

## **Chapter 2 - Rating Systems: comparative country analysis and recommendations**

### **Introduction**

At the core of every parental control mechanism lies its rating or labelling system. That system both identifies the appropriateness of media content for children and determines the means by which children's access to that content may be controlled. Rating systems define whether a programme can be shown within the watershed, how it should be encoded for a specific technical device, and what type of visual warning system should be used, etc. They should give sufficient information to empower parents to make efficient and deliberative decisions concerning children's access to media content. The challenge of every rating design is thus to develop a system complex enough to give relatively detailed information about a programme, but still simple enough for both labellers and parents to use.

In this chapter, we aim to furnish adequate data for analysing and evaluating the design of rating systems. We do not ultimately rate the rating systems. That cannot be fully done, since each rating system is the product of its own history, its own tradition, for example, of ratings in cinema, its own tradition of monopolistic public service broadcasting and transitions to private broadcasting, its own historical sense of government imposition of taste as a form of political censorship. Joel Federman has stated that "media ratings are not an ideal remedy for the social ills which may result from mass media content. However, there are ways to conceive rating systems which minimise their risks and maximise their usefulness". Ratings are often the product of industry fear of harsher measures, demanded by a public in the wake of a spectacular crisis, for example. But ratings can be used to empower consumers, giving them a greater ability to choose media content consistent with their personal tastes and values. Our survey may assist in enabling States better to design rating systems. As part of that process we examine the rating systems already applied in the European Member States to provide a firmer foundation for assessing them, and to identify what are perceived as best/worst practices. This data will also assist in determining where there

are similarities and differences, and which practices could be the basis for a European wide and/or cross-media rating system.

## **1. General Framework And Conclusions**

In Chapter 1, the Study focused on the relationship of rating systems to technical devices. However, almost all television rating systems in Europe have developed in the absence of technical devices into which they may be integrated. Secondly, for the foreseeable future, most parents will use rating systems without the empowering characteristics of technical devices. In this chapter, we build on a study of rating systems throughout the Member States and across media.

Several interim conclusions can be drawn from our survey of practices as included in this Chapter:

- a. Member States have highly differentiated approaches to the process of rating and labelling, and, moreover, regarding the information released and its design.
- b. Very few of the approaches depend on the existence of empowering technical devices.
- c. The rating and labelling systems of the Member States reflect their own internal media history and, to some extent, political history and social construct.
- d. As a result, the foundation does not exist, at this point, for extensive harmonisation.
- e. The primary function that the Commission and bodies at the European level can play at this stage in the development of rating and labelling systems is to encourage transparency, to provide information about the comparative experiences in various countries, to incite the sharing of experiences and practices via a European platform, and to deal with specific issues that affect transfrontier broadcasting.
- f. At the present time, rating and labelling systems are not a significant barrier to transfrontier broadcasting, but there are signs that this may become the

case and the Commission should pay particular attention to this.

Within this complex evolution of Member State rating and labelling approaches, there are specific other issues which require European attention and for which action should be contemplated at the European level:

- a. If plural, private descriptive approaches are to become more common in the digital era, and if pluralism in rating services is considered a public good, the Commission can facilitate this process. It can work to ensure greater access to programme information by third parties in a timely fashion. It can ensure that industry rating systems, together with Member State review, do not become a barrier to entry by third party rating providers.
- b. Encouragement can be given to broadcasters as well as Teletext or EPG service providers to convey information prepared by third party rating providers (including information on technical devices where they are adapted to such ratings).
- c. Efforts at the European level can monitor the relationship between use of rating and labelling systems and watershed and encryption measures.
- d. Encouragement can be given to EU wide or co-ordinated media education and literacy campaigns (see Chapter 3).

### **1.1 Typology of rating systems**

Since the introduction of rating systems as a vehicle for addressing concerns about violent and other potentially problematic media content, several systems have been designed and implemented (watershed, acoustic warning, visual icons or standard categorisation). In general, systems:

- are administered by State, industry (board or single enterprise), or third-party bodies (groups or individuals);
- are founded on either a specific methodology or an opaque judgement, and, finally;
- provide different sets of information and/or symbolic representations such as age thresholds, acoustic warning or visual icons.

Therefore, if rating systems as such are not so different and numerous, the

information they provide, the way this information is processed as well as its design can, and usually does, vary among countries, within countries, within a given medium and across media. This is especially true within Europe, as will be shown, where no common approach towards rating exists as such. Moreover, in some Member States, such as Spain, it has not even been possible to establish a common national classification system for TV. In others, such as the UK, an attempt to develop common principles has recently been made. All this makes it difficult to see how a European-wide classification system could be achieved. Evidently this divergence reflects significant cultural differences between and within countries, which are, nonetheless, subject to common directives regarding transfrontier broadcasting. Furthermore it reflects the different regulatory approaches taken to, for instance, broadcast media in comparison with cinema and video. This has always been justified on the basic grounds of the scarcity of airwaves, public service and the pervasiveness of the medium. This final rationale for different approaches to regulation is often cited in discussion of the protection of children or parental control. Media differ in terms of the kinds of blocking, selecting, and organising filters practically available to them. It is easier to block video cassettes, because cassettes are individual and separate units of consumption. They can be put on high shelves or locked behind counters in shops. It is also easier to control admission to cinemas. Therefore - as Balkin argues<sup>1</sup> - if broadcast media are special, they are special in this respect: Broadcast media offer limited practical means of filtering. How this will change with the arrival of new rating and filtering techniques remains to be seen. In what follows we try to create a typology of issues which will make the analysis between countries and media in the field of rating systems feasible.

#### *Technical devices and rating systems*

One obvious aspect of ratings history is that all existing rating systems were developed without the knowledge of the currently available technical devices for delivering them in an efficient and operative way. At the same time, most rating systems developed for television are derived from or related to rating systems established for earlier forms of media, predominantly cinema. It is in the history of cinema ratings that these issues

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<sup>1</sup> J. M. Balkin, "Media Filters and the V-Chip," in *The V-Chip Debate: Content Filtering From Television to the Internet*, ed. Monroe Price (Mahwah, New Jersey: Laurence Erlbaum, 1998), 59-90.

developed: should ratings be descriptive or evaluative; should there be specific criteria or should such standards emerge from a history of practice; can there be consistency and reliability. In film, as with its successor media, questions arose as to whether ratings should be determined by official or governmental bodies on the one hand or by self-regulation on the other. And in film, too, questions arose as to whether some films should be forbidden rather than subject to the discretion of parents, and whether watersheds or other mechanisms for filtering and creating dual markets could be established.

For films, as now for television ratings, the process must be efficient and operative to be useful. By efficient, we mean a rating system must provide a package that allows parents to act within the constraints and demands otherwise placed upon them; by operative, we mean a parental control signalling system that allows the pre-programming or blocking or filtering of a class of television broadcast through a technical device. In cinema, the item that was operative was the action of the box office or turnstile. An efficient rating indicated age appropriateness, such as barring those under 14. The equivalent to a technical device is the discretion of the gatekeeper.

What we have seen from the previous chapter is that the choice of technical device in the television setting can have a substantial effect on the kind of rating system that is feasible. In the analogue setting, for example, most Teletext based systems have limited capacity for the transfer of bits or bits per second. The pipe or pathway for information is extremely constrained. For a rating system to use these technologies, it needs to be strictly limited to a few criteria with something approximating an off-on choice for the recipient. These techniques are also most efficient where there is a unitary rating scheme, whether it is government originated or industry originated. On the other hand, if an indirect Electronic Programme Guide approach (NexTView) is employed, the programme-related information provided can be abundant and multi-sourced even in an analogue environment.

Similarly, if broadcasting is of a digital nature, then the possibilities for a rating system can be quite different.

With this in mind, we can now examine the existing models for rating systems using the typology developed herein.

### ***Administration and organisation***

Rating systems are in the first instance a product of an institutional framework. They can be deployed, issued and governed in four ways:

- State or governmental rating (usually via sub-entities, or regulatory bodies - e.g. France, Portugal)
- Industry rating (e.g. Film by FSK in Germany)
- Third-party rating (e.g. America On Line for all countries)
- Self rating (content providers e.g. video industry, Internet)

The composition and organisation of the rating provider will differ depending on its type:

- State rating is usually done by a body composed of departmental representatives, civil servants, professional representatives, experts in various fields (e.g. childhood development, law), and in some rare cases, children's representatives (e.g. cinema classification in France);
- An industry body is mainly composed of relevant professionals (e.g. French broadcasters have implemented rating boards that are generally composed of members of the staff, with the notable exception of M6's board, which is composed of mothers of children under 12);
- A third-party board is typically constituted by entities with a vested interest in the issue (industry, children's representatives, educators, consumers, etc.)
- Self-rating is carried out by the content provider (producer, video editor, Internet content provider).

One specific discernible trend within the broadcasting sector across countries is the further development of industry rating bodies. Broadcasters prefer to have full editorial independence including classification. Furthermore, we have identified a certain reluctance on the part of public and private broadcasters to co-operate with

each other in rating and labelling (Germany and Italy). This development differs from cinema and video regulation, where state rating is the most common approach, which is mainly a product of the historical evolution of rating systems. The on-line industry, however, relies exclusively on self-disclosure and third-party rating given the abundant amount of information and jurisdictional confusion. Moreover the European Union urged recently the adoption by Internet Service Providers of similar codes of conduct to ensure "systematic self-rating of content"<sup>2</sup>

It is clear that with the increasing flow of information, concerns exist that the shape of media consumption will increasingly be determined by those persons and organisations who administer the organisation, rating, and presentation of information for others. Delegating rating and filtering procedures to bureaucratic and rather monopolistic institutions, whether operated by government or by private industry can therefore have some serious drawbacks. Rating mechanisms are not neutral means of organisation and selection. They have important effects on what kinds of material are subsequently produced and how social arrangements are subsequently organised. The risks of governmental control are perceived as particularly serious, involving the potential politicisation of ratings, and the prospect that government ratings could be used as a springboard for further media content legislation. This fear is especially pronounced in some countries (Spain, Greece and Portugal) where ratings may be seen as similar to censorship experienced under dictatorial regimes. The dangers of an industry-run system are that the ratings classifications may be designed less with the goal of informing consumers than with the intention of minimising their economic impact on the industry, and that ratings may be implemented in ways that favour one dominant segment of the industry over others<sup>3</sup>.

Isolating the ratings process from such political and economic influence is of paramount concern in many settings. A step in the appropriate direction is a decision-

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<sup>2</sup> See "Council Recommendation of 24 September 1998 on the development of the competitiveness of the European audio-visual and information services industry by promoting national frameworks aimed at achieving a comparable and effective level of protection of minors and human dignity, OJEC L 270 of 7 July 1998, p.48.

<sup>3</sup> Joel Federman, "Media Rating Systems: A Comparative Review" in *The V-Chip Debate: Content Filtering From Television to the Internet*, ed. Monroe Price (Mahwah, New Jersey: Laurence Erlbaum, 1998), 97 – 129.

making body whose board of directors is unconstrained by majority control by the industry being rated and completely independent of government. Such an organisation could involve a mix of individuals, representing constituencies relevant to the rating process, such as experts in child development and psychology, as well as parents and teachers. The gathering of such experts is a common pattern in the cinema environment but is nearly absent within the TV industry. These constituencies would certainly include the media industries in question, but they would not have majority representation on the board. Should the media industry gain majority representation, strong checks would need to be organised in order to prevent any untoward commercial or economical influence.

Some<sup>4</sup> have sought to avoid the problem of undue political or economic influence in the rating process by providing “self-disclosure ratings,” such as those developed by the Recreational Software Advisory Council (RSAC) in the video industry in the US, which involves the creation of a standardised questionnaire. Another advantage of the self-disclosure approach is that it minimises the organisational structure necessary for the rating process. This would be particularly useful in a multi-channel environment, where the volume of programmes to be rated can exceed several thousand hours per day. Thus, shows can be rated by their producers, rather than by programmers or some centralised ratings entity.

A concern however with “self-disclosure rating” is the level of reliability of the rating providers. This can partly be solved via public scrutiny and transparency, to the extent that open access to a reliable system is guaranteed, then anyone should be able to check the label or rating given to any programme at any time. The idea underlying this requirement is that if it is easy for anyone in the public to raise questions or objections in those instances when they do not agree on the rating (using, of course, the same rating system), the threat of such checks keeps rating providers reliable. A “complaint reporting system” designed for viewers may then be organised together with, possibly,

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<sup>4</sup> Donald F. Roberts, “Media Content Labelling Systems: Informational Advisories or Judgemental Restrictions?” in *The V-Chip Debate: Content Filtering From Television to the Internet*, ed. Monroe Price (Mahwah, New Jersey: Lawrence Erlbaum, 1998), 157–177.



a control exercised by the body in charge of broadcasting activities (either on a random basis, on content selected on its own initiative or on the basis of viewers' claims).

Furthermore, as developed in Chapter 1, the trend is toward a digital world, in which it is desirable to decentralise and enable other and more groups/spheres to administer rating systems. Family-values based groups may offer their own ratings system, employing their own conception of what is child-friendly and what is not. Consumers can then subscribe to the ratings system of their choice, much as they now subscribe to magazines. This will however largely depend upon the available space on television systems. Furthermore there may be economies of scale in producing a commercially viable ratings system. If so, then the number of ratings systems that survive will be quite small. But the more interesting prospect is that ratings systems can and will proliferate within the newer services. Consumers will be able to insulate themselves in increasingly specialised programming universes. By delegating their choices to specialised media rating companies, they can filter out the great mass of programming to focus narrowly on their own special interests. Some will see this as the ultimate vindication of autonomy, others will mourn the loss of a common televisual culture. In any case, this scenario produces a more plural and participatory model of parent empowerment and should be encouraged.

To conclude we recommend that during the transition period a system in which industry rating combined with third-party or self-disclosure rating develops in order to prepare and adapt the current institutional framework to the digital setting, where the current on-line model will prevail.

### ***Classification***

Classification forms the main methodology and basis for media ratings. The first issue to resolve when classifying content is how an assessment of the programme content will be made - will it be based upon specific criteria or an opaque judgement. The second question is what type of judgement one delivers on what type of content. The final issue is what type of information concerning the classified programme is disclosed to the audience, and in which format. Classification systems are to a certain

extent determined by the history of a family viewing policy in a certain country and in a certain medium.

#### *Content Assessment*

To make an assessment of the content, the rating body will in general apply a deterministic methodology, a non-deterministic methodology, or a combination of these two (semi-deterministic)<sup>5</sup>. A deterministic rating process is based upon some objective methodology in which the final rating is the result of following the methodology. A non-deterministic rating process is based upon the opinions of the rating body. A semi deterministic rating process is a combination of these two processes and is the most widely used. It is more or less based upon the case law of the rating body and corresponds with a so-called “common-law” approach.

**Ex.1:** The French Film classification system is based on the opinion of the members of the Classification Commission but refers, to some extent, to tendencies displayed by former members:

- 12+ = movies that might shock the sensitivity of children (horrible images, representation of traumatic relationship between parent and children...).

The perception of a horrible image or a traumatic relationship may vary from one commission to another (panel is renewed every two years) but the criteria exists.

