

## Appendix 1 Country Profiles

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## AUSTRIA

In Austria, legislation concerning public film screenings and the protection of youth is delegated to regional authorities, therefore the nine *Länder* have their own specific rules on the issue of film classification. In the absence of a unified system a central rating board has been created, which has recently been reformed in order to include new electronic media within its field of activity (Austrian Board of Media Classification, ABMC).

Regarding the broadcasting landscape, a clear division exists between the public broadcaster ORF and private TV networks. ORF channels have established an internal code of conduct for the protection of minors against harmful TV content, and they themselves manage the implementation of the code's rules. On the contrary, private TV operators, including cable and satellite channels, are submitted to the monitoring and control of an independent regulatory authority, KommAustria. KommAustria is part of RTR, the Austrian board for regulation and control in the field of communications (telecommunications and broadcasting), a convergence authority set up on the model of Italian AGCOM.

### **1. Film, Video and Video games**

#### **1.1 Applicable legislation<sup>1</sup>:**

In the Federal Austrian State, regional authorities administer rules regarding the protection of minors. Each one of the nine *Länder* has its own law protecting the youth (*Jugendschutzgesetz*) and its own law on cinema (*Kinoggesetz*). Even if the situation may appear chaotic at a first glance with nine different (and partially diverging) age category systems applicable on the national territory, in practice things are facilitated by the existence of a central advisory board in charge of examining and rating films intended to be shown in the country.

#### **1.2 Enforcement**

Following regional legislation, each *Land* has its own classification board. However, they report to a central body in charge of film examination, the **Austrian Board of Media Classification** (ABMC). It was established during the summer of 2001 as a result of the reorganisation and redefinition of the functions of the previous classification board, the Board of Film Classification. This organisation had been set up in 1948 in order to provide advice and guidance on film rating to the regional governments of the country. Following changes in the media and entertainment industry, its functions have been recently expanded and the new ABMC will cover (at least in theory) a wider spectrum of media content.

The ABMC is an organisation reporting to the Federal Ministry of Education, Science and Culture. It takes its inspiration from the UN Convention on the Rights of the Child (UNCRC) and from the EC Council Recommendation on the protection of minors with respect to audiovisual media of 24 September 1998. The ABMC essentially acts as a **provider of expertise**, the decisive power on film age rating belonging by law to regional governments. In practice,

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<sup>1</sup> All relevant Austrian legislative information can be easily found on the information website of the Federal Chancellery: <http://www.ris.bka.gv.at>

however, even if ABMC's recommendations do not have legally binding effects they are very often followed by local authorities.

In fact, the ABMC plays a multi-level role in advising the *Länder* governments with regard to the protection of minors.

First of all, it provides age rating for media products, especially films intended to be shown in cinema or broadcast on TV. The following are the established age categories:

| 1            | 2            | 3             | 4             | 5             | 6             |
|--------------|--------------|---------------|---------------|---------------|---------------|
| No age limit | Over 6 years | Over 10 years | Over 12 years | Over 14 years | Over 16 years |

The criteria used to define the age limit relates to the presence of violence and/or sex, to the contempt towards human dignity, and to discrimination on the basis of gender, social origin, religion, race or ethnic group.

In addition to this, the ABMC supplies a positive rating of films and media products suitable for minors, offering guidance to people active in the field of education and youth such as teachers, parents and guardians. It also collaborates with media content providers in order to elaborate on special products addressed to children and it promotes activities aimed at raising awareness on the protection of minors in the media field.

Moreover, the ABMC keeps international contacts with European and non-European players active in the field of content rating. It organises regular film-examiners' exchanges with its German counterpart, the FSK.

The ABMC is composed of:

- The *Kuratorium* (Panel of experts)
- The managing director (who is the head of the division "Protection of minors regarding the media" in the Federal Ministry of Education, Science and Culture)
- The chairpersons of the examination committees
- The members of the examination committees
- The appeal committee

The *Kuratorium* is composed of 15 members, each one an expert in the field of media production, media culture, mass media, minors protection as well as representatives of media consumers associations. They must inform the Minister on the activities of the ABMC, and develop guidelines for the film examination committees.

The managing director supervises the activity of the examination committees and chairs the appeal committee. He/she is also responsible for the international relations of the ABMC. The Minister appoints the chairpersons and the members of the examination committees for a period of three years. Each committee is composed of three members and the chairperson. Decisions are made by a majority vote, and in case of a draw the chairperson's vote decides. The members of the examination committees are experts in the field of youth work, media and film industry, pedagogy and social work, as well as representatives of youth and parents' organisations, religious communities or provincial organisations.

### 1.3 The rating process

*Application:* The system is voluntary, so there is no legal provision obliging film producers/distributors to submit films to the ABMC examination. In the case that they consider an age rating given by a regional authority as too high, producers/distributors can apply to the ABMC in order to get a more favourable classification.

*Examination report:* Each examination report released by the ABMC includes

- A summary of the content of the examined film as well as the reasons justifying the given age rating
- The recommended age rating
- A voluntary positive rating

*Cost:* The cost of having a film examined by the ABMC is €0,06 per film meter; a two-hour film (around 3000 film meters) examination costs therefore about €200. It has been stated that this high price is perhaps one of the reasons why not all film producers/distributors submit their request to the ABMC.

*Appeal:* The appeal committee is composed of the chairpersons of the examination committees and is chaired by the managing director of the ABMC. The maximum number of members is seven. It may be summoned upon request by the managing director, one of the examination committees chairperson, or a film distributor or broadcaster. It can rate only films that have been previously classified by an examination committee. Decisions are the result of a major vote; the vote of the chairperson decides in the case of a draw.

*Video:* In Austria there is no legal basis for the rating of video and DVDs. In the region of Salzburg, the law on the protection of minors requires video and DVD distributors to show the German FSK classification on the package. All videos and DVDs that are imported from Germany carry the FSK label on them.

*Video games:* Even though the ABMC is entitled to classify all types of media content, including interactive leisure software and computer games, this has not yet been implemented. However, most interactive leisure software products are imported from Germany and therefore carry the USK rating label.

## 2. Broadcasting

### 2.1 Applicable legislation

The broadcasting sector in Austria is part of a dual system, where public and private broadcasters are subject to different laws and regulations. The two legislative acts covering, respectively, public and private broadcasters are:

- *Bundesgesetz über den Österreichischen Rundfunk (ORF-G)*, also known as *Rundfunkgesetz* (Broadcasting act) No. 379/1984, revised in many occasions. The latest version is represented by law 83/2001

- *Bundesgesetz, mit dem Bestimmungen für privates Fernsehen erlassen werden (Privatfernsehgesetz, PrTV-G, Act on private broadcasters) No. 84/2001*

ORF-G provides the legal basis for the national public service broadcaster, ORF. § 10 transposes the norms dealing with the protection of minors expressed in the EC TVWF directive; it states that broadcasting authorities should avoid, through later broadcast or other technical devices, programmes potentially harmful for children and young people being shown to minors. If these kinds of programmes are transmitted, they must be preceded by an acoustic warning or marked throughout their duration by a visual sign.

PrTV-G is the first law covering all forms of private broadcasting in Austria. It incorporates norms contained in the Cable and Satellite Broadcasting Act of 1997, and lays down new provisions for terrestrial broadcasters. § 32 transposes the TVWF directive in the same strict way as § 10 of the ORF-G.

## 2.2 Enforcement

Following the dual broadcasting system, there are two different forms of implementation of the rules protecting minors. The public broadcaster ORF has established an internal code of conduct while private broadcasters are submitted to the control of an independent authority, *KommAustria*.

### 2.2.1 Public broadcaster (ORF)

ORF was the first German language broadcaster to set up a code of measures intended to protect minors in 1993, which was reviewed in 1999, and is still in force. ORF is open to external rating systems such as those elaborated by the ABMC or by the German classification boards FSK and FSF; it has, however, its own classification criteria. In fact, as a general rule, ORF examines every single transmission and every single film it receives at the moment of the purchase. Any scene containing “non-sense” (gratuitous) violence (*sinnlose Gewalt*) is cut. No further definition of “non-sense” violence is given. This applies also to trailers.

