i>	
<b>MHP</b>	<i>Multimedia Home Platform</i>	
<b>NFC</b>	<i>Nederlandse Federatie voor de Cinematografie</i>	Dutch Federation for Cinematography
<b>NICAM</b>	<i>Nederlands Instituut voor de Classificatie van Audiovisuele Media</i>	Dutch institute for the classification of audio-visual works
<b>NOS</b>	<i>Nederlandse Omroep Stichting</i>	Netherlands Broadcasting Foundation
<b>OCIC</b>	<i>Organisation Catholique Internationale du Cinéma et de l'Audiovisuel</i>	International Catholic Organization for Cinema and Audiovisual

<b>OFCOM</b>	<i>Office of Communications</i>	
<b>OFTEL</b>	<i>Office of Telecommunications</i>	
<b>ORF</b>	<i>Österreichischer Rundfunk</i>	Austrian Broadcaster
<b>ORF-G</b>	<i>Österreichischer Rundfunkgesetz</i>	Austrian broadcasting act
<b>PCMLP</b>	<i>Programme in Comparative Media Law and Policy</i>	
<b>PEGI</b>	<i>Pan-European Game Indicator</i>	
<b>PG</b>	<i>Parental Guidance</i>	
<b>PICS</b>	<i>Platform for Internet Content Selection</i>	
<b>PIN</b>	<i>Personal Identification Number</i>	
<b>PrTV-G</b>	<i>Privatfernsehgesetz</i>	Act on private broadcasters
<b>RSACi</b>	<i>Recreational Software Advisory Council</i>	
<b>RSTV</b>	<i>Rundfunkstaatsvertrag</i>	Federal broadcasting act
<b>RTBF</b>	<i>Radio Télévision Belge de la Communauté Française</i>	Belgian broadcaster of the French speaking Community
<b>RTE</b>	<i>Radio Telefís Eireann</i>	Irish public television
<b>RTL-Tvi</b>	<i>Belgian television network</i>	
<b>RTP</b>	<i>Radio Televisao Portuguesa</i>	Radio Television Portugal
<b>RTR</b>	<i>Rundfunk und Telekom Regulierung</i>	Broadcasting and telecommunications regulating authority
<b>SELL</b>	<i>Syndicat des Editeurs de Logiciels de loisirs</i>	Trade union for the publishers of recreational software
<b>SEV</b>	<i>Syndicat de l'Édition Vidéo</i>	Video Publishing Trade Union
<b>SFB</b>	<i>Staten Film Byrå</i>	National Board of Film Censors
<b>SIGNIS</b>	<i>The World Catholic Association for Communication</i>	
<b>SMF</b>	<i>Staten Medieforvaltning</i>	The Mass Media Authority
<b>SPIO</b>	<i>Spitzenorganisation der Filmwirtschaft</i>	German Film Industry Association
<b>TKK</b>	<i>TelekomControl Kommission</i>	
<b>TVWF</b>	<i>Television Without Frontiers</i>	
<b>UNCRC</b>	<i>United Nations Convention on the Rights of the Child</i>	
<b>USK</b>	<i>Unterhaltungssoftware Selbstkontrolle</i>	Entertainment software self-regulation body
<b>VESTRA</b>	<i>Association for Satellite, TV and Radio Programme Providers</i>	
<b>VET</b>	<i>Valtion elokuvataarkatastamo</i>	Finnish Board for Film Classification
<b>VPRC</b>	<i>Video Packaging Review Committee</i>	
<b>VRA</b>	<i>Video Recording Act</i>	
<b>VSC</b>	<i>Video Standard Council</i>	
<b>VUD</b>	<i>Verband der Unterhaltungssoftware Deutschland</i>	German association of the entertainment software industry
<b>WAP</b>	<i>Wireless Application Protocol</i>	
<b>ZDF</b>	<i>Zweite Deutsche Fernsehen</i>	Second German Television

## **Appendices**

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