**Ex.2:** The French public broadcaster, France 2, tried to make certain criteria objective. The broadcaster implemented guidelines containing some extremely rigorous principles to be applied in rating violent content. There is a *fiche* (or brief memorandum) drafted for each programme. These notes are drafted based upon formal criteria established on the basis of popular surveys conducted in order to assess audience perception and the effects of violent images. Each programme is classified according to these criteria by persons employed specifically to write these *fiches*. The *fiche* is then passed on to the internal commission, composed of 12 members, to evaluate the question of scheduling.

At the moment classification is mainly non-deterministic throughout broadcasting in Europe - apart from those used by France 2 and the FSK in Germany, there are no clear definitions of classification criteria. In cinema, a semi-deterministic approach is more developed (among half of the Member States) wherein content is classified based upon mainly written subjective criteria (either internally or legally defined) as well as case-law and precedents. The decision criteria are transparent to a certain extent but no consistency can be ensured. The same applies for video, as the body in charge of rating videos is, in most cases, the one also in charge of movie classification. On-line categories - such as those defined by the US based RSAC, used as basis for the UK IWF and the Italian IT-RA- are purely descriptive, this being mainly a result of the self-disclosing nature of the rating system. Nonetheless, an evaluative rating applies in Germany.

The consistency and reliability of the system used, be it deterministic or otherwise, is essential. A reliable system means that any two individuals using the coding procedures correctly will describe or rate a programme identically. It is clear that this requires concrete and detailed definitions of everything to be described or a clear overview of the precedents in place. The idea is that no matter how different the individuals, if they use the same objective definitions or apply the same case law correctly, they should assign the same labelling or rating to a programme.

If it appears - and there is little evidence that this is now the case - that distinctions in rating requirements impede cross-national trade in programming - efforts should be made towards co-operative approaches yielding more common standards and definitions. In this case the range of categories within the system must be sufficiently broad to allow users from different countries and cultures to be able to filter out the sorts of material that they are most concerned about. The creation of a European platform could be envisaged to bring together national content classifying bodies, as well as specialists, such as educators and psychologists, in order to share experiences and practice and, to the extent possible, work towards a common criteria.

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<sup>5</sup> C.D. Martin and J.M. Reagle, "An alternative to government regulation and censorship: content advisory systems for the Internet," *Cardozo Arts and Entertainment Law Journal*, 15, no. 2 (1997): 412.

Furthermore, as the analysis of the research literature has shown (see Annex 1 – Chapter 3), though many studies argue that the proliferation of violent depictions on television is in itself harmful, most researchers will acknowledge, to a greater or lesser extent, that other factors influence the degree of harmfulness produced. This offers a case for ratings systems that take into account the context in which violence is

portrayed, rather than judging a programme according to frequency of violent incidents. It also re-emphasises the need for media education, by which children learn the skills to de-construct programming so that content is less harmful.

To conclude, deterministic rating has our preference and recommendation because it is considered to be more reliable, transparent and consistent. Moreover in a digital setting, where plural third-party rating across countries will be more likely, a common set of definitions will be needed. Of course, non-deterministic rating gives more flexibility to a contextual assessment than is the case with deterministic rating and should therefore be considered as a complementary system. In fact, all depend on the situation and the environment in which rating bodies operate. A situation where rating providers act in a monopolistic or quasi-monopolistic environment should require a sufficiently sophisticated deterministic methodology so as to preserve equity of treatment for content providers and transparency of the rating decision for viewers. In a pluralistic environment this requirement is less relevant as existence of the rating providers will depend on their credibility, which derives directly from the confidence viewers and content providers may place in them.

### *Judgement*

The question here is whether a content advisory should make an evaluative judgement about what a child should see, or should it provide descriptive information about the programme, allowing parents to make the evaluative judgements appropriate to their personal beliefs and value systems as well as to the maturity of their child? A broad distinction is therefore made between evaluative/judgmental versus descriptive/informational ratings. Descriptive ratings tend to focus on relaying information about media content, while evaluative ratings tend to make judgements about the appropriateness of media content for particular audiences. Some have referred to this distinction as one between “rating” and “labelling”<sup>6</sup>. The fundamental difference is one of providing information about content and allowing consumers to make decisions (good or bad) versus determining restrictions or prohibitions on

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<sup>6</sup> Joel Federman, *Media Ratings, Design, Use and Consequences*, (California: Mediascope, 1996), 25.

potential consumers based on someone else's evaluation of the information and judgement about the capabilities and/or vulnerabilities of potential consumers.

**Figure 1: Examples of Descriptive and Evaluative Ratings<sup>7</sup>**

Descriptive Ratings	Evaluative Ratings
Contains Some Violence	Parental Discretion Advised
Nudity/Sex Level 3	Teen: Ages 13+
Violence: Blood and Gore	R: Restricted
Language: Mild Expletives	Adults Only
Contains Extreme Violence	Mature: Ages 17+
BN: Brief Nudity	PG: Parental Guidance

Currently a tendency towards a combination of evaluative/descriptive rating can be observed within the European broadcasting industry. Strong differences exist however among countries concerning the way information is represented. Moreover the descriptive information is rather limited and sometimes not sufficient to empower the parents in their decisions. Cinema and video rating is mainly judgmental with an emphasis on age descriptions, except for Greece, where a more informational approach is taken. On-line rating is mainly descriptive, apart from Germany where an age classification system is suggested.

The usefulness of the information depends on how clear, specific, and relevant it is to a given consumer. Assume, for example, that one wishes to avoid - or select - content depicting violent or sexual behaviour. In this case, a label explicitly describing the kind and amount of such behaviour and content is more helpful than content-free proscriptions that simply alert the viewer to the presence of problematic content but do not state its nature (e.g., TV-14). In other words, informational systems assume that the primary function of content advisories is to inform viewers about what to expect, and that the more fully they do this, the better. An informational system leaves to the viewer both the question of appropriateness and the selection decision.

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<sup>7</sup> Ibid, 101.

Judgmental approaches - most film classification systems - generally do not provide much descriptive information. Rather, they make judgements about what is or is not appropriate for particular audiences - specifically, for different age-groups of children. Thus, a TV-14 rating tells consumers that somebody has judged that something about the content is inappropriate for children younger than 14, but says little or nothing about what that content is (e.g., violence, sex, inappropriate language, etc.). In the most extreme cases, such judgements become proscriptions. For example, in the U.S., youngsters under 17 years old are prohibited from attending an R-rated film unless accompanied by an adult. In other words, judgmental approaches hand over to someone other than the consumer the question of what is appropriate, and in some cases, the selection decision.

In short, several reasons can be given why descriptive ratings are preferable to evaluative ones<sup>8</sup>;

- Evaluative ratings run a greater risk of having boomerang/backlash effects, as in the case of Channel 4 in the UK, which is the opposite effect than the one for which they are intended. By contrast, descriptive ratings, such as “This film contains some violence” or “This film contains extreme violence” have not been shown to have that effect.
- Evaluative ratings are less likely to be consistently applied than descriptive ratings. An evaluative rating system combines divergent dimensions of behaviour which requires that each rating decision includes a judgement of the relative importance to the rating of the sexual, violent, or language component in that media product. According to Joel Federman, such a process “individualises” rating decisions, which must then ultimately be made on an “I know it when I see it” basis. By contrast, informational ratings can be applied more uniformly, since the level of judgement is lower and simpler to apply.
- Because of their relative lack of consistency, evaluative ratings are less reliable as a source of information for those making media consumption choices. An Italian person living in the UK may have a different view on what level of nudity is allowed than the average UK citizen. In contrast, by providing specific content information, descriptive ratings allow these very different consumers to make

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<sup>8</sup> Ibid, 102.

choices according to their values and preferences. This point is especially relevant to the implementation of technical devices. Using an evaluative rating system, content would be blocked according to the rating provider's decision about what is appropriate or inappropriate for particular audiences, rather than according to the specific values and tastes of individual consumers concerning sex, violence and language.

- Descriptive ratings are less likely than evaluative ones to be misused as representing a value system for society. All media ratings run the risk of assuming a moralistic tone, and ideas-or “unacceptable” portrayals of behaviour or attitudes-can be suppressed in ways more subtle than direct government intervention. This is of particular concern for television ratings, since television is currently perceived as the most pervasive and influential medium and evaluative television ratings run the risk of appearing to represent quasi-official values for the society as a whole.
- It is also worth mentioning that some studies (see Annex 1 – Chapter 3) have found that ‘pro-social’ programming, which imparts information and provokes discussion, has been found to change attitudes, particularly when reinforced by discussion. A descriptive approach would allow the consumer to select programmes of positive value.

In order to meet differing cultural requirements in different countries via a more common European approach, it is imperative - as mentioned above - that the descriptive label should offer an entirely objective description of the content, free of cultural values or legal references specific to a particular country.

In contrast, two rationales are offered for adopting a judgmental as opposed to an informational approach.

- Firstly, it is argued that given the thousands of hours of media content produced each year, there is no way to develop a descriptive system complex enough to identify the kinds of content differences that proponents of informational systems would like to describe, but still simple enough to be employed by whomever is charged with the task of labelling.
- Secondly, even if such an informational system could be developed, proponents of



judgmental systems say that it would be far too complex for most consumers to use. Rather, they argue, parents are more likely to use a system that only requires them to make a single, simple, age-based choice.

Clearly, informational content labelling systems are preferable to judgmental systems. There is, of course, the possibility of combining the two approaches - of both telling the consumer what is in the package and providing judgements about its age-appropriateness. But it is important to keep in mind that even though content advisories are intended to help parents monitor and guide their children's media consumption, we cannot lose sight of the fact that youngsters also see and respond to these ratings. Nor can we ignore the fact that content decisions are under the control of some children most of the time and of most children at least some of the time. It follows that how children respond to content advisories also warrants careful consideration. Indeed, as already mentioned, basic warnings or recommendations such as a red circle denoting erotic scenes, or the announcement of the unsuitability of the content for minors aged 15, is generally considered as having an attractive effect rather than a deterrent one. Substantially descriptive information would not present such high risks.

Another related question in designing ratings is of course what to label, i.e. what type of harmful content and what type of programming.

In general three content dimensions - violence, sex and language, are considered. However large differences across Member States exist concerning the relative importance of each dimension. The Nordic countries, for instance, are more tolerant towards sexually sensitive programming in comparison with the UK. Violence though is perceived in all European countries as equally harmful and is thus also the area in which a common European approach is most feasible. No real differences exist across media where cinema is generally used as the common denominator of the approaches.

Concerning the type of programming, pre-screening and the voluntary or mandatory character of rating plays an important role. First it is clear that, under the current

regime, programmes can be rated only if they can be reviewed beforehand. Therefore, programmes, such as news reports, that are generally not prepared well in advance and live performances, present difficulties. One reason for a preference for digital and pluralistic ratings is that the areas to be covered can be more varied and customised, and the relationship between electronic filtering and information concerning programme material can be more flexible in terms of time of interaction. There may not even be a moment of “review”.

### *Warning system*

The rating process culminates in its audience warning system. This has traditionally been based upon time (watershed), place (cinema versus home) and manner (visual/acoustic), and is usually linked to the method adopted by the rating body as described above. Classically, an age classification corresponds to the evaluative process while the issuing of a set of indicators corresponds to the descriptive system.

A programme can be preceded by a voice-over or visual parental warning system advising about rated content. Again several systems and icons have been developed across Europe in the television field (see section 2.5 of this Chapter). This may have serious drawbacks regarding the requirements of the new TV environment. Cinema, on-line and video almost exclusively use visual warning systems, whereas broadcasting may also use acoustic warnings as a complementary warning system. Furthermore the use of announcements at the start of television programmes is perceived more as “information” rather than constituting a “warning” in the accepted sense. European co-operation or co-ordination of on-screen icons should be considered to increase the acceptance of transfrontier distribution of European works, and thereby enhance the protection of children. But such a co-ordination will certainly present some limits due to the absence of consensus on the use of such warnings and, where used, the absence of common standards on their design and what they should represent.

Ratings and classifications may also be used to determine whether the programme can be scheduled before the watershed. From our study presented below it is clear that all countries have accepted and implemented the watershed with success. Some would

argue that with the arrival of technical devices, the watershed has lost its value and indeed, in some countries watershed rules have been revisited in order to take into account the specific characteristics of encoded TV services. We believe, however, that there should be continued emphasis on broadcaster responsibility, and attention should be given to use of watershed approaches (except Luxembourg) to minimise the consequences of harmful programming.

Warning systems may change significantly within the digital TV setting. As already stated and as it will be made clear in the following sections, descriptive information is the type to encourage. As to the representation of this information, the acoustic means presents certain drawbacks due to its nature (intervention of a human factor, short-lived location at the beginning of the programme) that will not permit it to challenge both the countless number of programmes to be delivered and the necessary selection to be exercised by the viewer. Visual icons may eventually respond to these requirements but can be expected to provide only basic representations of the content to be displayed (e.g. as to the intensity and quantity of detrimental scenes, as to their contextual justification) unless presented in a variety of forms which would overcome imprecision at the likely expense of confusing the viewer. A textual description of the content using and incorporating more or less standardised descriptive criteria and carried by the broadcaster or via EPG or Teletext services is preferred. Given the fact this may be excessively time-consuming for the viewer, a pre-selection function may be implemented by broadcasters or TV satellite operators<sup>9</sup> using key-words or standardised categories such as Action, Comedy, History, etc. in order for the viewer to pre-select an acceptable quantity of programmes prior to exercising his selection on the grounds of any potential set of content indicators.

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<sup>9</sup> As has been already created by Canal Satellite in France or Vía Digital in Spain (see section 2.4).

## **2. Comparative Country and Media Analysis**

### **Introduction**

In this chapter, we provide an overview of the way rating systems are designed and carried out across media and in each Member State. Our goal is to demonstrate how the technological and policy alternatives manifest themselves, yielding a few noticeable patterns but remarkable differences within the Union. An understanding of how Member States have negotiated the past, with its own tumble of media technologies and challenges to taste, can provide a basis for suggesting the problems and opportunities for harmonisation in the future. Such a study provides guidance on how industry and public authorities involved in the rating process may respond to challenges emerging from the coming digital TV environment. We can assess whether the necessary regulatory culture and historical capacity exists to perform the new tasks

- The nature of the icons or audio and visual signals that represent the conclusion.

Using terminology adapted from other scholars, we can ask whether the methodology developed for the rating process is - in large - non-deterministic, semi-deterministic, or deterministic. The non deterministic approach means that the rating body provides the classification of the work based solely upon its opinion and does generally not rely on established criteria. The semi-deterministic methodology is more elaborate in the sense that the rating body, even if the decision is made based on its opinion, takes into account some principles and criteria that are more or less flexible. This methodology is particularly important in a European context as it permits us to identify whether or not a certain age group is viewed in the same way or differently in terms of its presupposed weakness and susceptibility to violence, sex or anti-social behaviour.

Presentation of this history and picture of the present has a specific purpose: We know that television is leaving its antiquated mass-media label further behind every day as it moves towards fragmented and variable content supplies, as well as relinquishing its purely broadcasting function to enter the interactive world. In consequence the passive relation of the viewer towards content will change (quantitatively – amount of content / qualitatively – selection of content) and, therefore, tools must be offered to the viewer to empower his new “active” status. Some elements of the solutions developed in the past for cinema or video or broadcasting may be instructive (such as those delaying with the mechanisms of decision-making) while other elements are not (such as those which are the result of the scarcity qualities of the medium). Our study of the background of ratings is designed to help us understand the needs of the digital future: the way in which the viewer, working with an avalanche of available content, must first identify and categorise the imagery and then act according to this identification. And the viewer may act not just for the purposes of self, but for organising the viewing of the family circle. The past, as we present it, is a complex set of lessons, largely inadequate, about how to inform the viewer about the proposed range of content in such a way as to permit him to navigate through it make his selection. The range of TV content available in the future will approximate the wide range of content offered on the Internet and that will present a sea change from the

past. Content selection solutions developed for the Internet are of particular relevance and significance for the new TV setting and, therefore, take their place in this study.