Beside film examination, ORF has established an internal system of watersheds that is divided as follows:

- Until 8.15pm → programmes must be suitable for families
- From 8.15pm to 10pm → during this time band ORF considers that parents should be held responsible for the programmes children may or may not see. Nevertheless, ORF commits itself not to broadcast content potentially harmful to minors during this lapse of time
- After 10pm → films rated “over 16 years” are shown only after 10pm For other potentially harmful programmes, they may be broadcast if cuts or re-editing have been operated

Since 1999, programmes broadcast after the 10pm watershed may be marked by a visual symbol, following the rules laid down in the TVWF directive. ORF shows two different symbols:

|          |                                     |
|----------|-------------------------------------|
| <b>X</b> | Programme not suitable for children |
| <b>O</b> | Programme only for adults           |

These symbols apply however only to fictional programmes, such as films and television series.

In addition to these visual warnings, there is another symbol, which indicates programmes that are particularly suitable for children: the **K+** logo. Yet this mark does not appear on the TV screen but in TV programme announcements (teletext, magazines, internet). Responsibility for the marking of programmes belongs to the ORF Division Film and Series together with the Division Central Programme Planning.

#### *Public broadcasting companies*

Following the entry into force of the *KommAustriaGesetz* (KOG) on 1 April 2001, Austria has established a new regulation system covering the whole communication field. Linked to this act is the creation of a convergence authority, on the model of the Italian AGCOM, i.e. a unique board responsible for the regulation, monitoring and implementation of rules relating to the fields of audiovisual and telecommunications. The Austrian convergence authority, called RTR (*Rundfunk und Telekom Regulierung*) is composed of two boards, dealing respectively with telecommunications (TKK, *Telekom-Control-Kommission*) and audiovisual policy (*KommAustria*).

*KommAustria* is in charge of monitoring the compliance of private broadcasters with national legislation, namely with the PrTV-G. This task includes the control of the rules concerning the protection of minors. One of the purposes of *KommAustria*, as stated § 2 (2) 4 of KOG, is “to ensure the conformity with European media standards of content distributors, especially with regard to the protection of children, young people and consumers”.

## BELGIUM

Films distributed for theatrical release in Belgium must go through a classification process if they are directed towards an audience under 16. The age classification implemented by the authority for film classification only consists of two categories: “above 16” and “under 16”.

Videos are not required by law to be submitted to a specific rating process. The Belgian Video Federation set up a system of self-regulation on the basis of a three-category age classification scheme. However, it is often the case that videos are imported from neighbouring countries and these will only display the neighbouring territories’ classification and corresponding logos.

The situation in the broadcasting sector is marked by the Belgian federal structure. In the French Community a system inspired by the French system (age categories and use of on-screen visual symbols) has been in use for some years. The Flemish Community has implemented a different system based on the use of watersheds and tonal signals, as has the region of “Brussels-Capital”.

### **1. Films**

#### **1.1 Applicable Legislation**

The classification of films is still regulated by the Law of 1 September 1920 (Law Vandervelde) and is rather basic. Under this law any film is *a priori* – prohibited to minors under 16 years. The film distributor can nevertheless ask a special commission, the Commission Inter-Comunautaire de Contrôle des Films (CICF), to grant the film a special certificate so as to make it accessible to an audience under 16. In other words, if it is not submitted for classification, an audiovisual work is automatically rated “16 and over”. Classification is mandatory for all the films intended to be released to an audience under 16.

Consequently, a two category rating system applies:

| CAT.1            | CAT.2                                 |
|------------------|---------------------------------------|
| Suitable for all | Unsuitable for people younger than 16 |

If a film was classified under CAT2, the distributor may nevertheless make cuts and submit it a second time so as to get a classification under CAT1.

This rather basic system is increasingly being criticised for failing to adapt to today’s society. Hence, in 2001 the film *Thomas est amoureux* was rated “forbidden under 16”. It was an opportunity for Belgian film professionals and media to reflect on the fact that the Belgian system does not allow younger audiences access to certain audiovisual works that would educate them (*Thomas est amoureux* was forbidden to people under 16 on grounds of “*abusive incitation to the use of cybersex*”). The CICF confirmed its opinion during the appeal debate, stating that the film had been forbidden because it “*spread a morbid idea of sexuality endangering the development of young people*”.

On the contrary, a film like *Saving Private Ryan*, which was rated as suitable only for upper age categories in all European countries, has been released by the CICF as suitable for all. The main problem of the current rating system is that it lacks flexibility, so that the CICF decisions are often attacked either for being too strict or too liberal.

The system has been further criticised for not being in line with other rating systems applied in Belgium (TV programmes rating systems).

The French Community consequently decided to set up a special working group “Enfants admis”. It consists of experts from youth orientated organisations as well as the audiovisual, and multimedia industries. It also includes experts from the Flemish Community. The committee was asked to come up with concrete proposals and a report was expected to be delivered to the relevant ministers by October 2001, however, the debate is not yet closed and a series of studies are being carried out to provide a solid background for the updating of the law Vandervelde.

## **1.2 Enforcement: the CICF**

Until 1988, the CICF (Commission *Inter-Communautaire de Contrôle des Films*) depended on the Minister of Justice and was regulated by a Royal order.

Today the different federal entities have received considerable power in terms of the protection of the youth. This is why the CICF is now based on a co-operation agreement<sup>2</sup> between the different linguistic communities and the Brussels-Capital region. The agreement was reached on the 21 December 1989 and then renewed on a regular basis (the latest agreement was finalised on 3 October 2001).

The CICF is currently composed of 120 members from different social and professional backgrounds, who are appointed by the competent Ministers of the three federal communities. Each working committee consists of 5 members.

## **1.3 The rating process**

Any submission for classification must include a copy of the film and a copy of the synopsis. Costs amount to BEF 1 (€0,025) per meter of film. The co-operation agreement forming the CICF does not provide any rule regarding the maximum time span from the application to the final release of the certificate.

The working committee in charge of film examination is composed of five members. They may be reduced to four in case of necessity, and in this case the president has a casting vote.

The first decision may be subject to appeal, proposed either by the applicant person or the Commission president.

If the Commission classifies the film under the category “16 and over”, cuts or changes can be made to change the classification. There is no possibility of fully prohibiting a film. The classification certificate granted to the distributor includes the date, the attributed number and the signature of the President of the Commission. Trailers for films aimed at minors under 16 years have to be classified as well and, when applicable, posters must mention that the film has been classified “for minors under 16”.

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<sup>2</sup> Co-operation Agreement of 3 October 2001 between the French community, the Flemish community and the Inter-Community commission of the Brussels –Capital region and the German speaking community establishing the composition, rules and functions of the CICF.



In September of 2002, theatre owner Kinopolis created its' own system of classification. The system is aimed at guiding parents, and is a replication of the NICAM (*Nederlands Instituut voor de Classificatie van Audiovisuele Media*) system operating in the Netherlands. It consists of visual symbols giving indications on the actual content of the audiovisual work and whether it contains scenes relating to drugs, violence, sex, swearing, horror, humour, romantic situations or has an educational purpose.

The Belgian Association of Distributors (ABDF) regretted that the theatre owner had acted independently, and called for a general system which would be applied not only by theatre owners and distributors, but also by the video-DVD sector and by broadcasters.

## 2. Video, DVD and Video games

There is no specific legislation on rating applicable to video/DVD rental and/or supply. The only applicable legislation relates to criminal responsibility (Penal Code). The laws of 13 April 1995 and of 27 March 1995<sup>3</sup> provide for criminal sanctions against the dissemination of pornographic films.

Belgian video distributors often apply the Dutch and French classification symbols because a majority of imports originate in the Netherlands and a few others in France. So it often happens that the French and the Dutch symbols appear on video sleeves in Belgium.

A voluntary rating system was nevertheless set up by the Belgium Video Federation, a syndicate, which brings together companies realising 90 % of the video distribution turnover in Belgium.

It includes the following age categories:

| 1   | 2   | 3   |
|-----|-----|-----|
| All | +12 | +16 |

There is no regulation or rating system specific to **video games**.

Rating of video games is based on self-regulation and on the distributor's responsibility.

Some private organisations like *Fnac* and public organisations like the *Médiathèque* have set up their own regulations concerning the sale and rental of video games on computers.