## 2.1 Cinema

Cinema may be viewed as the progenitor of the long history of ratings (though one could go beyond to books and to art itself). The apparatus of rating films has been so complex and has evolved in such an intricate way that in some jurisdictions there is a comprehensive range of precise ideas about the type of scenes and behaviour deemed harmful for specific segments of the population (children, teenagers, persons of particular sensibilities). A mapping of each state's approaches to the influence of film images would provide an intriguing insight into how content is perceived in various parts of the Continent. But one immediately obvious fact is that conclusions are not always transparent and criteria, guidelines and principles now always so clearly articulated. What is obvious is the following: ratings and labelling systems have historically been media-specific; ratings and labelling systems have been local and distinctive in terms of structure and outcomes. It is possible that the evolution of the cinema rating system within a country is an indicator of the evolution of a system for other media, but that is not certain. And, finally, just as cinema itself is in the depository of different cultures, so are the ratings that accompany them. That may inform the way TV ratings are approached on a European level. Paradoxically, cinema rating systems are both *sui generis* and guides to the establishment of the systems for technologies that followed film.

At a time when self-regulation is most appealing, it is useful to note that the pattern for rating bodies in charge of film classification in the European Union is clearly one of strong ties to government, with the notable exception of the UK and Dutch system. This means that the rating body, is mandated and fully organised by law, ordinarily derives its power from the public authorities on which it is more or less dependent, that rating cinema works is a delegated task, and that generally the certificate is delivered on behalf of the Minister in charge of culture.

Figure 2: Cinema rating bodies

Country	Body	Nature	Mode
Austria	Jugendfilmkommission	State	Voluntary <sup>10</sup>
	Province Advisory Board	State	Voluntary
Belgium	Commission intercommunautaire de contrôle des films	State	mandatory
Denmark	Media Council for Children and Young People	State	mandatory
Finland	Valtion elokuvatarkastamo	State	mandatory
France	Centre National de la Cinématographie	State	mandatory
Germany	Freiwillige Selbstkontrolle der Filmwirtschaft	Industry	voluntary <sup>11</sup>
Greece	Cinematograph Commission	State	mandatory
Ireland	Censor	State	mandatory
Italy	Censorship committee	State	mandatory
Luxembourg	Commission de surveillance	State	mandatory
Netherlands	Nederlandse Filmkeuring	Third-party	voluntary <sup>12</sup>
Portugal	Secretariado do Cinema e do Audiovisual	State	mandatory
	Comissão de Classificação de Espectáculos	Third-party	voluntary
Spain	Instituto de Cinematografía y Artes Audiovisuales	State	mandatory
	Comunidades Autónomas (Catalonia)	Regional Authority	(either one or the other)
Sweden	Statens biografbyrå	State	mandatory
United Kingdom	British Board of Film Classification	Industry	mandatory

In Germany the distinction is complicated. While the *Freiwillige Selbstkontrolle der Filmwirtschaft* (FSK) is nominally an industry body, there is the right of the state “tutelar” authority to review the certificate issued by it. The FSK is a self-controlling body under private law which acts in the name and at the request of the Supreme Youth Authorities in the Federal States<sup>13</sup>. The Federal States are permitted to make diverging decisions and to impose them if they do not agree with a decision of the FSK. Notwithstanding this rating entity is a voluntary body, every film that will be shown publicly must be rated by the FSK. Without a rating, the film may only be shown to adults. The UK system does not follow the same scheme. The British Board of Film Classification is an independent, non-governmental body, which exercises authority over the cinemas, which by law belong exclusively to the local authorities. The Board was set up by the film industry in 1912 in order to bring a degree of uniformity to the standards of film censorship imposed by the many very disparate local authorities. The aim was to create a body which, with no greater power than that

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<sup>10</sup> In the absence of a rating, the film may only be shown to children over 16 years.

<sup>11</sup> In the absence of a rating, the film may only be shown to adults.

<sup>12</sup> In the absence of a rating, the film may only be shown to children over 16 years.

<sup>13</sup> Its specific character is reflected by the wording of the certificate of release: “This film is released by the Supreme Youth Authorities in the Federal States according to §6 JÖSchG of 25 February 1985 to be shown publicly to children and young people from the age of ... years”.

of persuasion, would seek to make judgements which were acceptable nationally. Statutory powers remain with the local councils, who may overrule any of the Board's decisions on appeal. The Netherlands has also developed a regime, which bridges the line between dependence and independence: the *Nederlandse Filmkeuring* (**NFK**) is administratively independent from governmental authorities but members of this rating board are appointed by the Minister of Public Health, Welfare and Sports.

Cinema rating providers act in a monopolistic environment, with the exception of Germany, Portugal, Spain and Austria where two or more rating providers co-exist. In Germany the second rating provider is a more specialised Government entity, the BPjS, which is not a rating body as such, but is in charge of controlling the legality of cinema films and whether they should be put on the "index" and prohibited for minors. In Spain a competitive rating may be offered by any *Comunidades Autónomas*, but so far only Catalonia has implemented such a regional rating entity and, in practice, the Director General of the ICAA rates nearly all films. Nonetheless a company owning the exploitation rights in a film, which has its headquarters in Catalonia, may choose whether to have the film rated by the Catalan Department for Cultural Affairs or by the ICAA, with the exception of films that may be classified as "X" films, which can only be rated by the ICAA. If a film is rated in Catalonia, the rating provided will be valid throughout Spain. It has to be noted that Portugal is unique in having a Catholic non-commercial entity, the *Secretariado do Cinema e do Audiovisual* (**SCA**), which rates all films and competes within the government rating body. Finally, In Austria, due to its Federal nature, there are governmental rating entities in each federal province. Ratings provided in one province are not automatically valid elsewhere. To render the system more unified, however, there is also the central *Jugendfilmkommission*, the Youth Film Commission, affiliated with the Federal Ministry for Education and the Arts, which provides ratings valid for each federal province.

In most States, film producers are mandated to submit their works to the rating entity. Three countries apply a voluntary system, namely Austria, Germany and the Netherlands. Two of these, Austria and the Netherlands, stipulate that showings of unrated films will be restricted to persons of 16 years and over. In Germany such films



may only be shown to adults. These are default ratings and producers have the opportunity to obtain a more favourable rating by submitting their works to the relevant classification agency.

However, even if applying a mandatory system, two countries have developed a singular system with the intention of overcoming difficulties that may be inherent to bureaucratic functions. Spain and Italy have established a specific procedure, by which if, in a certain given time<sup>14</sup>, the classification body has not rated the work submitted, the rating may be proposed directly by the applicant.

A characteristic of European cinema ratings is that they are mainly evaluative and refer to a specific age under or above which a film is considered as suitable or unsuitable. Only Greece offers a descriptive classification<sup>15</sup> and the non-governmental Portuguese rating provider applies a semi-evaluative rating scheme (see below).

Certain age gradations seem to be common to most of the countries, namely 12, 16 and 18 (seven countries use 12 and 16 as break points while nine countries use age 18). Some important differences survive. In Belgium there is only one marker: 16 years of age. Italy does not follow the commonly agreed 12-16 gradation, which generally is thought to correspond to the beginning and end of adolescence, but uses “over 14” and “over 18”. The same is true of Spain, which has only one teenage cut off, fixed at 13. Luxembourg does not recognise any limit over 17, but it does use an “over 14” rating. Apart from Spain, Italy and Luxembourg the countries that do not use a 16 year breakpoint have used 15 years of age as the point of demarcation, namely Denmark, Ireland, Sweden and United Kingdom.

While generally the first preoccupation is with controls on the distribution of imagery during adolescence, some of the countries nonetheless pay particular attention to childhood. This is the case in Austria, Germany and Portugal who have implemented a specific rating requiring that children must be older than 6 to be admitted to certain films. In Portugal there is even an “over 4” rating. For its part, Spain has deployed a

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<sup>14</sup> In Spain, for instance, this period is one month.

<sup>15</sup> This descriptive classification has never really been implemented.

specific label, which recommends a film for children and fixes a seven years old threshold for some films. This rating is also used in Denmark and Sweden and is under consideration in the Netherlands. In the latter, the NFK would also like to introduce a “PG” classification to add to the “all ages” category, and an “all ages” rating accompanied with the label, child friendly/family film.

**Figure 3: Age classifications**

Country	1	2	3	4	5	6	7
<b>Austria</b>	All	6+	10+	12+	14+	16+	18+
<b>Belgium</b>	All	16+					
<b>Denmark</b> <sup>16</sup>	All	All, but NR 7-	11+	15+			
<b>Finland</b>	All	16+ <sup>17</sup>	18+				
<b>France</b>	All	12+	16+	18+	Complete prohibition		
<b>Germany</b>	All	6+	12+	16+	18+		
<b>Greece</b>							
<b>Ireland</b>	General	Under 12 if PG	12+	15+	18+		
<b>Italy</b>	All	14+	18+	unsuitable for all			
<b>Lux.</b>	All	14+	17+				
<b>Netherlands</b>	All	12+	16+				
<b>Portugal (CCE)</b>	R4+	R6+	R12+	R16+	R18+		
<b>Spain</b>	Specially R for children	For all	NR 7-	NR 13-	NR18-	“X” rated films <sup>18</sup>	
<b>Sweden</b>	All	7+	11+	15+			
<b>UK</b>	'U' (Universal)	PG	12 +	15 +	18 +	Restricted 18 <sup>19</sup>	

R = recommended / NR = non recommended

As mentioned already, the rating scheme of the SCA in Portugal is of a semi-evaluative nature. As shown in the table below, there is no specification regarding suitable age,

<sup>16</sup> In accordance with the *Film Act of 12 March 1997*, age classification may be circumvented as it is permitted for children of the age of 7 and above to watch any film in the cinema, as long as the child is accompanied by an adult.

<sup>17</sup> Age categories 6, 8, 10, 12 and 14 may be used. There is also a PG-option "3 years younger may attend if accompanied by a parent (or legal guardian)". The following PG categories are possible: PG-8, PG-10, PG-12. See Finnish Board of Film Classification. Internet WWW page, at URL: <http://www.vet.fi> (version current at 12 December 1998.)

<sup>18</sup> Pornographic films and films that positively depict violence.

<sup>19</sup> To be supplied only in licensed sex shops to persons of not less than 18 years.

but a few generic categories (‘all’, ‘adolescent’ and ‘adults’) and a general assessment of the content.

Figure 4: SCA Rating System

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
<b>'For all'</b>	<b>'For adolescents and adults'</b>	<b>'For adults'</b>	<b>'For adults with reservations'</b>
films that are entertaining and easy to understand	films that present a complexity that makes them hard to be understood by children, that may hurt their sensibility or distort their vision of the world	films that, due to their structure or content, may not be totally understood or adequately analysed by adolescents, films that contain problems which are not appropriate for individuals without full maturity and experience of life	films that present gravely distorted situations, due to their level of violence and/or degradation or exploitation of matters which may hurt the viewer's sensibility

Cinema ratings are usually non-deterministic or semi-deterministic, as outlined in the introduction to this chapter. The principles on which this semi-deterministic methodology relies are variable. First, criteria may be incorporated into law though this may have drawbacks. A ‘rigid’ approach to cinema contents may lead to the situation that the criteria expressed may not be sufficiently flexible to adapt to the evolution of cultural norms, or to take into account the various creative ways to depict sensitive issues, meaning that the context in which violence or sex appears in a film may affect the impact of the content. That is why these criteria are generally formulated in such a way that they are easily adaptable by the rating provider to each of these two requirements. This is the case in Denmark, Italy, Germany and Sweden. That is also why some countries (such as France and the UK), rather than legally defining what is suitable or what is not for a certain age, follow a kind of case-law approach, meaning that certain definable criteria such as full-frontal nudity, explicit sex and psychological violence are combined with more contextual approaches. This, if it does not offer complete security to the consumer and the content creator/producer, has at least the advantage of being more flexible and adaptable to certain contexts, contents and time.

Figure 5: Methodology

Country		Non-deterministic	Semi-deterministic
Austria			Written subjective criteria
Belgium			
Denmark			Legal subjective criteria
Finland		Opinion of the panel	
France			Case-law approach
Germany			Legal subjective criteria
Greece		Simple pass or fail	
Ireland		View of individual censor	
Italy			Legal Subjective criteria
Luxembourg			
Netherlands			Guidelines and classification forms
Portugal	SCA	Moral judgement of the SCA	
	CCE		Written subjective criteria
Spain		Decision of the Director General	
Sweden			Legal subjective criteria
UK			Case-law approach

Even more interesting than the methodology itself are the transparency, where it exists, of the criteria on the grounds of which the content is assessed, and the methodology applied, as they permit a direct comparison of what is considered harmful in the various European countries, and for which each age category. Transparency mainly depends on the methodology adopted. In other words, with rare exceptions, sophisticated case-law approaches or legal frameworks are a necessary characteristic of a transparent methodology.

Figure 6: Comparison of the rating criteria (when transparent)

Country	Sex	Violence	Language	Behaviour	Other
DE	sexual-deviation and pornography (18)	Representation of violence (18)		incitement to racial hatred, glorification or playing down the consumption of drugs (18)	glorification of the Nazi ideology glorification of war (18)
DK	Sexual description (with graduation for children under 7, 11 and 15)	Brutalising effect, namely by weakening inhibition towards use of violence			
FI	Quantity and quality of sex determine the age suitability Hard core pornography (18) Sexual violence, animal pornography or child pornography (ban)	Quantity and quality of violence determine the age suitability Depiction of fictional graphic or sadistic violence (18) Brutal violence (ban)			Obscenity, Psychologically disturbing (ban)
FR	Pornography (18) pornographic films with children films depicting sexual relations between humans and animal (ban).	horrible images, traumatic relations between parents and children, excessive violence (12)		positive images of suicide, drugs,etc (16) positive images and glorification of violence inciting viewer (positive images of crime, terrorism, etc...) (18)	
IT	represent erotic scenes (14/18)	violent scenes against human beings or animals, hypnotic phenomena or shocking surgical operations (14/18)	vulgar content (14/18)	excite immoral behaviour, use of drugs, promote hatred and revenge, induce to imitation of crimes or suicide (14/18)	obscene or against public morality (18)

PT	excessively explore sexuality (16) pornography (18)	psychological trauma (12) excessively explore physical and/or psychological violence (16) explore pathologic forms of physical and psychological violence (18)			excessive fatigue
NL	pornography	frightening scenes, brutalizing violence horrible, impudent, sadistic		risk of excessive identification, racism, sexism, discrimination, alcohol or drug use	intimidation, field of tension without possibilities to escape, bad ending/open ending, fascism, political extremism
SW	depicts sexual violence or coercion or present children in pornographic situations	brutalising effect, explicit or protracted scenes of severe violence to people or animals			emotional shock, cause psychological damage
UK	occasional brief non-sexual nudity bed scenes but no serious suggestion of actual sexual activity (PG), implications of sex (12), full-frontal nudity in a non-sexual context, impressionist ic sex (15), complex sexual relationships explicit simulated sex, full nudity in a sexual context (18)	mild violence (PG) more realistic violence limited in length and intensity (12), mildly graphic violence and horror with some gore (15), no details of harmful or criminal techniques (PG/12/15), graphic violence, provided that it does not encourage sadistic pleasure or glamorous dangerous weapons (18)	limited scatological language but no sexual expletives (PG), stronger language, but only a rare sexual expletive (12), more extensive use of expletives (15), frequent use of sexual expletives (18)	no drug use or condoning of immoral behaviour unless mitigated by context (PG/12), no undue emphasis on weapons (PG), soft drugs may be seen in use, but not so as to condone or normalise (15), unglamorised use of hard drugs when justified by characterisation or narrative (18)	controversial religious subjects (18)

These criteria are more or less precise according to the country considered. For example, the Portuguese rating entity refers to general assumptions such as psychological trauma or excessive exploration of sexuality which can lead to numerous and variable interpretations. The same applies in Italy where erotic and violent scenes cited without being subject to more detailed explanation, which would permit identification of certain degrees of eroticism or violence. The French film board classification provides a generic approach to content (shocking work, incitement to dangerous behaviour, incitement to violence), but accompanies these criteria by more detailed categories or definitions (particularly horrific images, those that glorify suicide, drugs or terrorism). Criteria are more specific in the Netherlands and the United Kingdom.

Some common concerns may be observed from the criteria used, such as excessive violence, which uniformly entails age restrictions and may not be seen by anyone younger than 12. Another general concern is the influence that a film's depictions may have on children and teenagers inciting them to immoral and/or antisocial behaviour (drug use, incitement to suicide, hatred,...)

Other particularities can be observed. In the UK, sex/nudity related content appears with very sophisticated gradations in each of the categories (except suitable for all), which denotes the particular attention that is paid to the contact that minors may have with this aspect of life, and leads to tight controls on graduated admission of minors to films with this kind of content. This concern is not expressed in such a detailed way, nor regulated so carefully in the other countries, and, indeed, in some of them sex is not even perceived as detrimental for minors. This assumption is generally made when considering the Nordic countries, which express more concern regarding violence.<sup>20</sup> The European Commission itself recognised that “there is a wide gap between the Nordic countries, which are tough on violent material but easy-going where sexually explicit material is concerned and the Latin countries, tough on sex but less so on

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<sup>20</sup> It is worth noting that the film “*Sex, Lies and Videotape*” was rated 18+ in UK while it obtained a 7+ certificate in Sweden and would have even been released within a general audience certificate if it had not contained a violent scene.

violence”<sup>21</sup>. The UK rating system is in fact rather more sophisticated than any of the others presented above. The full range of precise content criteria might imply more or less automatic classification in such or such a category. Nonetheless, the BBFC's view is that context, treatment and the intention of the film-maker are as important as the actual images shown. Virtually any theme is acceptable if the treatment is responsible, and the same images may be acceptable in one context but not in another.

In addition to the fact that a classification may be decided by one entity for the entire population on the grounds of criteria more or less univocally decreed, the question arises of whether or not these rating decisions are mandatory and must be respected both by those responsible for the cinema houses and parents, or whether the classification is perceived as a mere recommendation made by a specialised body in order to give some limited guidance to the audience, who, in this case, may make their own decision as to a film's suitability. The issue is of importance as it may highlight differences regarding the freedom of viewers and social responsibility. Indeed, two distinct approaches appear within the countries treated here, which deserve special attention due to the existence of specific historical factors. That Spain, Portugal and Greece were dictatorial regimes for several decades has led to the fact that citizens may be more resistant to any kind of mandatory regulations regarding their behaviour, especially in the cultural sphere. This is one explanation of why the ratings issued by the bodies in charge of classifying film in these countries only recommend and do not prohibit. In all the other countries the rating issued is binding<sup>22</sup>, meaning that the whole industry must respect it and, more particularly, that the management and staff of theatres may be held responsible for allowing minors to view a film prohibited for their age group.

## 2.2 Video

Since films are the dominant subject of videos, it is not surprising that video and cinema ratings have a strong relationship. One could distinguish between them in terms of the impact of the large screen and the small one, or that there is the

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<sup>21</sup> Commission of the European Communities, *Green Paper on the Protection of Minors and Human Dignity in Audiovisual and Information Services*, COM(96) 483 final, annex 3.II.



gatekeeper of the movie house as opposed to the gatekeeper of the video store, or even that the impact and context of the home is different from that of the public theater. Still, it is not a surprise to find that in most cases, the body responsible for the classification of films is also the one that rates videos, applying to this alternative

same (All, 7+, 11+, and 15+). A system of voluntary examination by the classification board has been implemented, whereby charges can be brought against films that have not been previously examined where video films containing unlawful violence have been offered for hire or sale.<sup>23</sup> Charges cannot be brought in the case of films that have previously been approved by the Board.

Finally, in France, a clear distinction is made between the two possible origins of video products, which has some consequences for their system. Video products originating from the cinema have to carry the certificate issued by the film classification commission. Original video works escape this procedure and adopt a voluntary scheme regulated by a Code of Ethics enacted by the *Syndicat de l'Édition Vidéo* in 1995. This code requires the editor to display a warning when he considers that the work contains shocking scenes likely to harm the sensitivity of the consumer. The classification is issued directly by the different video editors. It is not a visual symbol system but only a display of information/recommendations. This is due to the fact that editors think they do not have the legal legitimacy to act as censor. There are no guidelines and no precise or harmonised criteria. For non-cinematographic works the *Syndicat* refers to the classification system of the *Conseil supérieur de l'audiovisuel (CSA)* for TV programmes. It is interesting to note that the same medium will thus refer to the cinema system for some of its products and the TV system for others.

In the Netherlands too, text must be displayed on the cover (in addition to the age rating), categorising the video (Child and Youth, Family, Drama/Classic, Humor, Sports, Music, Educational, Science Fiction, Action adventure, War, Western, Thriller/Crime, Horror, Racy Humor, Erotic and Porn) and giving an accurate impression of the content of the video.

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<sup>23</sup> Depiction of sexual violence or coercion or explicit or protracted severe violence to people or animals (Penal Code, chapter 16, section 10).

**Figure 7: Video ratings (source: International Video federation, Country reports – PCMLP)**

Country	Austria	Belgium	Denmark	Finland	France
<b>Ratings</b>	Ø	All 12 (12+) 16 (16+)	A (All ages) T.f.A (7+) T.O.11 (11+) T.O.15 (15+)	G (general) Restricted for persons under 16 Banned	All 12 (12+) 16 (16+) X (18+) Recommendations (if purely video work)
<b>No of ratings</b>	Ø	3	4	3	4
<b>Required</b>	Ø	Voluntary	Law24	Law25	Law26/Voluntary 27
<b>Placed on</b>	Ø	Packaging & cassette	Packaging		Packaging & cassette
<b>Authority</b>	Ø		Media Council for Children and Young People	Valtion elokuvatarkas tamo28	Cinematographic works - CNC
Country	Germany	Greece	Ireland	Italy	Luxembourg
<b>Ratings</b>	White (All ages) Yellow (6+) Green (12+) Blue (16+) Red (18+)		R All R PG R 12+ R 15+ R 18+	For All Under 14 (14+) Under 18 (18+)	Ø
<b>No of ratings</b>	5		5	3	Ø
<b>Required</b>	Law		Law	Mandatory	Ø
<b>Placed on</b>	Packaging & cassette		Packaging	Packaging	Ø
<b>Authority</b>	Freiwillige Selbstkon- trolle der Filmwirtschaft		Official Censor of Films	Censorship Committees	Ø

<sup>24</sup> MCCY was established by the Minister of Culture in April 1997. Chapter 6 of the *Film Act of 12 March 1997* establishes the legal setting, outlining the Council's mandate. Simultaneously the State Film censorship was closed down. MCCY's activity is regulated by the Departmental Order No. 30 of 16 January 1998.

<sup>25</sup> Act on the Classification of Video and Other Audiovisual Programmes - 1987.

<sup>26</sup> *Décret du 23 February 1990 pris pour l'application des articles 19 à 22 du code de l'industrie cinématographique et relatif à la classification des œuvres cinématographiques* (title II, article 5, al. 3) mandates the editors of video tapes to display on the tape's cover the certificate delivered by the classification commission of films.

<sup>27</sup> Code of ethics approved on 25 March 1995, Article 6. This concerns only purely video products. Producers have to display information regarding the content when they consider it as potentially harmful.

<sup>28</sup> Finnish Board of Film Classification.

Country	Portugal	Netherlands	Spain	Sweden	UK
<b>Ratings</b>	R4 R6 R12 R16 R18	AL (All ages) PG 12 (12+) 16 (16+)	R All R 13+ R 18+ X	All audiences 7 (7+) 11 (11+) 15 (15+)	Uc (All,+children) U (All ages) PG 12 (12+) 15 (15+) 18 (18+) R18 (restrict 18+)
<b>No of ratings</b>	5	3	4	429	7
<b>Required</b>	Law	Voluntary	Law	Voluntary <sup>30</sup>	Law
<b>Placed on</b>		Packaging & cassette <sup>31</sup>	Packaging & cassette	Packaging	Packaging & cassette
<b>Authority</b>	Comissão de Classificação de Espectáculos	Raad van Toezicht Videovoorlichting; RvtV <sup>32</sup>	ICAA - Comisión de Calificación de Películas Cinematográficas	National Board of Film Censors	British Board of Film classification

### 2.3 On-line services

As to the Internet, rating solutions are far from being the norm in Europe. Thus far only three states have developed a true rating system, namely Germany, the UK and Italy. Rating solutions used for Internet content are of direct relevance for the purpose of this study since, as stated above, it is very likely that the amount of TV content available in the future will be similar to the wide range of contents offered on the internet. Therefore content rating solutions developed for the Internet are of particular significance for the new TV setting. However, these three cases highlight the fact that both rating options – evaluative or descriptive – may be used.

In Germany the entity in charge of software classification is also authorised to rate Internet content. This is the *Unterhaltungssoftware Selbstkontrolle (USK)*, the

<sup>29</sup> In addition, some times, the distributor also use the category “from 18 years”.

<sup>30</sup> The video distributor assigns, on his own, an age category. This is voluntary with the exception of films containing depictions of realistic violence that are for hire or sale to children under 15 years as well as of films showing at a public gathering or entertainment.

<sup>31</sup> Voluntary video industry supervisory board under the charge of NVPI (*Nederlandse Vereniging van Producenten en Importeurs van beeld- en geluidsdragers* – The Dutch Federation of Producers and Importers of image and sound carriers); new self-regulating system for all audio-visual media to enter into force in 2000 (see Annex 2 – section 5).

<sup>32</sup> Voluntary video industry supervisory Board.

Entertainment Software Self-Regulation Body.<sup>33</sup> The USK has supervised network contents and on-line games since 22 August 1997. To this end it applies the same procedure as the one used for software. It refers to the age categories included in the relevant legal provisions and has developed objective points for the age classification of computer and video games that are also of use for internet content<sup>34</sup>. For instance, a game is always said to contain gratuitous violence if the player is placed in the role of the killer, if the death of opponents is rewarded, if the idea of the game is exclusively to allow aggressive behaviour, as well as if the effects of violence are clearly shown. However, the decision regarding the ratings is based on the opinions of the examination committee on the basis of these criteria. It could be said that the system employs a semi-deterministic methodology.

In principle, the USK exerts a voluntary control. The aim of the USK is to guarantee the protection of minors by means of voluntary self-regulation on the part of the suppliers, even before the publication of products. By awarding its ratings the USK is ensuring that a given software is suitable for distribution and complies with the legal provisions regarding the protection of minors. The USK only acts on request of content providers<sup>35</sup>. The suppliers and manufacturers as well as the information and communication service providers which are members of the Association of Entertainment Software in Germany (VUD<sup>36</sup>) recognise the USK as their self-regulation body for the software available for purchase and other public use. The association is supported by the association for the Support of Young People and Social Work.

As to its structure, the USK is composed of an Advisory Council (*Beirat*), which is the policy-making and controlling body of the USK, and of expert examiners. The

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<sup>33</sup> The USK was created on 1 October 1994.

<sup>34</sup> These criteria have been developed on the basis of the provisions of 31 GJSM-Gesetz *über die Verbreitung Jugendgefährdender Schriften und Medieninhalte* (law on the dissemination of publications and other media morally harmful to youth) and are very similar to them.

<sup>35</sup> However, German department stores have decided to sell only video and computer games which have been controlled by the USK.

<sup>36</sup> The VUD is composed of developers, distributors, licensees from the entertainment, information and educational software industry, such as Acclaim Entertainment GmbH, ACTIVISION, aktronic Software and Services, ART DEPARTMENT GmbH, BLUE BYTE Software GmbH etc. The members do not rate their products themselves but give them to VUD, which passes them to the USK to be rated.

Advisory Council is made up of members of various groups of society e.g. in the field of science, politics, culture, protection of minors.

The expert examiners must not be active in the computer hardware or software industry. They are independent and their function is honorary. They are only reimbursed for their expenses. They are obliged to attend the advanced training events organised by the USK. These relate to evaluations and examining activities and also advanced training on selected areas of assessment of computer and video games. The experts are selected on the basis of their professional experience and training.

The USK in principle examines all the contents submitted regarding its content and permissibility.

The USK controls:

- - whether the content is compatible with the provisions of the Criminal Code<sup>37</sup>
- - which age classification should be assigned to it.

and then delivers a report to the content or service provider.

The USK awards age classifications (evaluative rating) for the following levels<sup>38</sup>:

**Figure 8: The USK Rating System**

1	2	3	4	5
No age restriction	suitable for ages 6 and over	suitable for ages 12 and over	suitable for ages 16 and over	Not suitable for persons under the age of 18



<sup>37</sup> §86a, 130, 131, 184 (3) of *Strafgesetzbuch-StGB* (Criminal Code).

The USK's assessment is displayed on the product by means of stickers. There is no legal obligation relating specifically to the USK rating. However, the relevant general legal provisions regarding rating are complied with by the USK, partly because of the fear of bad publicity following the attribution of an inappropriate rating. This prevents voluntary self-control organisations acting in the interests of the companies financing them. The ratings of the USK are not binding in the legal sense, but are only consumer information.

The USK's rating capacity is limited because of the size of the organisation. Only 5 people are employed, and there are 27 experts and 7 observers. So far they have received requests from 195 organisations from 6 countries. As to the solution deployed in Spain for the classification of videos, the USK guarantees that an examination will take place no later than 21 days from application for a rating, and the applicant is informed of the results by fax.

The USK is a national system, but the fact that Germany is, in the field of entertainment software, the second biggest market after the USA motivates foreign firms to participate in this voluntary self-control organisation.

The USK requests fees for the examination of web-sites

300 DM for a maximum of 25 pages

500 DM for a maximum of 75 pages

750 DM for a maximum of 100 pages

1000 DM for a number of pages exceeding the limit of 100.

In Italy the solution deployed is also non governmental. The collaboration between the Information Science Degree Course of the University of Cesena (who prepared the operating environment) and the *Association Città Invisibile* (who defined the rating system) has recently given birth to a pilot Italian rating agency: IT-RA<sup>39</sup>.

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<sup>38</sup> The USK maintains that the age groups categories should be updated. However, they regret that current theories regarding psychological development have not been studied in a sufficiently scientific manner on the basis of the computer game practices of children and young people.