Under the guidelines developed by the French Community *Médiathèque*:

- Borrowers of videos, DVDs, and video games must be aged 12 and over
- Particular attention is given to the issue of pornography and violence
- The "sales manager" holds regular meetings with other members of the staff, and takes the opinion of video distributors. He/she may refuse the acquisition of specific titles, if he thinks they would conflict with these guidelines.
- A database including explanation on the content of the videos, DVDs and video games provided for rental, is available to the public.

<sup>3</sup> The whole Belgian legislation is available on the website of the Ministry of Justice: [http://194.7.188.126/justice/index\\_fr.htm](http://194.7.188.126/justice/index_fr.htm)

### 3. Broadcasting



#### 3.1 Applicable Legislation and Regulation

##### 3.1.1 French Community

**Art. 24(4) of decree of 17 July 1987<sup>4</sup>**, which has been successively modified to include provisions laid down by the EC Directive, *Television Without Frontiers*, which prohibits broadcasters from broadcasting programmes “*which could endanger the mental and moral development of minors, namely programmes containing pornography or gratuitous violence*”. It also forbids programmes endangering human dignity through incitement to hate on the basis of race, sex, religion or nationality.



Under the conditions laid down under the **Agreements between TV Channels<sup>5</sup> and the supervision of the Superior Audiovisual Council** (*Conseil Supérieur de l’Audiovisuel*), TV broadcasters must warn the viewers of programmes they may find distressing on grounds of physical, verbal or moral violence, especially with regard to the young audience.

To this end, the French community also utilises a system of classification per age group, with corresponding visual codes and a watershed. This was inspired by the system implemented in France under the aegis of the CSA. It is common to all broadcasters. It was set up under Order of 12<sup>th</sup> October 2000 of the French Community and includes 5 categories:

| Symbols   | Public  | Type of programmes   | Duration   |
|---|---|--|--|
| No icon   | All audiences   |  | Programmes for all audiences may be broadcasted without any restrictions   |
|  | Parental guidance suggested   | Fictional programmes, which due to the number of violent scenes or the atmosphere, distress the young viewers  | <ul style="list-style-type: none"> <li>• <b>For programmes broadcast before 8 p.m, the icon must be displayed:</b> <ul style="list-style-type: none"> <li>- For the whole duration of the broadcast</li> <li>- During trailers</li> </ul> </li> <li>• <b>For programmes broadcast after 8 p.m, the icon must be displayed:</b> <ul style="list-style-type: none"> <li>- For 60 seconds at the beginning of the programme</li> <li>- For 15 seconds after each break</li> <li>- During trailers</li> </ul> </li> </ul>  |
|  | <ul style="list-style-type: none"> <li>- Parental consent necessary</li> <li>- Prohibited to minors under 12</li> </ul> | <ul style="list-style-type: none"> <li>- Programmes which are likely to harm the sensitivity of minors under 12</li> <li>- Works which repeat psychologically and physically violent scenes</li> </ul> | <ul style="list-style-type: none"> <li>• <b>For programmes broadcast before 10pm the icon must be displayed:</b> <ul style="list-style-type: none"> <li>- Unencrypted channels: for the duration of the broadcast</li> <li>- Encrypted channels: for 60 seconds at the beginning of the programme.</li> </ul> </li> <li>• <b>Programmes broadcast after 10pm the icon must be displayed:</b> <ul style="list-style-type: none"> <li>- For 60 seconds at the beginning of the programme</li> <li>- For 15 seconds after each break</li> <li>- During trailers.</li> </ul> </li> </ul> |

<sup>4</sup> All relevant broadcasting regulation can be found on the website of the CSA: <http://www.csa.cfwb.be/documentation/default.htm>

<sup>5</sup> Text available at <http://www.csa.cfwb.be/pdf/Code%20d%20ontologie%20violence.pdf>

|   |   |   |  |
|---|---|---|--|
|  | Adult audience<br>Prohibited to minors under 16 | Works of erotic nature or depicting intense violence  | <u><b>Programmes may not be broadcast before 10pm</b></u><br><br>The icon must be displayed:<br>- For the duration of the programme<br>- During trailers |
|  | Prohibited to minors under 18                   | Works of a pornographic nature and / or containing gratuitous violence. It can only be broadcasted on encrypted channels. | <u><b>Programmes may not be broadcast before 00.00</b></u><br><br>Icon must be displayed:<br>- For the duration of the programme<br>- During trailers    |

The classification process is in the hands of broadcasters. The following provides two examples of this:

- *The case of RTBF*

When TV programmes have already been broadcast in France, the RTBF refers to the French classification.

When a programme has not been classified in France, the RTBF refers to the classification granted by Canal + Belgium.

In the case of films that have not been distributed in France, but have been theatrically released in Belgium, the RTBF refers to the classification granted by the CICF.

If a TV programme has never been classified (neither by French TV, nor by the CICF), the RTBF creates an *ad hoc* screening committee consisting of the broadcasting director, the head of external communication, the person in charge of purchases, the legal adviser and the person in charge of relations with the audience. The committee proceed to classify the work.

- *The case of TVI network*

Like RTBF, almost all the audiovisual works broadcast by the RTL-Tvi network have previously been classified in France. Consequently, RTL-Tvi uses the French classification.

When an audiovisual work has not yet been classified, RTL-Tvi does not set-up a formal screening committee for examination. Instead, the decision on appropriate classification is taken in a meeting, which comprises the head of programming, the legal advisor and the person responsible for the purchases.

Both RTL-Tvi and RTBF have decided not to set up a precise classification system. They rely on formal and informal meetings and base their decisions on their respective experience.

### 3.1.2 Flemish Community

**Decree of 25 January 1995** of the Flemish Council (modified by **decree of 28 April 1998**) regulates the broadcasting sector in the Flemish Community. This decree represents the translation into regional legislation of provisions contained in the TVWF Directive. Art.78 deals with the protection of minors.

Under paragraph 1, programmes potentially endangering the physical and mental development of minors may not be broadcast to young audiences. This is the case for programmes containing scenes of pornography or gratuitous violence. Broadcasters must make use of appropriate technical means (acoustic signals) to ensure that minors do not have access to such programmes. Same provisions apply to trailers and announcements.

§ 2 prohibits the broadcasting of programmes inciting to hate on the ground of race, sex, religion or nationality.

§ 3 provides for the competent authority in matter of sanctions. Whereas the Flemish Government is the only public body responsible for the enforcement of the law, which can suspend the broadcasting licence in case of repeated infringement of the law supported by two monitoring authorities. Hence, the Flemish radio and television council is responsible for rules laid down in § 1 of art. 78, and the Flemish council for litigations concerning radio and television is responsible for § 2.

If a broadcaster is located in a member State of the European Union, the Flemish Government informs the European Commission of its intention to suspend the incriminated programme, and if an agreement cannot be reached between the interested parties within a fifteen-day time period, the suspension is imposed.

### *3.1.3 Brussels-Capital*

The **Law of 30 March 1995** focuses on networks distributing broadcasting programmes and broadcasting services in the Brussels-Capital region.

Under art. 40 broadcasters are not allowed to transmit programmes that may impair the physical and moral development of minors, through the showing of pornography or gratuitous violence. Such programmes may only be broadcast at appropriate broadcasting times (late evening) or through the use of technical devices impeding minors to view them.

If harmful programmes are broadcast, they have to be preceded by an acoustic warning or accompanied by a visual symbol throughout their duration.

TV programmes may not contain incitement to hate on the basis of race, sex, religion or nationality.

### *3.1.4 German-speaking Community*

**Decree of 26 April 1999** on the media. Art. 15 provides for the interdiction of transmitting programmes which are:

- Contrary to public order, State security, public morality or offensive to foreign people
- Deeply harmful for children and minors development, such as programmes containing pornographic scenes or gratuitous violence
- Inciting to hate on grounds of race, sex, religion, nationality

Programmes potentially harmful for children may be broadcast on TV provided they are preceded by an acoustic advert and accompanied by a visual symbol throughout their duration.

## 3.2 Enforcement

### 3.2.1 French Community: Superior Audiovisual Council (*Conseil Supérieur de l'Audiovisuel, CSA*)<sup>6</sup>

The decree of the 24 July 1997<sup>7</sup> sets up the CSA. It is an administrative regulatory authority independent from the government. It is primarily a consultative body on the content of programmes, but it may also take sanctions.