The IT-RA rating system is evaluative and voluntary. IT-RA is a PICS<sup>40</sup> rating agency: it grants PICS labels to content providers who autonomously rate their documents by completing application form available on-line. Figure 13 below reproduces the IT-RA descriptive criteria. Based on the level of content as rated by the content providers, IT-RA issues the relevant PICS label (metadata), which is then associated with the internet content. When access to the document is sought the software browser reads the level of each category and blocks access when the level is higher than the one selected by the user. The IT-RA system applies to advertising as well.

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<sup>39</sup> Corso di Laurea. WWW page: <<http://www.csr.unibo.it/>>

<sup>40</sup> Platform for internet Content Selection (PICS) is a system elaborated within the Word Wide Web Consortium (W3C). <http://www.w3.org>.



Figure 9: IT-RA Rating System

Content Category	Level 0	Level 1	Level 2	Level 3	Level 4
Violence	No express or implied violence	Materials denouncing violation of human rights - not harmful to minors	Implicitly violent	Expressly violent	Inducing or inciting to violence
Sex	No references to sex	Scientific material on sex and sexuality - not harmful to minors	Alluding or relating to erotica	Moderately sexual and non explicit	Sexually explicit and pornographic
Language	No vulgarity	Materials on the use and diffusion of dialects - not harmful to minors	From time to time vulgar or dirty	Vulgar and/or blasphemous	Verbally violent
Advertising	No advertising	Advertising but not harmful to minors	Also advertising products for minors	Subliminal advertising contents	Prevailing and express advertising contents
Religion	No references to religion	Material on religion	References to a particular religion	Proselytical religious references	Religious or non religious intolerance
Politics	Non political	Material on politics - non harmful to minors	Generic political references	References to political associations	References to political parties
Racism	No racial references	Racial material – non harmful to minors	Subliminal racial references	Explicit racial references	Inciting to racial hatred
Didactic	Highly didactic and based on accurate scientific materials appropriate for minors	Highly didactic and based on accurate scientific materials appropriate for adults	Medium didactic with good scientific basis	Low didactic with poor scientific basis	Non didactic

The United Kingdom has also opted for self-regulation. An independent organisation, the Internet Watch Foundation (IWF), was created in April 1997 to implement the proposals jointly agreed by the Government, the police and the two major UK service provider trade associations, ISPA and LINX. It is funded by the UK industry on a subscription basis and is controlled by a Management Board drawn from the subscribers and a Policy Board drawn from a wide range of stakeholders in the Internet including industry, child and education, consumer, libertarian and other media

organisations.

The principle is the same as for the IT-RA system. The provider rates its own content according to the range of categories provided by the IWF. It is a descriptive system<sup>41</sup>, developed in close co-ordination with the one created by the Recreational Software Advisory Council (RSACi)<sup>42</sup>. It contains 10, more or less detailed, categories.

**Figure 10: IWF Rating System**

1. Nudity
2. Sex

Level	Erotic	Advice/Information
0	No reference	No reference
1	Romance/Affection	Emotional/relationship issues (with no explicit sexual content)
2	Passion	Adolescent/emotional issues with sexual content: puberty/periods etc.
3	Groping/touching (erogenous), clothed/unclothed	Sexual relations (hetero/homo)
4	Other (not covered above): masturbation, intercourse, sexual violence, deviance.	Other sexual matters: sado-masochism, etc.

3. Language
4. Violence
5. Personal Details

0	Not requested ('Nothing of relevance')
1	Non-verifiable or default (e.g. e-mail address)
2	Verifiable detail (e.g. name and address)
3	Financial detail (e.g. credit check-style detail)

6. Financial Transactions

0	Nothing of relevance
1	Expenditure from a pre-agreed fixed ceiling account (i.e. already committed)
2	Direct expenditure from bank, credit card, etc. (i.e. real money)

7. Tolerance

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<sup>41</sup> To assist users in their choices, IWF also recommend that 'off-the-shelf' profiles be introduced so that a familiar classification of content, such as the equivalent of a film certificate rating, can be chosen.

<sup>42</sup> Recreational Software on the Internet. WWW page: <<http://www.rsac.org/homepage.asp>>.

0	None of these (ie no relevance to this category)
1	Neutral (non-prejudicial) reference to groups or attitudes to them
2	Reference to a group or groups which imply or assert a degree of inferiority or superiority by virtue of real or imagined membership
3	Maligns or deprecates one group and/or advocates discriminatory treatment of its members (not including physical harm or violence)
4	Advocates action which would cause physical, psychological or economic harm or violence against the group

#### 8. Potentially Harmful Subjects

0	No reference to potentially dangerous subjects
1	Reference without promotion or advocacy
2	Promotion of, or instructions about any activity which is normally considered safe for children only if supervised by an adult (e.g. water sports)
3	Promotion of, or instructions about, any activity not considered safe or advisable for children and/or which can be harmful to adults (e.g. smoking, consuming alcohol)
4	Promotion of, or instructions about, any activity which has a reasonable possibility of leading to serious injury or death (e.g. suicide advice)

#### 9. Adult Themes

#### 10. Context Variables

### 2.4 Television

As to television-based rating solutions developed to date the principal conclusion that emerges from the data is that there is no single approach among the Member States and no approach that seems to serve as the basis for a harmonisation or unification of rating systems. Some of the countries have opted for extremely elaborate procedures, such as France, while others have not implemented any specific systems, such as Luxembourg.

The method by which a rating system has been implemented might be important in terms of its operation and this, too, varies from country to country. In some Member States labelling systems are required by law. In Spain rating TV content is mandated by law either at a national or regional level, as the *Comunidades regionales* have authority to implement their own rating system (as for cinema), but to date Catalonia is the only region to have done so. Law plays an important defining role in Austria, Denmark, Finland, The Netherlands, Sweden and Italy (in conjunction with the implementation of a code of conduct). In Belgium, because of its constitutional situation (federal structure encompassing the three Flemish, French and German linguistic communities) the legal structure provides that solutions deployed concerning rating modes varies

from one Community to another. While the French community is in the process of adopting a visual signalling system, the Flemish Community has opted for an acoustic warning solution and the German Community has not yet implemented any regime.

In some other countries legal provisions have addressed the protection of minors but leave the door open to self-regulatory initiatives. This is the case in France, where there is no mandatory provision regarding the introduction of a specific rating system, but rather a requirement, in general terms, for the *Conseil Supérieur de l'Audiovisuel* to oversee the protection of minors. In consequence, a labelling system was implemented in 1996 by the terrestrial broadcasters under the initiative of the CSA<sup>43</sup>. The regime adopted was therefore introduced into the licences of the broadcasters concerned.<sup>44</sup> The same process was followed in Portugal, where the *Alta Autoridade para a Comunicação* came to an agreement within the broadcasters.<sup>45</sup> In Germany the system was implemented under the sole initiative of the private broadcasters, with public service broadcasters separating themselves and relying on their own “in-house” system.

Cultural differences are extremely evident in this domain, similar to the cinema rating distinctions. In Spain, Greece or Portugal, the dictatorial regimes' legacy may have created certain resistance within the population to state influence on behaviour, especially where cultural choices are involved. The same reluctance applies to content providers, who are not so enthusiastic about implementation of parental control mechanisms. In these States, where content regulation is implemented, it is done so in a free and competitive way (see for instance Spain - below). There are cultural determinants of ratings, of course, other than the hand of an oppressive past. In Ireland, for example, some Catholic pressure groups oppose labelling systems to alert the public if they authorise an infringement of the “social contract” not to broadcast detrimental programmes. As a consequence, broadcasters act as self-censors and refuse

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<sup>43</sup> This system was recently reviewed, giving birth to a new visual icons regime, implemented in September 1998.

<sup>44</sup> Primarily addressing TF1, France 2, France 3, Canal + and M6, the visual warning system was introduced in the licences of RFO, La Cinquième, Canal Antilles, Canal Calédonie, Canal Réunion, Canal Polynésie and Canal Guyane. for RFO (Official Journal no 44 of 21 february 1998 and Official Journal no. 278 of 1 December 1998).

<sup>45</sup> Agreement signed on 9 July 1997.

to broadcast any kind of material that might endanger the audience, and consequently, their own image.

Because of these cultural and historic differences, because of differences in the legal and structural origins of television rating systems, there are significant differences in the way they have evolved in the different European Member States. One common point is that most of the countries (except Luxembourg) have developed watershed rules and time-scheduling corresponding to these rules are mostly identical, with the second half of the evening (beginning between 9pm and 10.30pm) is perceived as the limit before which detrimental content for minors is generally prohibited. Furthermore, the watershed is the only system in use in Germany.

**Figure 11: Watershed Systems**

<b>Country</b>	<b>Watershed rules</b>
<b>Austria</b>	<ul style="list-style-type: none"> <li>- Before 20.15 programmes must be family-friendly</li> <li>- Cinema works rated 16+ or more have to be broadcast after 22.00</li> </ul>
<b>Belgium</b>	<ul style="list-style-type: none"> <li>- Fiction works which due to number of scenes or to their atmosphere are likely to harm sensitivity of minors under 12: when broadcast before 22.00 - icon to appear throughout programme (including credits) for unencrypted channels and for one minute at the beginning of the broadcast for encrypted channels (including credits). When broadcast after 22.00 icon to appear for 1 minute at the beginning of the broadcast (including credits and for 15 seconds after each break.</li> <li>- Works with erotic character or intense violence: icon to appear throughout programme (including credits) whatever the broadcasting time (prior to or after 22.00)</li> </ul>
<b>Denmark</b>	<ul style="list-style-type: none"> <li>- An informal watershed of 21.00 is used by the Public Service Television Danmarks Radio, and there is also a standard provision for all broadcasters that those programmes which are considered harmful to minors can only be shown after 24.00.</li> <li>- Watershed is even not necessary in case of decoder used to receive programme</li> </ul>
<b>Finland</b>	<ul style="list-style-type: none"> <li>- Programmes unsuitable for children must be broadcast after 21.00</li> </ul>

<b>France</b>	<p>- Cinema works rated 12 +, as well as TV works likely to disturb young audience, notably when contains systematic or repeated psychological or physical violence, have to be broadcast after 22.00. Exceptionally, broadcast of such work may be possible before 22.00, if icon is displayed throughout. Such exceptions are not permissible on Tuesdays, Fridays, and days preceding non-working days. For encrypted channels broadcast time is left to the assessment of the broadcaster, however, the enterprise must take particular attention to the fact programmes dedicated to youth audience as well as programmes and trailers broadcast immediately after the said programmes do not contain scenes likely to harm young viewers</p> <p>- Cinema works rated 16 +, as well as TV works with erotic character or intense violence, likely to impair physical, mental or moral growth of minors under 16 have to be broadcast after 22.30. Trailers for these works must not contain scenes likely to harm youth audience sensitivity and can not be broadcast before 20.30. For encrypted channels these programmes cannot be broadcast on Wednesday before 20.30, Saturday or Sunday morning. The trailers for works containing violent scenes or scenes likely to harm sensitivity of youth audience cannot be broadcast during the unencrypted part of the programming as well as Wednesday before 20.30, or Saturday and Sunday morning.</p>
<b>Germany</b>	<p>- Broadcasts that may endanger the physical, mental or emotional well-being of children or adolescents may only be transmitted between 23.00 and 06.00.</p> <p>- Films rated '16' can only be broadcast between 22.00 and 06.00</p> <p>- Films rated '18' can only be broadcast between 23.00 and 06.00.</p> <p>- Broadcasts whose contents are completely or basically the same as publications included in the Index can only be broadcast between 23.00 and 06.00</p> <p>- Exceptions to these time restrictions are also permissible if the broadcaster makes sure by specific means such as encryption that children or adolescents do not have access to the programme. However, this needs to be confirmed by the competent regional regulatory authority on the basis of a proposition for a decision of the Joint Office for the protection of Youth and Programming.</p>
<b>Greece</b>	<p>- Programmes the less harmful have to be broadcast after 21.30</p> <p>- Programmes the more harmful have to be broadcast after 24.00</p>
<b>Ireland</b>	- Adult viewing may solely be broadcast after 21.00
<b>Italy</b>	- Motion pictures that have been certified by the censorship committees as unsuitable for minors under the age of 14 can be broadcast only within a strict time period <sup>46</sup> : between 22.30 and 7.00 <sup>47</sup> . This watershed rule apply also to advertisements of audiotext services such as hot lines, chat line and one-to-one services <sup>48</sup> .
<b>Luxembourg</b>	- No watershed rules
<b>Netherlands</b>	<p>- Films which have been rated by the Dutch Board of Film Classification (NFK) for an audience over 12 years of age, may not be shown before 20.00 hours</p> <p>- Films which have been classified '16 and over' may not be broadcast before 22.00 hours.</p>
<b>Portugal</b>	- Violent/shocking content should be broadcast after 22.00

<sup>46</sup> Law 223/1990 of 6 August 1990 (the so-called "Mammì Law"), section 13.

<sup>47</sup> It has been pointed out by many studies, that the effectiveness of this provision may be frustrated given that children's television viewing time appears to include a good deal of night hours.

<sup>48</sup> Law Decree No. 545 of 23 October 1996 converted into Law No. 650 of 23 December 1996.

<b>Spain</b>	- Broadcasts that may endanger the physical, mental or emotional development of children may only be broadcast after 22.00
<b>Sweden</b>	- Programmes unsuitable for children must be broadcast after 21.00
<b>UK</b>	- The terrestrial channel watershed starts at 21.00 and lasts until 05.30. Cable and licensed satellite services operate with the standard 21.00 watershed for all channels, except for specially encrypted services with restricted availability to children, which have two watersheds: one at 20.00 (equivalent to the 21.00 change on other channels) and the second at 22.00 when material of a more adult nature can be shown. Other cable and licensed satellite services are expected to follow similar standards to the terrestrial channels. - Watershed does not apply in the same way to Pay-Per-View services given their stricter security systems. "18" rated films are allowed at 20.00, "12" and "15" rated films may be shown at any time. Similar arrangements will apply to variants, such as (Near) Video on Demand.

One logic that is emerging is that encrypted services receive different treatment (see Denmark, France, Germany and UK) in terms of ratings and watersheds. This may be a harbinger of the ways a watershed system could be adapted to the digital environment and for new services such as Pay-Per-View. Unlike the general broadcasting scheme, encrypted services whether terrestrial, cable or satellite based, apart from the fact that they offer basic technical means to prevent direct viewing, presuppose that viewers have expressed positive and active consent to the content carried by those services. As such, regulation that applies contents received by passive means may be, and generally is, adjusted to take into account this particular aspect. In Germany and Denmark this peculiar type of broadcasting may even exempt the broadcasters or operators concerned from applying the relevant watershed rule. A recent Italian Bill<sup>49</sup> also proposes such a specific regime for encoded programmes.

In addition to the watershed, an acoustic warning is often included among the protective devices. Acoustic warnings are to be found in the structures of several countries, namely Belgium, Denmark, Finland, Ireland, the Netherlands, Portugal, Spain, Sweden and UK as a possible means of protection. However, acoustic warnings may not be the panacea for the new TV setting. There are built-in restrictions to this technique. The necessary intervention of a direct human factor will make it difficult to process the amount of content needing to be rated, and this old-fashioned method of

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<sup>49</sup> A recent Proposal ("Proposal in favour of friendship between children and TV") sets out, *inter alia*, that time limitation concerning performance of programmes not suitable for minors cannot be applied to codified broadcasting.

recommending or alerting viewers may be in contradiction with the new bias towards delegating decision-making power directly to the viewer regarding selection of programmes. In other words, this will in no way inform the viewer well in advance. And a mechanism or warning well in advance may be necessary if the goal is to allow the viewer to block or pre-select programming.