The CSA is composed of three committees:

- The *advertising committee*
- The *consultative committee*, which is composed of 20 members designated by the French community government. They are professionals from the audiovisual sector (radio, TV, publishing, cinema, book, copyright, consumers, organisations representing the interests of workers in the sector concerned), representatives from the government of the French Community, the Educational and Media Council, as well as the General Secretary of the Ministry of the French Community. It advises on the protection of minors and teenagers from programmes transmitted by the audiovisual broadcasting service.
- The *control and authorisation committee*. This group can take sanctions, and hence in January 1999, the CSA ordered the RTL-TVI to pay a fine of BEF 100,000 (about €2,500). During TV news, the RTL-TVI had broadcasted a scene of “gratuitous violence”. RTL-TVI appealed then to the *Conseil d'Etat* to overturn the injunction. The *Conseil d'Etat* pronounced its sentence in January 2002, cancelling the CSA fine as it considered that the showing of violent scenes in this case was legitimate. The *Conseil d'Etat* made a clear distinction between fictional programming, where gratuitous violence is not allowed, and informative programming, where violence may be shown as a part of a news broadcast.

### 3.2.2 Flemish Community : Media Council «*Vlaamse Kijk- en Luisteraad voor Radio en Televisie*»

The Flemish Council for the radio and the television (*Vlaamse Kijk- en Luisteraad voor Radio en Televisie*) is responsible for controlling programmes that may hurt the physical, mental, moral development of minors on the territory of the Flemish Community. This responsibility only covers the content of transmitted programmes. It may impose sanctions and suggest that the Flemish government suspend transmission when programmes propagate violence and hatred on the basis of gender, race, colour of skin, language, faith and religion, political or other thinking, national or social origin, or membership in a national or ethnic group.

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<sup>6</sup> <http://www.csa.cfwb.be/>

<sup>7</sup> <http://www.cfwb.be/av/fram001.htm>

## DENMARK

There is no censorship in Denmark. A consensus against prohibitive measures has led the country to rely on dialogue (co-regulation) amongst different parties (State authorities, consumers, distributors, broadcasters).

Content regulation focuses on the protection of children and the youth and on providing parents with guidance on any audiovisual content, which is made publicly available. To this end, the Media Council for Children and Young People was set up in 1997. It classifies films to be theatrically released, videos, DVDs and video games. It maintains dialogue with broadcasters who, as a general rule, broadcast audiovisual works according to the classification, which was previously given by the Media Council.

### **1. Film, Video and Video games**

#### **1.1. Legislation**





##### **Film Act n° 186 of 12.03.1997**

Under Chapter 6, the Act sets up the Media Council for Children and Young People (MCCY). It foresees that the MCCY shall examine:

Films to be theatrically released  
Films aimed at video, DVDs supply/rental  
Video games aimed at supply/rental.

Submission for classification is optional for films directed to an audience above 15. With regards to audiovisual products intended for people under 15 (and whether the audiovisual work be publicly screened, sold or rent), it is mandatory to submit them to the MCCY for a classification under pre-defined categories. When an audiovisual work has not been submitted for classification, it must be automatically rated “15 and over”.

The MCCY decides under which of the following category the film submitted (feature – video VHS and DVD) falls into:

|   |   |   |   |
|---|---|---|---|
|  |  |  |  |
| CAT1  | CAT2  | CAT3  | CAT4  |
| Film can be viewed by all   | Can be viewed by all but not recommended for children under 7                       | Film approved for children over 11 years  | Film approved for children over 15 years  |

Note that films shown in the framework of a festival or cultural event can be exempted from classification.

##### **Order n°30 of 16 January 1998 on the Media Council for Children and Young People**

It provides for more details on the composition of the Media Council, and the procedures it must follow. The Order also provides for additional rules on labelling and packaging of videos.

**MCCY guidelines** (*Kriterier for Filmvurdering* October 1999, available on [www.medieraadet.dk](http://www.medieraadet.dk)) provide for different themes to be taken into account when evaluating the appropriate classification for a submitted film: violence, sex, war, death, natural catastrophe and incest.

## 1.2 Enforcement

### 1.2.1 *The Media Council for Children and Young People*

In May 1997, the MCCY replaced the National Board of Film Censorship. This represents a change in attitude towards film and censorship: from being an old “prohibition institution” to a modern new institution with a broader composition, and with more expansive commitments to protect children through “users empowerment”. The MCCY must guide parents when deciding on the relevance of films for their children.

The MCCY:

- Sets up criteria for the evaluation of films (feature films, trailers and video)
- Examines, classifies films and evaluates whether they might be harmful for children.
- Assists the Minister of Culture in issues in regulations related to electronic games, children and the new media in general
- Establishes dialogue with TV networks
- Participates in Nordisk common work
- Follows an international agenda

It consists of 7 members who are appointed by the Ministry of Culture for a period of three years with the possibility of one reappointment:

- 3 are experts on children
- 2 have a thorough knowledge on the film sector
- 1 representative from the areas of culture, media and research
- 1 representative of consumers’ interests

### 1.2.2 *Rating Process (films, trailers, videos)*

It is up to the producer of an audiovisual work to decide whether the film he is releasing is directed towards people over 15. If not, he must submit his work to the MCCY for a classification and certificate delivery.

Chapter 2, Order n°30 of 16 January 1998 on the Media Council for Children and Young People details the procedure.

Films that have to be examined by the MCCY must be sent with details of: the film’s original title in Danish; nationality; year of production; producer; and director. For feature films and video, a short description is also required. Standard application forms are available online ([www.medieraadet.dk](http://www.medieraadet.dk)).

MCCY decides on age categories but is neither entrusted with the power of prohibiting films nor the power to demand cuts.

The certificate delivered must include:

- An age category as defined in Film Law
- The classification number
- Details on the person who submitted the film
- The Danish title of the film
- The film's length
- A short description of the audio-visual work

Under Chapter 6 of Order n°30 of 16 January 1998, the Classification process costs 12,78 DKR (€1.7) per minute, whatever the support. Only half of the price will be asked for if the audiovisual work was already rated. Only half of the price will be asked for in case the distributor applies for a second classification of the same film. The rating process is free if the final decision changes the classification, which was previously granted.

### *1.2.3 Additional provision on film advertising*

Chapter 3 of Order n°30 of 16 January 1998 on the Media Council for Children and Young People also provides for classification to be included into film advertising. When making trade advertisement distributors and exhibitors must make clear the classification granted by the MCCY, using the relevant and corresponding symbols.

### *1.2.4 Additional provisions applicable to video*

If an audio-visual work is intended to be publicly shown or released in Denmark for people under 15 the age category must be clearly marked.

In particular, Chapter 4 of Order n°30 of 16 January 1998 on the Media Council for Children and Young People demands that videos they have classified must be labelled with information as to their suitability for children aged under 11 or 16. The label consists of a text band and a corresponding symbol. Specifications on colour codes, typography, format, size of the text are given on the website. The Order gives detailed information about where the corresponding symbols must be located on the video cassette/DVD and video sleeve.

### *1.2.5 Additional provisions applicable to Video games*

As agreed between The Media Council for Children and Young People and the Danish computer game producers, Danish versioned computer games must be labelled in accordance with the Danish labelling system, which the computer and video game business has developed in cooperation with The Media Council for Children and Young People. Currently all Danish products are consequently rated in accordance with the Danish voluntary system, which includes:

- Mandatory information on age categories (as defined by the producer himself – i.e. the system of age category is not necessarily the same as the one used by the MCCY), and platform used
- Optional information: on the number of players that can participate in the game, the media used by the game (CD, DVD or Internet), whether the game includes music, and whether it makes necessary the use of additional tools (such as joystick).



Models for stickers that must be located on the video game's sleeve, can be downloaded from the MCCY website. Two versions (one for Mac, the other for Win) are available. Precise information is given on the size, colours and typography to be used.

The labelling consists of a module system of pictograms combined by an outer frame. This includes a pictogram and a box for specifications, which can be adjusted to the product. There are two sizes - one for DVD boxes, jewel case and other boxes with the same measurements and one for larger boxes. The size of the labels must be kept as they are in order to keep the same standards for the products. The sizes of the labels to be downloaded - are the exact sizes that are needed to use.

Most products imported/distributed in Denmark are labelled in accordance to the ELSPA system. The English system established by the BBFC, as well as the Finnish system developed by VET, is also in use.

Denmark is in favour of self-regulation and is waiting for the results of current efforts to develop a European rating system prior to any further move at national level.

## **2. Broadcasting**

### **2.1 Applicable Legislation**

Denmark has a long tradition of public service broadcasting going back to the 1920s. Denmark's Radio (DR) was created in 1925 at the time when the first broadcasting Act was passed.

The idea of prohibiting programmes is not welcomed in Denmark. It is believed that a much more efficient approach consists of fostering dialogue, and relying on parents' and broadcasters' responsibility and common sense.

General rules on the content of TV programmes are laid down under the Consolidated Broadcasting Act as well as under TV channels' terms of references (in the case of public channels) and licenses (in the case of private channels).

**Consolidated Broadcasting Act n° 701/ 2001** was revised in May 2002. A more thorough revision was expected in late May 2002, although the revision may not affect the issues presently dealt with in this report. The Act reads that with regards to television broadcasting services, the Minister for Culture shall lay down rules on the programme services, including rules for the proportion of programmes of European origin to be included, and rules to ensure that consideration is shown for children and young people. The Act further states:

*“the possessor of a broadcasting license must ensure that no programmes are transmitted that could damage to any serious degree the physical, mental or moral development of minors, exercising particular control over programmes that include pornography or unjustified violence. This also counts for programmes that can damage the physical, mental or moral of minors, unless it is ensured – by choice of programming hours or by installing of technical devices- that minors will not watch or listen to the programmes”.*

In other terms the Broadcasting Act foresees that harmful content can only be broadcast within specific schedule or provided their access is constrained through the use of a technical device.

## 2.2 Enforcement

### 2.2.1 *Public Channels DR and TV2*

DR and TV 2 are self-governing public broadcasting agencies. Under the Broadcasting Act they are both given public service responsibilities. There is no explicit control mechanism to regulate the programme scheduling policies of the two public service institutions: they decide on suitability and/or possible harmfulness of programmes they broadcast.

Each channel's Board of Directors decides on the rating of films that are to be broadcast. There are no fixed rules, but the policy line is that according to the Directive *Television Without Frontiers*, no film which could be damageable to minors should be screened, and that films including sex, violence and "blood" should not be broadcast either. A "viewing panel" is also viewing all films, which constitutes a system of "double check".

The 2 channels' "programming councils", as well as the newly established Public Service Council, which used to be entrusted with the mission of commenting on the accountability reports of the two public channels were abolished by Act 259, 8 May 2002. The task of the Public Service Council is expected to be given to The Radio and TV Board (see further below) in the new Broadcasting Act, while the dialogue with the public shall be organised voluntarily by the stations themselves.

**In practice**, DR and TV2 do not broadcast films that have not been previously rated by the Media Council for Children and Young People. They can nevertheless decide to change ratings established by MCCY, but rarely do so.

Programme departments automatically rate all pornographic films at 16 years and above. An informal watershed of 9pm is implemented and a standard provision for all broadcasters requires that programmes considered as harmful to minors may only be shown after midnight. None of the Danish broadcasters implement either visual or tonal signals to warn the audience against the broadcast content. The only way to warn the audience is through speakers' announcement. Audience members with complaints can access a special telephone number set up by the DR. The complaint is written down, and further examined by the Board of Directors.

### 2.2.2 *Other channels*

Other channels are:

- Satellite and cable networks transmitting nationwide and operating under Danish license
- Local networks and the networking channel TvDanmark 2, which is based on about 15 of the local networks

They must apply for license from local boards organised at local authority level.

Local networks are private enterprises and the general rules from TVWF Directive (protection of minors, rules against discrimination) apply. No other special demands are placed on them with respect to programming. The local boards have a duty to supervise the local stations, while The Radio- and TV- Board supervises the networking programmes. In Copenhagen there is a special 24-hour local TV channel, which shows pornographic movies around midnight. Since the Local Board in Copenhagen has not been able to deal with that, the Radio- and TV Board has taken up some cases and uses the expertise of MCCY as a guide.

### 2.2.3 *The Radio and TV Board*

The Radio and Television Board was established under the Consolidated Broadcasting Act (chapter 4).

It is entrusted with the following tasks:

- Considering application for authorisation to provide programme services by satellite or cable systems to areas exceeding a single local area and grant as well as supervise such licenses
- Considering application for authorisation to provides national and terrestrial programme services (grant and supervise licenses)
- Making administrative decisions concerning advertising and sponsorship
- Managing fees
- **Making final decisions regarding protests related to any infringement of the regulation laid down in the Broadcasting Act** (possibility for revocation or lapse of a license)
- Making final administrative decision on the content of radio and TV advertisement

However, ex-post control (through examining complaints from the viewers) on content is limited to advertising and does not include the protection of minors. The Board has no power of sanction against DR or TV 2 except for advertising and sponsoring. The responsibility for other types of content essentially lies in TV channel programming departments' policy.

## **FINLAND**

A recent overhaul (2001) of the legislation applicable to the rating of audiovisual content led to films for theatrical release, videos, DVDs, video games, and video-on-demand to be put under the same umbrella (and submit to same classification categories and principles). The inclusion of video-on-demand has to be highlighted and puts Finland at the forefront of rating systems in Europe. The system consists of a uniform classification per age. The competent authority has the power to make cuts although it cannot fully ban an audiovisual work. Precise rules on packaging are also uniform and laid down under specific law.

The Broadcasting sector is required to conform to watershed rules and to implement announcements as well as either visual or tonal signals to warn the audience of programmes that could be harmful to children. Control of the actual implementation of these rules by broadcasters is in hands of two different bodies: the Mass Media Unit of the Ministry for Transport and Communication and the Ombudsman.

### **1. Film, Video, DVD, and video games**

#### **1.1 Applicable Legislation**

The applicable legislation is the New Act on Classification of Audiovisual Programmes ([775/2000](#)) which came into force on January 1, 2001. It builds on previous Acts on Film classification as well as on the Act relating to the inspection of video and other audio-visual programmes. The old system had revealed serious shortcomings as different rating systems were being applied to the different audiovisual media. The video classification only included three categories: “general audience”, “restricted for persons under 16” and “banned”. The decision for theatrical exhibition could additionally be accompanied by recommendations. Hence *Titanic* had been rated 12 for cinema entrance whereas it was classified “general audience with recommendation 12” with regards to video release.

The new act aims at creating a level playing field amongst the different media supports.

- The Act focuses on the protection of children and applies to:
  - Public exhibition of audiovisual programmes (cinema)
  - Distribution of audiovisual programmes (videos, DVD) for private use
  - Video-on-demand
  - Exhibition and distribution of interactive audiovisual programmes (games) but only to some extent].
  - Consequently it neither applies to television broadcasts, nor Internet online distribution (downloads).
- The Act defines a system of classification of programmes:

| <b><i>CAT 1</i></b>        | <b><i>CAT 2</i></b>                         | <b><i>CAT 3</i></b>                          | <b><i>CAT 4</i></b>                          | <b><i>CAT 5</i></b>                          |
|----------------------------|---|--|--|--|
| <b><i>For all ages</i></b> | <b><i>Only for persons over 7 years</i></b> | <b><i>Only for persons over 11 years</i></b> | <b><i>Only for persons over 15 years</i></b> | <b><i>Only for persons over 18 years</i></b> |

Programmes are defined as harmful to children’s development when their content is deemed violent, or “horrific”, or deemed harmful on the ground of their sexual content.

In any case, and independently of the need to get a film classified, all audiovisual works must be registered prior to their release/supply.

The corresponding symbols are as follows:

| Symbols for programmes/games  | classified | Explanation   |
|---|------------|---|
|  HQEOM3-W<br>VET / SFB   |            | Classified by the Board. For all ages.  |
|  HQEOM3-W<br>VET / SFB   |            | Classified by the Board. Only for persons over 7 years.                                   |
|  HQEOM3-W<br>VET / SFB   |            | Classified by Board. Only for persons over 11 years.                                      |
|  HQEOM3-W<br>VET / SFB   |            | Classified by the Board. Only for persons over 15 years.                                  |
|  HQEOM3-W<br>VET / SFB |            | Classified by the Board. Only for persons over 18 years.                                  |
| Symbols for registered programmes   |            |   |
|  HQEOM3-W<br>VET / SFB |            | Registered. For all ages.   |
|  HQEOM3-W<br>VET / SFB |            | Registered. Recommended for persons over 7. Used only in interactive programmes (games).  |
|  HQEOM3-W<br>VET / SFB |            | Registered. Recommended for persons over 11. Used only in interactive programmes (games). |
|  HQEOM3-W<br>VET / SFB |            | Registered. Recommended for persons over 15. Used only in interactive programmes (games). |
|  HQEOM3-W<br>VET / SFB |            | Registered. Only for persons over 18.   |

**Note:**

- When a programme is publicly exhibited a PG-option “2 years younger may attend if accompanied by an adult” is applied under categories 7, 11 and 15.