Visual icons as a means of empowering parents in controlling contents broadcast on TV is widespread, and is more likely, to some extent (cf. *infra*) to have a future within the next TV environment. The revised Television Without Frontiers Directive requires that programmes which are likely to impair the physical, mental or moral development of minors be preceded by an acoustic warning or are identified by the presence of a visual symbol throughout their duration. Nevertheless, this system has not yet been implemented in every European country and may not be for some time (United Kingdom and Germany, as they believe that this would have a perverse effect; Ireland due to the social pressure and, finally, the Belgian Flemish Community due to the lack of European harmonisation in this field). Even where it is in use there are divergences as to the design and what it represents. The countries which have opted for visual icons systems are Austria<sup>50</sup>, Finland<sup>51</sup>, The Netherlands (not by law but on a voluntary basis), France, Portugal, Spain, Sweden<sup>52</sup>, Belgium (under development) and Italy (decided but not yet implemented)<sup>53</sup>. In France as well as in Portugal and Finland, the design of this icon applies to the different broadcasters<sup>54</sup> while in Spain and The Netherlands, when applied, this design varies from one broadcaster to another.

Belgium is also in the process of implementing a visual system that will be common to all broadcasters. Because of the recent change in the French icons, the Belgian authorities are revising implementation there so as to maintain an approximation of them. The Belgian system, will however, not be identical to the French system because of different regulations regarding admission to cinemas. A recent Italian

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<sup>50</sup> Apply only to the Public broadcaster ORF.

<sup>51</sup> Dedicated to TV guides and Teletext.

<sup>52</sup> Only applied by TV 1000.

<sup>53</sup> Visual icons also exist in Greece (ERT) and UK (Living, Bravo), but on a completely voluntary basis.



proposal requires that a visual symbols regime should be adopted by all broadcasters but rules have not stipulated any principles regarding the design of the icon to be displayed on screens so competing solutions may exist. A self-regulatory regime adopted by Italian commercial broadcasters, which are members of the FRT (Federation of Radio Television Commercial Broadcasters), has been implemented. A self-regulatory visual icon system may also be developed in Luxembourg (the public authorities have pronounced in favour of visual signalling, but would leave broadcasters to implement their own system).

The design of icons and the complexity of iconic systems differ from state to state. From one single icon in Portugal, the visual system is represented by 5 different icons in France, while Belgium is considering three different icons and Canal Plus Spain has developed a 4-icon system. The example of Canal Plus Spain is symptomatic of the difficulty of envisaging a transfrontier labelling solution. As part of the Canal Plus group, this broadcaster could have adopted the labelling system already implemented by its parent company. However, the Spanish company preferred to create its own system, claiming that the approach taken in France was too complex and multi-layered.

Similarities exist, however, as to the nature of the rating provider. In France, the ratings issued are, in the main, similar across broadcasters, holding programs constant, even though the rating procedure is the responsibility of the individual broadcaster. Each broadcaster is free to organise the administrative procedure as it wishes, and free to organise the composition of the rating body, which may be either internal or external. These are mainly internal for the reason that the broadcasters are reluctant to delegate any power that might have an impact on their editorial policy. M6, a French private broadcaster, has a variation on this theme: it has developed a procedure based on the successive opinion of two committees constituted of persons external to the channel (and representative of its audience – mothers and youth). The final decision, however, is taken by the managerial staff of the channel.

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<sup>54</sup> In France, to date, the visual icon regime applies solely to the terrestrial broadcasters with the exception of ARTE (created under the Bilateral Agreement between France and Germany, 30 April 1991), but is expected to be extended soon to cable channels.

Similar approaches to autonomy (broadcasters rating their programme) apply in most of the other countries (see table below). In Belgium it is anticipated that the responsibility for the visual icons system will be given to the broadcasters. In Italy, a code of conduct adopted in 1997 requires each broadcaster to appoint a screening committee. These structures have not been yet implemented by the TV operators. It is interesting to note however, that in this country there is a specific twist: a law adopted in 1995, provides for producers, distributors and broadcasters who intend to transmit TV films and fictional programmes during the daytime, which may significantly impair minors, must apply to the film censorship committee to obtain a certificate to do so. The specific section within the censorship committee responsible for administering this law has not yet been established.

In Germany the system is distinctive: private broadcasters delegate the rating decision to an external body, the FSF, while the public broadcasters rate their programmes (i.e., decide the broadcasting schedule) in-house.

It is clear that in most cases the responsibility for rating lies with the broadcasters.

Figure 12: National rating systems

Country	Body	Process	Mode	Representation	Control
<b>Austria</b>	Broadcasters	TV departments	Mandatory <sup>55</sup> (from 1.1.1999)	W/V	<i>Kommission zur Wahrung des Rundfunkgesetzes</i>
<b>Belgium</b> <sup>56</sup>	Broadcasters	Producers/ programme dept/channel directors	Mandatory <sup>57</sup>	W/A <sup>58</sup> /V <sup>59</sup> (common)	CSA, <i>Commissariat voor de Media</i>
<b>Denmark</b>	Broadcasters	Programme dept	Mandatory <sup>60</sup>	W/A	
<b>Finland</b>	Broadcasters	Internal boards or programming responsible	Mandatory <sup>61</sup> (from 1.1.1999)	W/A/V <sup>62</sup> (common)	Telecommunications Administrative Centre (TV programmes) Consumer Ombudsman (advertisements)
<b>France</b>	CNC (film) Broadcasters	Internal committee	Mandatory <sup>63</sup>	W/V (common)	<i>Conseil Supérieur de l'Audiovisuel</i>
<b>Germany</b>	FSF <sup>64</sup> /broadcasters	Compliance officer	Mandatory <sup>65</sup>	W	FSF/ <i>Landesmedienanstalten</i>
<b>Greece</b>	Broadcasters	Programme dept	Mandatory <sup>66</sup>	W/V(v) <sup>67</sup>	

<sup>55</sup> Section 2a of the *Bundesgesetz über die Aufgaben und die Einrichtung des Österreichischen Rundfunks* (Broadcasting Act) as amended by *Bundesgesetz, mit dem das Rundfunkgesetz und die Rundfunkgesetz-Novelle 1993 geändert werden* (Federal Act to Amend the Broadcasting Act and the 1993 Amendment to the Broadcasting Act), Federal Law Gazette 1999 I 1.

<sup>56</sup> New system underway.

<sup>57</sup> Decree of 28 April 1998 (Flemish community). The Decree of the French community is still not yet adopted.

<sup>58</sup> Flemish community.

<sup>59</sup> French community.

<sup>60</sup> *Broadcasting Act of 19 February 1998*.

<sup>61</sup> *Act on Television and Radio Operations*, 22 September 1998.

<sup>62</sup> Visual icons are solely published in TV magazines and Teletext. The symbol "K" refers to forbidden programs (K stands for *Kielletty*). For Swedish programs, the symbol "F" (*förbjuden*) is used. The symbol is printed after the titles of programmes that have been labelled as unsuitable for children.

<sup>63</sup> Inserted in broadcasters' licence (see, *supra*, note 44).

<sup>64</sup> Competent only for private broadcasters.

<sup>65</sup> *Agreement between the Federal States on Broadcasting in United Germany*, 31 August 1991, last amended on 25 November 1997 (*Rundfunkstaatsvertrag - RStV*).

<sup>66</sup> Law 2328/95 entered into force in August 1995.

<sup>67</sup> As already mentioned, ERT, the Greek public broadcaster, voluntarily implemented a visual system.

<b>Ireland</b>	Broadcasters		Voluntary	W/A	Broadcasting Complaints Commission Independent Radio and Television Commission
<b>Italy</b>	Broadcasters/ Cinema rating body <sup>68</sup>	Internal committee <sup>69</sup> /additional sections <sup>70</sup>	Mandatory <sup>71</sup> / Voluntary (FRT code of conduct) <sup>72</sup>	W/V(v)	<i>Autorità per le Garanzioni nelle Comunicazioni</i>
<b>Luxembourg</b>	Underway				
<b>Netherlands</b>	NFK (film) Broadcasters <sup>73</sup>		Mandatory <sup>74</sup>	W/A/V(v) (vary)	Commissariat voor de Media
<b>Portugal</b>	SCA (movies) Broadcasters	SCA/programming director	Mandatory <sup>75</sup>	W/A/V (common)	Instituto para a Comunicação Social
<b>Spain</b>	CPCC (movies) Broadcasters	CCPC/ program or channel providers <sup>76</sup>	Mandatory <sup>77</sup>	W/A/V (vary)	
<b>Sweden</b>	Broadcasters	Programme dept	Voluntary	W/A/V <sup>78</sup>	Granskningsnämnden for radio and television <sup>79</sup>
<b>United Kingdom</b>	Broadcasters	Compliance officer	Mandatory	W/A(M)/V(v) (vary)	Independent Television Commission

W – Watershed / A – Acoustic warning / V – Visual symbol / (v) – voluntary

As to the methodology followed by the rating bodies, given the fact that it is in-house, it is quite secret. As transparent criteria are not generally communicated outside the organisation, it may be concluded that the process is mainly non-deterministic.

In France the situation differs from one broadcaster to another, but the common trend is that the assessment is non deterministic, with the notable exception of France 2,

<sup>68</sup> Law No. 203 of 30 May 1995 - This is designated for television films and fictional programmes which, given the violent or sexual content, may significantly impair minors. This has not yet entered into force due to the delay in appointing the competent sections to operate within the censorship committee.

<sup>69</sup> Not yet established.

<sup>70</sup> Not yet established.

<sup>71</sup> Law 223/1990 of 6 August 1990.

<sup>72</sup> Adopted on 19 May 1993. Signatories are *Canale Cinque*, *Italia Uno* and *Retequattro*.

<sup>73</sup> As a result of discussions in recent years on media violence in society, the NFK has been asked to rate media products concerning films for television.

<sup>74</sup> *Media Act*, enforced in 1987.

<sup>75</sup> Law 31-A/98, 14 July 1998.

<sup>76</sup> Concerns Satellite Digital Platforms: *Canal Satellite Digital* and *Via Digital*.

<sup>77</sup> Article 17.2 of Law 25/1994 of 12 July 1994.

<sup>78</sup> TV 1000 has only developed visual symbols.

<sup>79</sup> Swedish Broadcasting Commission.

who have developed some objective criteria on the basis of qualitative investigations. This may be due to the particular responsibility that public broadcasters feel is vested in them, though it is not possible to draw firm conclusions as, for example, France 3 have not taken this option. The same applies to Spain as the responsibility for ratings assessment rests with the broadcasters and appears to be non-deterministic for each of those who have implemented such a system (TVE, Canal Plus Spain, Via digital, Canal Satellite digital, Catalan cable TV operators).

In Germany the system aspires for greater objectivity in ratings. Private broadcasters delegated classification to a common and external body, the FSF and guidelines have been drawn as assurance of impartial rating and respect for the editorial freedom of the content providers. The standards employed are interesting as well. For example, programs should not have the effect of making children emotionally insecure, or frightened, or disturbed because of an excessive depiction of violence or the blurring of reality and fiction. Broadcasts must not lead to social or ethical disorientation of children, e.g. through the identification with violent characters or through the representation of strategies based on violence to resolve conflicts. However, these guidelines leave a great deal of room for a subjective approach on the part of the rating board. The methodology may therefore be described as semi-deterministic.

### Figures 13-19: Visual Icons

**Figure 13: Austria - *evaluative***<sup>80</sup>

Not for children	<b>X</b>
Only for adults	<b>O</b>
Recommended for Children <sup>81</sup>	<b>K+</b>

<sup>80</sup> Only applied by the public broadcaster ORF. *Bundesgesetz, mit dem das Rundfunkgesetz und die Rundfunkgesetz-Novelle 1993 geändert werden* (Federal Act to Amend the Broadcasting Act and the 1993 Amendment to the Broadcasting Act), Federal Law Gazette 1999 I 1.

<sup>81</sup> This third symbol does not appear on the screen but only in the ORF Teletext, in press releases and via the Internet.

Figure 14: Italy - evaluative<sup>82</sup>









<b>Not suitable for children</b>		(A child is represented in the circle)
<b>Parental Guidance Advisable</b>		(A child and an adult are represented in the circle)
<b>Suitable for all</b>		(A child is represented in the circle)

Figure 15: France - *evaluative/descriptive*<sup>83</sup>

- All audiences	
- PG desirable - Works containing scenes likely to harm young audience	
- PG compulsory/Cinema works rated 12 + - TV works likely to disturb young audience, notably when plot contains systematic or repeated psychological or physical violence	
- Adult audience/Cinema works rated 16 + - TV works with erotic character or intense violence, likely to impair physical, mental or moral growth of minors under 16	
- Pornographic or extremely violent work, likely to seriously impair physical, mental or moral growth of minors	

**Canal Satellite** - *descriptive*. Content is displayed via EPG and divided into categories (Film, documentaries, animation, sports...) and subcategories (Film-action, Film-history, Film-pink square(X),...)




<sup>82</sup> Only applied by the commercial broadcasters *Canale Cinque, Italia Uno* and *Retequattro*.

<sup>83</sup> Terrestrial broadcasters.

**Figure 16: Portugal - descriptive**

<i>violent/shocking scenes</i>	<b>O</b>
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**Figure 17: Belgium - evaluative/descriptive** (to be revised by the Belgian authorities)

- Parental guidance  - <i>Fictional programmes which, due to number of scenes or to their atmosphere, are likely to harm sensitivity of minors under 12</i>	
- Prohibited to minors under 16  - <i>Works with erotic character or intense violence</i>	
- Prohibited on channels other than encrypted  - <i>Works with pornographic character and/or gratuitous violence</i>	

**Figure 18: Spain – depends on the broadcasters**

**Canal Plus Spain – evaluative**

All ages	Green key
Prohibited to minors under 13	Blue key
Prohibited to minors under 18	Orange key
X rated films	Violet key

In addition to the colour, the age group is displayed below the key.

**TVE – evaluative**

Specially recommended for children
For all
Not recommended to children under 7
Not recommended to person under 12
Not recommended to person under 18
X rated films

The information assessing the content appears on the TV screen prior to each broadcast. The rating is displayed on a blue screen containing various basic

information such as the title of the film, its author, the audio facility (mono or stereo), and also the age group to which the film content is most suitable. This age group classification is the same as the one used for the cinema, apart from the 13+ threshold which becomes a 12+ limit.

**Via Digital** – evaluative / *descriptive*


all audience	- title, author, date of creation, language,.. - category: documentaries, sports, series, - basic content description: violence, sex, etc
Prohibited to minors 14	- title, author, date of creation, language,.. - category: documentaries, sports, series, - basic content description: violence, sex, etc
Prohibited to minors 18	- title, author, date of creation, language,.. - category: documentaries, sports, series, - basic content description: violence, sex, etc

There is no icon. The information is displayed on the screen by pressing a button on the remote control and can refer both to age classification or type of content.

Regarding the age classification the interesting point is that it may be possible to block content that does not correspond to a certain age group. Regarding the descriptive information displayed, this one, in a started phase at the moment may be subject to improvement. The idea under development is to insert colours for each categories of content such as yellow for films.