- Some programmes may be exempted from the classification process (see I.2.3).
- The Act foresees that all classified audiovisual programmes must be marked and labelled, using the symbols presented above.

Accordingly, the audiovisual programmes to be exhibited and supplied shall enclose:

- The title and duration of the programme and the identification number issued by the classification authority
- The name of the producer or the importer of the programme
- Information as to the approval of the programmes for exhibition and supply to persons who have not attained the age of 18
- Information concerning age category determined by the classification authority if a decision of approval has been made
- That cuts ordered have been made, and that the notification in respect of an unclassified programme has been submitted to the classification authority
- The recommended age category for an unclassified interactive audiovisual programme consistent with the age categories

No label or sticker on the recording itself is required. Yet the rules require that the identification number and the age category of the programme be marked either on the backside or on the front (and on the lower part) of the packaging; the location of the remaining information being left free to the publisher.

Stickers can be either freely printed by the publisher or downloaded from the Board's site. Size, colours, font and font sizes are detailed and must be respected.

Finally, the Act entrusts the relevant authority with a power of inspection. The classification authority shall charge one or several inspectors to inspect audiovisual programmes as enacted in a Government Decree. The opinion retained is the one, which is the most advantageous to the applicant.

## **1.2 Enforcement**

### *1.2.1 Finnish Board of Film Classification*

The Finnish Board of Film Classification consists of a director and a sufficient number of other inspectors. The director is appointed by the Ministry of Education and he/she appoints inspectors. The director must be an expert on audiovisual communications. A proportion of the inspectors must have expertise in questions relating to child development and the other part in audiovisual communications.

### *1.2.2 The Appeal Board of Film Classification*

Decisions of the Board can be appealed by the Appeal Board. The appeal process is open only to distributors or producers. The Board consists of six members (with personal deputies), appointed by the government for a term of three years. If the distributor or the producer is not satisfied with the decision of the Appeal Board, he can be appealed to the Supreme Administrative Court.

### *1.2.3 Rating Process*

Audiovisual works have to be registered and/or classified. A registration is sufficient if:

- The purpose is to show and distribute the programme only to those over 18 years of age.
- The programme:
  - a) is manufactured solely for education or other cultural purpose, for scientific research or for a hobby
  - b) is manufactured solely for marketing, with the exception of the marketing of the programme for one under 18 years of age
  - c) contains only or mainly a musical performance or a reproduction of a cultural, sports or physical exercise event or of a religious event or of other corresponding occasion or event
  - d) contains only topical news material
  - e) contains an animation, play, craft or other corresponding performance suitable for children of all ages
  - f) handles tourism, the environment or other corresponding topics

• In addition to the mandatory registration, the audiovisual programme must be classified if it is aimed at distribution for, or shown to people under 18 years (and does not enter into one of the categories listed above). If the classification authority, on the basis of the mandatory registration, suspects that a programme exempted on the basis of its contents contains harmful material to children, it may request the programme for classification.

The information to be provided by the applicant includes: the audiovisual work's title, manufacturer, importer, exhibitor, the country of production, the year of production, the director, main cast, duration, and genre of the audiovisual work submitted.

Fees are determined in accordance with the State Rates Act and the Ministry of Education Decree issued under it. Currently, the classification fee for a films (or video, DVD) is €2 per minute, the minimum fee being €34. The classification fee for an interactive audiovisual programme is €67.30 per programme and if the inspection of the interactive audiovisual programme takes more than half an hour, it will cost an additional charge of €25.30 per every beginning 30 minutes. The maximum fee is €337 per interactive audiovisual programme. The Board decides on the appropriate classification. Although it cannot ban an audiovisual work, it has the power to make cuts.

The "register extract" and the classification decision constitute the official proof of the fact that the programme has been registered or classified as required by the law.

The register extract or classification decision shall accompany each copy of the picture programme to be shown. In particular, packages of picture programme recordings rented, sold or otherwise conveyed for home use, have to bear the age-limit and other identification information either on a sticker or in printed form, as explained above. It is possible to lodge an appeal against a decision taken by the Board, or against the fee charged for the decision. Appeals are made to the Appeal Board of Film Classification (and can be brought before the Supreme Administrative Court).

Finally, it is a criminal offence to sell, hire or otherwise distribute:

- Films and other movie picture depicting brutal violence
- Pictures or moving pictures depicting sexual violence or animal pornography or child pornography
- An unclassified programme to persons under 18 or a classified programme to a younger person than the classification category requires.

Offences against the Act on Classification will be sanctioned by a fine. Offences against the penal Code will be sanctioned by a fine or a maximum imprisonment for two years.

## **2. Broadcasting**

There are four national Finnish television channels: *TV 1*, *TV 2*, *MTV 3* and *Channel Four*. In addition, the coverage of Swedish-language channel *SVT Europa* with programmes from the Swedish channels 1 and 2 extends over southern Finland. *TV 1* and *TV 2* are run by the Finnish Broadcasting Company, *MTV 3* by the private MTV company, and *Channel Four* by another private media company, *Oy Ruutunelonen Ab*.

Local television is not extensive in Finland. The first channel of this kind was started in Närpes and Kristinestad in 1993 and another in Tampere in 1995. The supply of cable television networks consists mainly of national television programmes and foreign satellite channels. In 1997, the cable television companies were relaying a total of 42 foreign channels, of which a few were free of charge and the majority on the basis of fee-paying.

### **2.1 Applicable Legislation**

- Television and Radio Operations 15.1.1999/14
- Act on the State Television and Radio Fund 9.10.1998/745
- Act on Television and Radio Operations 778/2000 given on 25 August 2000
- Act on the Finnish Broadcasting Company Ltd 22.12.1993/1380<sup>8</sup>

The Act on Television and Radio Operations incorporates the European Union's *Television without Frontiers Directive*, and accordingly:

- Under section 19, television broadcasters are required to ensure that:

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<sup>8</sup> Available on : <http://www.mintc.fi/www/sivut/english/tele/massmedia/index.html> Decree



*“Television programmes that are likely to cause detriment to the development of children due to their violent nature or sexual content or by provoking horror or in another comparable way are transmitted at times when children do not usually watch television programmes”.*

- If programmes unsuitable for children are broadcast, they:

*“Shall be preceded by an announcement regarding their detrimental effect to the development of children. An announcement shall not be required if the broadcast is identified by the presence of a visual symbol throughout its duration indicating the detrimental effect of the programme to the development of children”.*

In practice, TV channels make use of watershed (9pm) and of tonal signals (as well as speaker announcements previous to the programme).

These provisions do not apply to encrypted television programmes.

- Section 25 addresses the issue of the protection of minors in television advertising.
- Under section 35, the relevant Finnish communications regulatory authority and the Consumer Ombudsman are entrusted with the mission of supervising compliance with the Act. Under chapter 6, should a television or radio broadcaster violate the Act or the provisions or regulations issued, the supervisory authority may issue a reminder to the broadcaster and request him to correct its error. The decision may be enforced by the conditional imposition of a fine as provided for in the Act on the Conditional Imposition of a Fine. Appeals against the decisions of the relevant ministries, authorities and of the ombudsman may be lodged. But the relevant ministries and other authorities may in their decision order that the decision be complied with before it has become final (although the appeal authority may prohibit the enforcement of the decision until the appeal has been decided).

## 2.2 Enforcement:

The **Mass Media Unit of the Ministry of Transport and Communication**<sup>9</sup> is responsible for mass media administration in Finland. It handles television broadcasting, legislation, law and license drafting. It supervises compliance with the Act on Television and Radio Operations as well as license conditions, and collects television and license fees.

The **Ombudsman** is also in charge of ensuring compliance with the Broadcasting Acts, in particular towards consumers.