**Canal Satélite Digital** - *descriptive* - content is displayed via EPG facilities and divide the content into subcategories. As an example films are divided into dramas, comedies, horror, eroticism...

**Figure 19: Catalan Cable TV operators - *descriptive***

Programmes which may harm the sensitivity of minors due to their physical or psychological violence or eroticism	
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Programmes which may harm the sensitivity of minors due to their pornographic nature or gratuitous violence



## 2.5 Conclusions

Some conclusions emerge from this review of the actual rating regimes existing in Europe.

### *Acoustic warnings*

Guided to some extent by the *Television Without Frontiers Directive*, acoustical warnings are widely used in Member States. This mechanism is generally seen as more likely to avoid the perverse effect of the "forbidden fruit" phenomenon. Acoustical warnings are also a way for the broadcaster to avoid the stigma of having part of its programmes "marked" as presenting certain risks for a part of the population. This technique presents serious drawbacks partly because it is limited in time: The warning is presented at the beginning of the programme and is not repeated afterwards, meaning that the viewer will have no capacity to be informed on the potential detrimental effect of a given programme if he missed the announcement that was made (visual icons may also present this weakness where they are not imposed throughout the duration of the programme). In addition, this system will not permit a parent to organise television viewing in advance. It is an antiquated means of alerting and informing, not responsive to challenges brought about by digital technology.

### *Visual Icons*

The most developed rating system at the moment, in terms of information disclosure, involves visual icons, which may carry both evaluative and descriptive information. However, this system has certain limitations:

1. Icons have not been adopted in all European Union countries and are far from being adopted in some of them. This is due to cultural reasons (Ireland), social motivations (Germany, UK) or historical legacies (Greece<sup>84</sup>) that are not likely to alter significantly within the near future. Another reason may also be the lack of co-ordination regarding visual information which, due to the increase of cross border broadcasting, has led to some confusion among the viewers. That is why the

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<sup>84</sup> Nonetheless ERT, the Public broadcaster has developed a visual system, even if not prescribed by law.

Flemish community of Belgium has not implemented any visual information (see Annex 2).

2. Where visual icons are adopted there are divergences regarding the design. There is no clear common understanding of a specific format to represent a specific content or a specific age group, even if, apart from the *Canal Plus Spain* case it appears that a 'Triangle' commonly represents danger and harmful content and a restricted access to teenagers while 'Orange' and 'Red' colours are used in most cases to denote violence or erotic content.
3. There is some divergence regarding what they should represent, i.e. evaluative or descriptive information, or a combination of the two. And whether evaluative or descriptive is opted for, some of countries, for cultural reasons, will not see the point of icons, which alert the viewer to certain contents, such as nudity in Nordic countries.
4. There is some divergence regarding the scope of application.
  - common icon applying to all broadcasters in Portugal, Finland and Belgium.
  - common icon applying to terrestrial broadcasters only in France and, in Austria, to the public broadcaster only.
  - specific and different icons for each broadcaster in Spain, The Netherlands as well as probably in Italy or Luxembourg in the near future.

Is the icon system sufficient? Probably not. The icon in itself, while it can refer to two or three basic considerations regarding the content (eroticism, traumatic relationship, physical violence), may not have the capacity to explain precisely what is represented within the content. For example the two red triangles of the Catalan cable operators refer to pornography or gratuitous violence, the orange triangle of the French Community of Belgium refers to erotic character or intense violence. These are the limitations of a simple icon system. The viewer knows that nudity, sexual relations or death may appear on the screen, but he will not know whether these depictions are put into an appropriate context or simply appear crudely. The choice to watch the content will not be a fully informed one, and therefore will be imperfect. Attributing more descriptive references to a given icon will lead to the opposite unsatisfactory result that the viewer will not know exactly to which of the specific contents the icon refers. A

solution may be to offer each icon within the range in a variety of forms, but this would run the high risk of confusion among the viewers and would probably not be approved by those in charge of its implementation. A clear and written description of the content to be displayed on the screen would be more satisfactory.

In addition visual icons, unless embedded in a mechanical device or recorded and displayed in a programme guide, do not allow the viewer, especially the parent, to organise viewing in advance. It is an instantaneous information source which requires an instantaneous reaction.

For all these reasons it would be difficult, from a European perspective, to rely on this type of rating system to significantly improve the ability of the viewer to make a comprehensive choice (either positive or negative) among the types of programmes to be broadcast in the new TV setting. Visual or oral information is useful to warn the passive viewer, but can not be sufficient to inform the active viewer who will need to find his way among the countless number of programmes that the receiver will transmit. Nevertheless, this form of warning and its co-ordination at a EU level should be encouraged within the existing TV setting and during the transition period, but it is not a significant concern for the future. Rating structures and procedures need to be reassessed to meet the challenges raised by digital opportunities and must accompany efficient technical facilities offered to viewers.

In either a selecting or blocking environment the issue is less the design of the rating system than the information embedded in the programme. The first attempts to display descriptive and textual information appertaining to a given programme in a digital setting, as shown by the two Spanish digital operators, demonstrated an appreciation for this concern and may help to support this change in orientation to the provision of programming related information.

### ***Watershed***

The situation is somewhat different for the watershed. A watershed is akin to a rating system but cannot be qualified as a rating system as such since it does not contain any

transmitted information to the viewer. Rather, in the European environment, the watershed can be defined as a contract between the broadcaster and the viewer. The broadcaster assures that no detrimental material will be broadcast before a certain time and the parent-viewer can rely on that programming strategy to organise its family viewing policy. This system is commonly applied in EU countries (with the exception of Luxembourg). Broadcasters strongly believe that it is the best way to assume their duties and responsibilities towards viewers and the latter have a good understanding of the terms of this “contract” (see Chapter 3 – section 2). Assuming that parents perform their role conscientiously, it is currently the most efficient way to ensure that viewers, especially child viewers, are protected from exposure to certain kinds of unsuitable content. This assumption is valid in the “passive” scheme in which the viewer is ordinarily situated. This, however, may change in the future as subscription to specific thematic channels or broadcasting services such as pay-per-view, firstly involves a more transparent determination of the content due to the thematic specificity of the service or the necessary determination of the programme to be “booked” and, secondly implies an active consent from the viewer towards the nature of the content to be displayed. This new parameter in the relations between the viewer and TV suggest that certain safeguards such as the watershed do not present the same need and would merit revisiting. Some countries have introduced graduated watershed rules according to the nature of the broadcasting service; namely, whether the service in question is encrypted and whether it requires a specific action from the viewer in order to be activated.

However, even in a digital setting where such broadcasting services may grow, watershed rules may still represent, if not perfect protection, at least a strong insurance that undesirable exposure to detrimental content will be prevented even when parents are not intensively careful about what their children watch. Nevertheless, this may be difficult to apply to services such as the pay-per-view. The commercial interests of pay-per-view hinge on the provision of selected content at a selected time. Fortunately, the necessity of payment means such as credit cards may act as a safeguard towards undesired viewing by children. It is well advised to strengthen this “gatekeeper” as much as possible.

## 2.6 Prospects for a Digital setting

What protects minors most consistently, and in a way most healthy for society, is not regulation but the integrity and care of parents, on one hand, and the recognition of responsibility by content producers and broadcasters on the other. This relationship suggests the adoption of a public policy that buttresses these vectors of self-implementation. One element is to encourage broadcasters to produce and disseminate content responding to the needs of children within times corresponding to child viewing habits. A second element is to encourage broadcasters to supply sufficient information so as to support parents and other guardians in the fulfilment of their responsibilities as well to encourage a critical approach among viewers toward TV content.

Because the principal idea is to engage parents and other guardians in the enterprise, to assist them in making decisions as opposed to making decisions for them, the tendency ought to be to favour the expansive use of descriptive information as opposed to what is more generally called evaluative labels. Evaluations are efficient, simple to administer, and lend themselves more easily to blocking and filtering solutions. But descriptive information more readily permits those with the most relevant responsibility (parents and guardians) to adapt TV viewing to the expectations and maturity of particular children. In the next section, the uses and abuses of each approach are identified.

### *What kind of information is needed ?*

The extent to which the choice between descriptive and evaluative is critical depends on emerging technical developments and expectations of viewer behaviour. A preference for evaluative rather than descriptive ratings turns on many factors: these include a societal decision about the very existence of parents and the role that they actually play in the lives of their children. It turns on whether parents wish to engage in evaluation themselves, or wish for a set of proxies, whom they trust, who conduct the evaluation for them. As a rule, descriptive information responds most favourably to these concerns.

***Evaluative information***

If a blocking approach is desired, evaluative ratings (such as age suitability), would be the most efficient. Age classification categories, with their tradition in the cinema environment, are well-understood and long-established in most of the countries. Broadcasters have not tried to ignore them or establish competing approaches. In some cases, such as France, broadcasters are required to display an evaluative rating with a film, since film labels must be carried regardless of the medium in which they are played.

If an age-based evaluative approach for original television programming is desirable, then integration of the experience with the cinema rating entities may be required. At present, most of the broadcasters provide descriptive information, if at all, rather than an age suitability evaluation. One might attribute this to a lack of experience in this domain, but it may more likely be because of an approach that favours a shared responsibility between broadcasters and parents for determining what is suitable for the children.

A second question is whether an evaluative approach can be harmonised at European level? As we have seen, age categories are not the same across the Member States; none of the European Union countries' specific age categories have been created for original television programs and none have grown up under the sole initiative of the broadcasters. In addition, these age categories are generally introduced by law. Harmonisation is difficult to envisage and would be very State-sensitive. One could contemplate a *rating conversion* system. An age recommendation or certification performed in one country would correspond to a given EU formula that would link it with a corresponding age recommendation or certification in another country (see Figure 20). It would rely on the relevant rating entities "pegging" their ratings hierarchy to the EU standard. As an example, a movie rated 12+ in Ireland might correspond to a suitable for "All" in Finland or a "Recommended 7+" in Spain. This would have the advantage of facilitating the movement of programmes across national jurisdictions while preserving ratings and avoiding an heavy work of re-classification to

be ensured by operators of the country of reception.

Adapting the film evaluation systems might yield the possibility of harmonisation; but it would still require that programmes be rated so as to attach to them an age suitability, and that is far from being the case at the moment. In addition, cross-boundary evaluations for age purposes may be inherently simplistic and imperfect, unable to take into consideration the motivations and criteria which yield particular classifications in any of these countries. What may lead to a rating of 12+ in Ireland may not necessarily lead to a "Recommended 7+" in Spain. This is the main difficulty of an evaluative formula: It hides the social, psychological or cultural motivations leading to the fixation of a certain age suitability. These motivations would be highly difficult to harmonise as it is strictly linked to the approach countries may have towards contact of children with potentially detrimental content. The high transparency of descriptive criteria, where exempt from judgmental parameters, should overcome this issue.

**Figure 20: Cinema Ratings conversion**

A	B	DE	DK <sup>85</sup>	FI	FR	GR	IR	EU	IT	LU	NL	PT	SP	SW	UK
All	All	All	All	All	All	∅	All	<b>1</b>	All	All	All	<b>R4</b>	All	All	All
<b>R6</b>	All	<b>6</b>	All	All	All	∅	All	<b>2</b>	All	All	All	<b>R6</b>	All	All	All
R6	All	6	<b>R7</b>	All	All	∅	All	<b>3</b>	All	All	All	R6	<b>R7</b>	<b>7</b>	All
<b>R10</b>	All	6	R7	All	All	∅	All	<b>4</b>	All	All	All	R6	R7	7	All
R10	All	6	<b>11</b>	All	All	∅	All	<b>5</b>	All	All	All	R6	R7	<b>11</b>	All
<b>R12</b>	All	<b>12</b>	11	All	<b>12</b>	∅	<b>12</b>	<b>6</b>	All	All	<b>12</b>	<b>R12</b>	R7	11	<b>12</b>
R12	All	12	11	All	12	∅	12	<b>7</b>	All	All	12	R12	<b>R13</b>	11	12
<b>R14</b>	All	12	11	All	12	∅	12	<b>8</b>	<b>14</b>	<b>14</b>	12	R12	R13	11	12
R14	All	12	<b>15</b>	All	12	∅	<b>15</b>	<b>9</b>	14	14	12	R12	R13	<b>15</b>	<b>15</b>
<b>R16</b>	<b>16</b>	<b>16</b>	15	<b>16</b> <sup>86</sup>	<b>16</b>	∅	15	<b>10</b>	14	14	<b>16</b>	<b>R16</b>	R13	15	15
R16	16	16	15	16	16	∅	15	<b>11</b>	14	<b>17</b>	16	R16	R13	15	15
<b>R18</b>	16	<b>18</b>	15	<b>18</b>	<b>18</b>	∅	<b>18</b>	<b>12</b>	<b>18</b>	17	16	<b>R18</b>	<b>R18</b>	15	<b>18</b>

While reductive evaluations like these are well suited to a blocking approach, the drawbacks must be reiterated.

<sup>85</sup> In accordance with the *Film Act of 12 March 1997*, age classification may be circumvented as it is permitted for children of the age of 7 and above to watch any film in the cinema, as long as the child is accompanied by an adult.

- To be effective, a blocking facility has to be based on one dimensional criteria such as age or a basic content descriptor (e.g. sex, violence, incitement to immoral behaviour, crude language), possibly presented in a variety of forms (Sex Level 1, Sex Level 2, Sex Level 3). As a consequence, works to be rated in such a way will not be appreciated in their complexity and will be rated without an appreciation for context. Risk is also high that certain programmes that would have been of interest for children (as it has been already widely mentioned for the Internet filtering facilities), will fall under these too simplistic criteria and thus never be displayed on the screen.
- In giving to parents or guardians the faculty to block programmes responding to certain criteria, the risk is high that the blocking will not be revisited frequently. In extreme circumstances, children may be deprived of opportunities to access content corresponding to their development needs. The UN Convention on the Rights of the Child<sup>87</sup> stresses explicitly the importance of the mass media in the development of children and requests States to act with awareness of the functioning of mass media in disseminating beneficial information and material to children.<sup>88</sup>
- By reducing incentives, blocking facilities may also have indirect and deleterious implications for the creation of work.

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<sup>86</sup> Age categories 6, 8, 10, 12 and 14 are used. There is also a PG-option: children "3 years younger (than the given age) may attend if accompanied by a parent (or legal guardian)". The following PG categories are possible: PG-8, PG-10, PG-12.

<sup>87</sup> U N General Assembly, *Convention on the Rights of the Child*, (12 December 1989), A/RES/44/25. Signed by all countries except Somalia and United States.

<sup>88</sup> Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international cooperation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.



*Descriptive information*

One of the main drawbacks of evaluative rankings is that they obscure the exact nature of the content. Parents should be informed directly of the content contained in a programme so that they can judge whether their child is mature enough to view it. What we call descriptive information is that set of data that permits judgement to be adequately exercised.

Here, too, there are fundamental assumptions about the context both of viewing and decision-making. A choice for descriptive information is based on presuppositions about the ability of the parent or guardian to process that information, about the availability of time, and about cultural familiarity with the terms being used. It is hard to conceive of a situation in which long-form descriptions, sufficiently detailed to encompass the whole, are adequately available. And, as with evaluations, any decision about labelling or rating sets forth the subject matter (sexuality, violence, etc.) that is to be the subject of the process. Digital services will permit the viewer to receive a huge amount of programmes and ample information about each of them, but that does not answer the question of how such information will be processed.