Finally it is worth mentioning the recent creation of the **Finnish Communications Regulatory Authority** (FICORA), which is a general administrative authority for issues concerning electronic communications and information society services. Its missions are to promote the development of the information society in Finland. It is in the same administrative sector as the Ministry of Transport and Communication.

FICORA issues technical regulations and coordinates standardisation work at national level. It supervises the technical functioning and security of communication networks, coordinates numbering in telecommunication networks and allocates number blocks and codes for operators.

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<sup>9</sup> <http://www.mintc.fi/www/sivut/english/tele/massmedia/index.html>

It also controls radio frequencies and has duties concerning the protection of private and data security in electronic communications. Finally, FICORA monitors television and radio programmes to ensure their compliance with the statutory requirements on European works, advertising and sponsorship.

Although it does not directly deal with the regulation of content, FICORA mixes elements of an authority in charge of telecommunication networks and an authority in charge of monitoring content requirements (namely provisions governing advertising and sponsorship).

## FRANCE

France benefits from a remarkable broadcasting system. A uniform rating system was set up and then applied across all terrestrial TV networks. It consists of a classification per age, with corresponding on-screen symbols, and watersheds (which vary within fixed limits from one TV channel to another). The *Conseil Supérieur de l'Audiovisuel* (CSA) is in charge of controlling and sanctioning TV channels.

Films for theatrical release, as well as videos/DVDs of films that were previously theatrically released, are classified via a mandatory procedure, which presupposes any possibility for distributing an audiovisual work to the public. A specific procedure for hard-core pornographic and extremely violent films was also set up, and governed by specific rules. The body in charge of film classification is a specific commission under the aegis of the *Centre National de la Cinématographie* (CNC), which includes representatives from film professionals and from civil society. It classifies films intended for theatrical release, whilst a specific committee under the Ministry of Home Affairs is in charge of controlling *a posteriori* videos and DVDs distribution.

Video games are rated under a self-regulation scheme, which includes classification per age, a system of uniform stickers to mark the video sleeves, and a “surveillance committee” which was set up by the national syndicate of leisure software publishers.

### **1. Feature Films for Theatrical Release**

#### **1.1 Applicable Legislation – essential texts**

- Ordinance n°45-1464 of 3 July 1945 on the delivery of “certificates for exploitation” to film exhibition in France.
- Decree n°2001-618 of 12 July 2001 amending Decree n° 90-174 of 23 February 1990 on the classification of cinematographic works.
- Decree n° 2002-945 of 28 June 2002 on the representation of the *Défenseur des Enfants*.
- Decree n°92-445 of 15 May 1992 on the access of minors to cinema theatres
- Decree n° 2001-619 of 12 July 2001 adapting decree n° 92-445 to new provisions laid down by decree n° 2001-618.
- Article 11 and 12 of Finance Law n°75 – 1278 of 30 December 1975 (pornographic films).

#### **1.2 Enforcement**

##### *1.2.1 The Film Classification Commission*<sup>10</sup>

The FCC depends on the Ministry for Culture and Communication. It is hosted by the *Centre National de la Cinématographie*.

It is composed of:

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<sup>10</sup> composition and internal rules are laid down under:  
Decree n°90-174 of 23 February 1990  
Decree n° 2001-618 of 12 July 2001

- 1 president and 1 deputy president appointed by the French Prime Minister
- 25 members (as well as 50 deputy members), all appointed by the Ministry of Culture.

They constitute four different colleges:

- A college comprised of representatives from the Ministries for Justice, Education, and the Youth, Home Affairs and Social Affairs
- A college of film professionals
- A college of experts (from the Ministries of Justice, Education, Youth and Social Affairs, the CSA Audiovisual Council –see part III. Broadcasting), National Union of Family Associations, the Union of French Mayors and the *Défenseur des Enfants*.
- A college representative of “the youth”

It is entrusted with the mission of protecting childhood and the youth, through:

- Monitoring films released (feature films for both theatrical release and video supply)
- For each film, proposing to the Ministry for Culture and Communication a certificate for exploitation, which may be accompanied by specific age restrictions for the minors under 12, 16 or 18.
- The delivery of the certificate is mandatory.

The plenary Commission gathers regularly on Tuesday and Thursday evenings: this is to let its members complete their professional activities normally. It stops working in August and therefore an exceptional meeting is usually organised on the last Wednesday evening in July, the sub-committees gather every day in office hours. The wide composition of the Commission reinforces its authority: it is difficult for a mayor to challenge a decision which was taken by a college of individuals involving representatives from film profession, different parts of civil society, and representatives from the State. In practice, only a few decisions are overruled by local authorities (mayors): 1 case every 5 years. In order to overrule the commission’s decision, a mayor must show that the screening of the film on the territory of his commune would trigger trouble to public order he would not be able to handle.

The rating system applied by the commission is as follows:

|   |                |   |
|---|----------------|---|
| a.  | U              | General Audience (U)  |
| b.  | Certificate 12 | Forbidden to children under 12  |
| c.  | Certificate 15 | Forbidden to children under 16  |
| d.  | Certificate 18 | Forbidden under 18 (*)  |
| e.  |                | Registration of the submitted work on specific lists of pornographic films or film of extreme violence (*) (**).<br><br><u>Note:</u> As the production of pornographic films is essentially turned towards the video market, no specific certificate for pornographic films intended for theatrical release has been issued since 1996. |
| f.  |                | <b>Prohibition*</b><br><br><u>Note:</u> No film has been prohibited since 1979  |
| <p>* Such decisions can only be adopted by a majority of 2/3 of present members. The Commission does not decide on the basis of determined criteria.<br/> (**) Under the Finance Law of 30 December 1975, pornographic films and extremely violent films are subject to a specific registration process –see below-</p> |                |   |

## 1.2 Exemptions

In the case of films that are being screened in the framework of film festivals or special events organised in the framework of schools and universities, the Culture Minister may, after consultation of the Commission's president authorise the exhibition of a film which has not been granted the certificate for exploitation.

## 1.3 The Rating Process

### 1.3.1 *Application:*

Any film intended for public theatrical release (including imported films) must be registered on the Public Cinematographic and Audio-visual Register (and granted the exploitation certificate - "*visa d'exploitation*"). Any failure to complying with this obligation is sanctioned by a fine (€3049 to €3.048.980).

This registration includes content classification. The Ministry of Culture delivers exploitation certificates after consultation of the Commission for Film Classification. The producer or habilitated person must send the Commission a letter at least one month before the first public exhibition.

Classification fees ("*taxes de vision*") are in proportion of the film length and the percentage is fixed at €0.03 per meter for 35 mm films.

### 1.3.2 *Classification process and decision:*

The Commission for classification meets in sub-committees. It may:

- Propose certificate without condition: if a first viewing goes without objections, the certificate for exploitation is delivered "for all public". The actual delivery is made by the Ministry for Culture, who in practice follows indications given by the Commission.
- Propose certificate with restricted measures. If restrictive measures are suggested, the audiovisual work is sent back to the plenary session. The Ministry for Culture takes final decision.

The commission can neither impose nor suggest any cut. It may suggest a restrictive measure and let the producer bring changes he deems necessary. If such changes are completed, the film is submitted to the commission for a second appraisal. This case is extremely rare.

- In the case of pornographic and extremely violent films, the certificate for exploitation is given by ministerial decision, and the lists are published on the Official Journal. Pornographic films can only be exhibited in specific theatres (any breach is sanctioned by a fine). Such classification entails financial consequences: the special tax perceived in France on ticket sales does not apply; such films and theatres can not access public support; the law sets additional taxes on the production and broadcasting of such audiovisual works.
- In extreme cases, the Commission may prohibit the film submitted. Such decisions can only be made subject to a majority of 2/3 of present members. The Commission does not decide on the basis of determined criteria.

When the certificate for exploitation includes an interdiction to minors under 12, 16 or 18 or when the feature film is classified under specific lists, which entails that exhibition be forbidden for minors under 18, the classification must be mentioned on any poster, trailer or advertising, whatever the mean of diffusion used.

Under Decree n°2001 – 619 of 12 July 2001, when a feature film forbidden to minors under 12, 16 or 18 is being exhibited, a poster of at least 50 cm including the words “forbidden to minors under x years” must be posted at the box-offices, as well as above the time-schedules and price tables.