A more easily solvable problem than this viewers processing question is the mirror-problem. The mirror -problem--whether the rating providers can manufacture such information about so many programmes--may be surmounted via the emergence of a plurality of providers.

As an example, a subscriber to Canal Satellite probably receives, at present, approximately 100 channels. The EPG of Canal Satellite could permit the viewer to make a pre-selection for a given day (up to seven days in advance), within or without a given time and within or without a given channel according to various categories presented in a variety of forms such as:

*For Documentaries:* Doc-cinema, Doc-culture, Doc-discovery, Doc-escape, Doc-history, Doc-music, Doc-nature, Doc-portrait, Doc-sciences & techniques, Doc-society, Doc-sport,

*For movies:* Film-action, Film-animation, Film-history, Film-laugh, Film-passion,

Film-pink square (X rated), Film-science-fiction, Film-shiver, Film-society, Film-suspense, Film-tenderness, Film-thriller.

When choosing a category, a selection of programmes will then appear on the screen containing the title of the programme, the duration, the channel and the starting time. By clicking on the title of the programme the viewer may obtain more details about it (director, year of creation, country of origin, credits, and a brief). Navigation facilitates pre-selection (understood as the capacity for the parent to select, at a given moment or for a given period, a certain type of content). To be effective (both on the rating side and on the selecting side), a pre-selection function must introduce categorisation: content descriptions will be filtered through the prism of criteria brokered, over time, between the parent and the TV operator.

Out of this informal pattern of brokered descriptive ratings, it is likely that common descriptive criteria would evolve. These descriptive criteria would emerge both from the repertoire of those engaged in description and the preferences for information selected by parents and other viewers. A function, at the European level, is to encourage harmonisation through the observed evolution of a common practice of description. The exercise of evaluating content criteria applied by cinema rating bodies throughout Europe illustrates how the following content descriptors may be obtained.

**Figure 21: descriptive criteria**

Sex	Violence	Language	Behaviour	Other
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<p><b>Sexual-deviation</b> Child Pornography Sexual relations between humans and animal.</p>	<p><b>Physical violence</b> Excessive violence Scenes of severe violence to people or animals</p>	<p><b>Scatological</b> language (limited, strong)</p>	<p><b>Risk of identification /</b> Positive images of : Immoral behaviour,</p>	<p>Obscene or against public morality Controversial religious subjects</p>
<p>Sexual violence or coercion</p>	<p>Graphic violence, Horror with some gore</p>	<p><b>Sexual expletives</b> (rare, more extensive, frequent)</p>	<p>Suicide, Soft/hard Drug use,</p>	<p>Glorification of the Nazi ideology Glorification of war</p>
<p><b>Sexual description</b> Pornography Full nudity in a sexual context</p>	<p>Horror Mildly graphic violence Realistic violence Shocking surgical operations</p>	<p><b>Vulgar content</b> (rare, more extensive, frequent)</p>	<p>Violence (emphasis on weapons, glamorise dangerous weapons,</p>	<p>Intimidation, Field of tension without possibilities to escape,</p>
<p>Explicit simulated sex, Complex sexual relationships</p>	<p>Mild violence</p>		<p>details of harmful or criminal techniques,</p>	<p>Fascism, political extremism Sadism,</p>
<p>Impressionistic sex Full-frontal nudity in a non-sexual context,</p>	<p><b>Psychological violence</b> Psychological trauma Traumatic relations between parents and children,</p>		<p>induce to imitation of crimes)</p>	<p>Emotional shock, Bad ending/open ending,</p>
<p>Implications of sex Non-sexual nudity</p>	<p>Excessive exploration of pathologic forms Hypnotic phenomena</p>		<p>Brutalising effect (weakening inhibition towards use of violence)</p>	
			<p><b>Incitement</b> Encourage sadistic pleasure Promote hatred and revenge, Incitement to Racial hatred, Sexism, Discrimination</p>	

Such a list should be elaborated. Actual rating bodies and specialists such as educationalists and psychologists may have the required competence and legitimacy to perform such a task. A European platform bringing such experts together should be encouraged for this purpose. The result would be an armoury of key content descriptors that would provide the basis for judgement by the viewer. To the extent possible, these should be limited to neutral descriptions of the content without any judgement from the rating provider (caveat: this goal may be difficult to reach regarding behavioural content). Thus, these descriptions would be the most sensitive manner in which to negotiate the cultural differences within the Member States.

Current descriptive systems are too limited to support genuine content selection exercised by the viewer and therefore need to be elaborated. Titles of the films, name

of the author, linguistic versions available and a brief survey of the story may not be sufficient to inform viewers about the specific type of content they would find within the work. In this sense, cinema rating bodies have developed a case-law approach or transparent criteria that may serve as a starting point<sup>89</sup>. But the process of building, without overt government involvement, a descriptive process that is serviceable, efficient and has integrity is a difficult one.

### ***Who might perform this task ?***

At present, rating procedures mainly rely on the broadcasters. By controlling ratings, they also maintain contact with their audience and have an influence on them. A digital television environment, with its abundant programmes, will challenge this structure, and may produce competing rating entities.

In the future, the structure of rating and labelling, the process of providing evaluative and descriptive information, will change markedly. We foresee the growth of third-party entities who for self-generated interests or for a fee provide the appropriate information to parents and other viewers. We foresee, as well, an environment in which key entities exist to provide benchmarks within particular Member States and for Europe as a whole.

### ***How will this evolve?***

#### *Content producers, content providers*

The now dominant rating providers in broadcasting are the content producers and, moreover, broadcasters and narrowcasters themselves. The next years will determine whether they can perform this function adequately, notwithstanding the commercial stake they have in the outcome. It is possible to imagine, as an analogy to the Internet setting, that content producers may rate and label their content directly according to criteria developed by more neutral entities. These entities may emerge from the industry itself, or may be standard-bearing entities, with some relationship to

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<sup>89</sup> This may be even more useful as cinema rating bodies are usually the ones that have developed the more sophisticated approaches toward the assessment of content (resulting from their long experience, establishment of criteria, case-law approach). Descriptive standards developed in the Internet setting could also be taken into account but, given the nature (mainly static content) of actual Internet

government. Such an entity may both help evolve descriptive criteria and, *a posteriori*, provide a check on whether producer or provider ratings are credible. A complaint procedure may also be a possibility, following schemes already devised in the Internet setting. Alternatively, a State or industry body may monitor rating schemes, either on a random basis or following viewers' complaints.

In addition to the necessarily simplistic label, it could also be required of the content producer to make available a sufficiently comprehensive, and possibly standardised, explanation of the content in order for the operator to organise a pre-selection function and for the viewer to use it. The use of sophisticated and listed descriptive criteria as indicated above may be of high relevance.

#### *Monopolistic third-party body*

An alternative is for the standard-setting entity<sup>90</sup> to provide descriptive or evaluative information in addition to its other functions. This system is not consistent with pluralism or with minimising the State function; in addition, such single bodies would be incapable of evaluating all the content to be provided in the new digital setting. This shortcoming is already obvious with respect to video games, software and internet rating. In addition, content producers as well as viewers in certain countries which may harbour a strong "State-resistant" feeling (e.g. Portugal, Spain, Greece) may be reluctant to delegate content to a State body unless the description of the content is provided through a genuinely transparent methodology and procedure.

#### *Plural third-party entities*

A more likely and preferred option is that various competitive third-party entities provide either evaluative or descriptive content assessment. These third party entities will be cause-driven or market-oriented: They will be answerable to their own constituents or to the market. Parents will, if they so desire, subscribe to competing content screening organisations, which can be religious based, or value based, linguistically or national identity based.

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contents, these approaches may prove to be overly simplistic and may fail to take into account a contextual approach.

From a social perspective, one measure of such a system is whether various cultural, social, ethical, ethnic, political and religious concerns of the inhabitants of a given country or at EU level are well represented. Pluralism is fostered only if a parent has a variety of points of view especially where evaluative ratings are on offer. This option depends on the involvement of groups in the evaluative process who have not been involved before. The EU and the Member States may have a role in educating groups as to the opportunities and responsibilities in providing a pluralistic third-party rating structure. In the case that part of the population does not find its values or expectations represented within the range of operational rating providers, the need for ratings normally perceived as “consensual” may become compulsory. These required ratings could be performed by a single body, composed of representatives of the different segments of the society, concentrating on certain types of programmes such as movies, TV fictions, documentaries and animation.

These third party entities may also act as pre-selectors of content for the viewers who accept the values the entities represent. Indeed, in a pluralistic setting, some entities rating and recommending programmes will merely approve a list of offerings rather than go through the far more cumbersome process of rating or providing sophisticated information. Content screening organisations will download the unique programme identifiers of screened programmes to those consumers who have selected them as screening provider and only those programmes will make their way to the consumers' TV screens. With respect to the Internet, screening entities that specialise in selecting children sites already exist. This process can be extended to television programmes.

However, close attention must be paid to potential conflicts of interests. This may support action to ensure that pre-selecting entities are completely independent (financially, administratively) from content producers and providers.

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<sup>90</sup> That is, a governmental body or a monopolistic third-party body composed of representatives of the various segments of the society.

***How may the rating be performed****Geographical level*

We have discussed the question of descriptive versus evaluative ratings and the nature of the rating entity. A final question is what role should be played at the pan-Europe level as opposed to the State level?

The answers to our questionnaire - sent to key actors - suggest that there is little support for strict harmonisation in the domain of ratings or the establishment of common age categories or common content descriptors. Most broadcasters believe that a European approach may be useful but only to the extent that it is limited to co-operation. The main support posited for this position was the difficulty inherent in overcoming the many cultural differences. At the European level, there can be the exchange of opinions and sharing of experience via, for example, the creation of a platform for constant dialogue.

On the other hand, plural rating providers and screening entities as defined above do not have to be restricted to State boundaries. Many such entities have concerns--ethnic, political, religious, philosophical--that are not limited by any cross-border motivations and thus may be represented at an higher geographical scale than the territory of the State. Linked to the fact that satellite developments will significantly increase cross-border movements of audiovisual services, third party groups may rate not only programmes dedicated to their national territory but also others.

A role at the EU level would be to encourage common descriptive criteria, or the use of common terms in describing similar programme content. This solution is the most likely to have a pan-European potential. If third-party pluralistic entities are to be encouraged, it is virtually assumed that there will be a variety of evaluative criteria. Perhaps all that can be required is that a third-party entity, if it is sponsored by an interest group, makes known what values lie behind a particular approach to evaluation. We have described above processes that might permit a rating in one Member State to be converted to the evaluative currency of another Member State. One possible role at the EU level is to experiment with such conversion criteria. But,

once again, the recommended approach is to develop descriptive criteria as a result of the sharing of experiences and practices of the actual rating providers, combined with the insights of experts of childhood.

### *Methodology*

There is a debate about the methodology to be followed by rating entities and the role of government in establishing a methodology. Consistent with our discussion of pluralism in rating entities, we favour flexibility in methodology, so long as that methodology is transparent.

Some favour strongly what might be called a deterministic methodology, meaning that decisional criteria are articulated and consistently used. Given a deterministic rating system, one rating provider would achieve the same result as another with the same programme. Other things being equal, consistency in process is desirable; but here, there is an emphasis on pluralism, disclosure and community decisions as to which entities should survive. Furthermore, as to the descriptive ratings, there is less of a specific need for deterministic and transparent methodology where the information provided tends to be more neutral and does not imply any judgement regarding the content.

A different analysis arises when it comes to evaluative ratings. There, classification often camouflages the process that resulted in the rating. The more monopolistic or oligopolistic the rating system, the more pressure is warranted for disclosure and consistency. A pluralistic situation where a high number of rating providers exists does not require the same attention as the existence of ratings will depend directly on the credibility granted to the rating entities. This loop of credibility should be anticipated to eliminate, over time, rating providers who fail to match the expectations of their consumers.

A certain degree of deterministic methodology is therefore really only required in the situation where a monopolistic/oligopolistic evaluative rating is performed.



*Support*

Encouraging third parties to perform the evaluative and information tasks also raises the question of their access to the content in order to rate it. Voluntary access may be forthcoming as it may attract audience. However, broadcasters may resist making programming available in advance, especially if a rating might be restrictive. One role, at the EU or Member State level, is to develop processes that will permit such access as a way of avoiding or minimising government evaluation. The most prudent step to be taken on this path points to positive approaches to technology and rating mobilisation. As explained in the previous chapter, a selective approach to the EPG technologies will place a premium on information about programming content. A positive approach will offer a potentially strong economic inducement for producers to distribute their programmes to information providers, who, as with the Internet, will be their means of reaching the consumer. Facilitating a market for the information about content and the ascent of “brand” recognition of information providers will create incentives to allow the greatest number of appropriate groups access to content for evaluation purposes. Though, producers may still be reluctant to offer their product widely, for fear of negative reaction from certain groups, if they are to reach those segments of the market place, which require an endorsement from a particular information provider, they will have no choice but to take that risk.

Self-regulation might also yield improved opportunities for viewers to select among rating entities. Broadcasters will often be the gatekeepers for rating systems and can make access easy or difficult. This role may also be played by Teletext or EPG service providers. How this plays out may be an area for EU scrutiny. An obligation or a strong recommendation to provide information for viewers may be inserted in the licences of the content providers.

Finally, the EU might monitor the evaluation and labelling process to determine if leaders emerge, standard setters that provide excellent service to parents interested in pre-selecting or having greater control over programmes that their children want. The function of such leaders could be strengthened or at least information about their methods and performance considered and distributed. This task may be performed by

a single body, commonly identified by citizens of a given country as being an authority in the field of broadcasting activities. Rather than recommending particular rating entities to viewers, this single body could provide viewers with the necessary information permitting the viewer to assess the relevance of these rating bodies as to her requirements and values. Information such as the values and aims of the rating provider, its field of coverage (type of programmes rated), the way to access these ratings (identification of broadcasters or EPG service provider that carry the ratings, need for a subscription or not) would have to be made available to viewers by means of brochures, Internet postings, newspapers, etc.

### *Control*

This Study has already indicated that controls on the rating entities may be exercised via several means directly available to the viewers (via hotline or by choosing whether to subscribe to a given service), or in the hands of a control body in charge of supervising the appropriateness of the rating performed (following viewers complaints and/or on a random basis).

Given the power that comes with rating, there might be pressure to licence entities that engage in the rating or labelling process. A licence delivered by the relevant national authority might mandate ethical rules to be respected. But regulatory measures are likely not the first appropriate action on this front.

In the alternative, one could envisage the adoption of a code prescribed by the industry and adopted voluntarily by all the various key-actors. The EU could be involved in the fashioning of such a common code of conduct, though it is possible to envisage different codes of conduct taking into account different modes of rating and different kinds of rating entities. Respect for the code(s) might be enforced by sanctions pronounced by a board or committee composed of representatives of the signatories and could lead, for example, to the exclusion or suspension of the violator. Such boards or committees could (i) act on their own, supervising on a constant or random basis the good application of the rules formulated or (ii) be the recipients of complaints formulated via hot-lines. Following the framework already drawn in the

recent EC Recommendation on the protection of minors and human dignity,<sup>91</sup> an EC instrument could draw the framework in which such codes may be elaborated and implemented.

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<sup>91</sup> European Commission Directorate-General X, *Council Recommendation of 24 September 1998, 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*, (Official Journal L 270, 07.10.1998), 48.