If the work is being broadcast on a TV Channel, the audience must be warned both during the broadcasting and through related advertising in the press, on radio, and on television.

When the work is published on a video format, each item (published for renting or sales purposes), as well as each package, must be marked with the according interdictions and certificate of classification.

In case false information was submitted in applying for the certificate, the Ministry for Culture may declare the granted certificate non-valid.

In case a film was exhibited with a false certificate, or without certificate:

- the film may be retrieved by the police
- the film may be subject to legal prosecutions, which could end up in fines, and even the temporary or definitive prohibition of working within the cinematographic industry.

## **2. Video, DVD**

Since the 1980's, the CNC has been partially involved in the video sector. Publishers, distributors, and rental shops have to declare their activity (registration is mandatory). In turn, they get a reference number, which must be quoted on the packaging, and on the videotape. The reference number begins with EDV, followed by an allocated number.

Two procedures apply to the classification of audiovisual works included in a video/DVD:

- The classification granted by CNC must be applied (Commission for Film Classification), in cases where the audiovisual work was previously classified as a feature film for theatrical exhibition. Both the packaging and the videotape must be marked with the category and different ratings mentioned in the distribution certificate.
- In regards to films that were not previously theatrically released, i.e. films that were not previously registered and granted the exploitation certificate (“visa”), there is no specific system of content classification. However any person who wants to publish or distribute videos for private usage must register his/her activity at the CNC.

Additionally, the Penal Code foresees that the production, distribution or diffusion of any violent or pornographic message can be punished by 3 year imprisonment or a 50 000 ff (€7623)

fine. A specific committee under the Ministry of Home Affairs is in charge of controlling *a posteriori* videos and DVDs distribution.

Finally, a system of self-regulation was developed by the association of video publishers (SEV). It applies in cases where the film, documentary or cartoon is directly distributed on video and must be clearly displayed on the video packaging.

### **3. Video games**

The national association of leisure software publishers (SELL- *Syndicat des éditeurs de logiciels de loisirs*) was created in 1995. It set up a system of self-regulation of content, which implements 4 age categories:

- “suitable for all”
- “adult public - not recommended for people under 16”
- “not recommended for people under 12”
- “forbidden under 18”

In 1998, SELL initiated a process of collaboration with industry professionals, with a view to overhaul the system of self-regulation, give it more visibility and ensure better implementation. It was decided that logos would have a minimum size, and be systematically located on the back of video boxes. An additional sticker “forbidden under 18” would also be located on the front of the box.

The use of colors was also harmonized:

- Green for audiovisual works that are suitable for all
- Blue for audiovisual works not suitable ‘under 12’
- Orange for audiovisual works not suitable under ‘16’
- Red for audiovisual works for adults

The reform led SELL to set up an online system, which enables determination of the relevant age categories applicable to a video game.

Finally although legal responsibility lies in the hands of the publisher, SELL decided to set up a special committee in charge of following the implementation of the classification system. It has the power to alert a publisher on a misleading or non-relevant implementation of the system of classification, and may invite him to change it when need be.

In addition to this system of self-regulation, publishers are subject to the Penal Code.

## 4. Broadcasting Sector

### 4.1 Applicable legislation

- Law 86-1067 of 30<sup>th</sup> September 1986 on the freedom of communication<sup>11</sup>. Article 15 (as completed by article 19 of Law 2000-719) lays down rules aimed at the protection of children:
  - It establishes the CSA as the body responsible for controlling TV programmes regarding the protection of children and the respect for human dignity
  - It sets up basic guidelines: programmes that may damage minors' moral, mental, physical development must be broadcast within specific broadcasting hours and signalled by specific technical processes
  - Programmes including hatred, violence, discrimination on the ground of sex, religion or nationality reasons are prohibited

These basic guidelines were then “translated” into a concrete rating system, which is enforced by all TV channels (free-to-air, cable and satellite). It includes the “terms of reference” and “agreements” negotiated by the CSA and TV Channels, when granting licenses.

### 4.2 Enforcement

#### 4.2.1 CSA

The *Conseil Supérieur de l'Audiovisuel* is an independent administrative authority created under the law of 17 January 1989 to guarantee broadcasting freedom, under the conditions laid down by the Law of 30<sup>th</sup> September 1986.

The CSA:

- Controls quality content, particularly in light of the protection of children, and ensures the respect of human dignity
- Makes recommendations to broadcasters on how to respect of the principles laid down under relevant legislation
- Sets up conventions with private broadcasters, including those regarding the information and the rights of the audience, as well as the protection of children and the respect of human dignity
- Has the power of sanction

#### **The definition of a uniform rating system**

The control of a programmes' content by the CSA is based on the implementation of a uniform youth rating system.

In its regulation of 5 May 1989, (published in the Official Journal of May 1989), the CSA laid down essential principles relating to rating of broadcasting content:

- Broadcasters must not broadcast youth programmes including scenes that may hurt the audience's sensitivity

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<sup>11</sup> <http://admi.net/jo/texts/ld.html>



- Broadcasters must give due attention to broadcasting time. They shall not show programmes with an implicit sexual content or an incitation to violence between 6am and 10.30pm
- Broadcasters shall warn the audience accordingly

Following on this regulation, a uniform rating system, applicable to all TV broadcasters was set up. It was first elaborated for non-encrypted terrestrial channels in 1996 and then modified in 1998 so as to be applicable to private encrypted channel Canal Plus. The system should be eventually adopted by all broadcasters, encrypted or not and regardless of the broadcasting medium (cable, satellite, terrestrial).

The system includes the following classification per age:

|       |   |
|-------|---|
| CAT 1 | General Public  |
| CAT 2 | Parental consent desirable (blue) <sup>12</sup>       |
| CAT 3 | Parental consent necessary or certificate 12 (orange) |
| CAT 4 | Adult Public Certificate 16 (red)                     |
| CAT 5 | Certificate 18 (purple)                               |

*Source: The 1998 Rating Systems (in: rapport Oxford)*

Note: as already noted above, in the case of feature films, rating decided by the CNC must apply.

In practice, the CSA records all the programmes that are being broadcast by 9 national hertzian channels: TFI, France 2, France3, Canal Plus, France 5, Arte and M6, and two additional channels, which vary from time to time (currently the CSA controls programmes broadcast by LCI and Al Jazeera, the Qatar channel).

One expert is attached to the control of each channel. He is in charge of screening all the programmes broadcast and, in particular, controlling whether the classification per age and its corresponding warning symbols are adequately implemented. With regards to “sensitive” programmes that may hurt children and the youth, a special screening committee may meet. During such meetings, the specific experts attached to each channel will present all the programmes for which either the absence of visual symbols, or the choice made in selecting a visual symbol, was problematic. If a problem is acknowledged, the issue will be further referred to by a specific working group, and if a specific decision (sanction) is required, the issue will eventually be addressed in plenary session.

It is impossible to record and watch the 650,000 hours of cable and satellite programmes that are being broadcast every year (figures from year 2000). Another approach was consequently adopted. The CSA analyses pre-programmes and checks whether the time-schedules are in conformity with the established rules. This analytical work is completed by the screening of selected recorded programmes: for instance, all the new programmes are systematically being recorded and screened, and a specific attention is given to the application of visual symbols with youth in mind. A similar control is being applied to local channels and temporary channels.

### **Recent changes to the rating legislation**

In June 2002, the *Conseil Supérieur de l’Audiovisuel* decided to improve the French broadcasting rating system (applicable to free-to-air, encrypted, cable and satellite TVs). After a consultation with both parents and the public, it has established a new and clearer system. The reasons for the change were that:

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<sup>12</sup> In a recent study on how the French public understands the implemented visual signals, the CSA noted that the “blue” colour was a problem since in the western culture, the blue colour does not refer to any specific signification, whereas red refers to forbidden actions and green to what is permitted.

- The colours used until now were deemed misleading
- Until now, the rating system used by TV channels did not explicitly mention an age category but instead, each colour corresponded to an “warning sentence” such as “*accord parental souhaitable*” (i.e. parental guidance) which was deemed unsatisfactory

The new system, in conformity to other rating systems implemented in France for theatrical release, video games, or children literature, mentions an indicative age, and does not include any colour. They consist of a black and white icon indicating an age : - 10, -12; -16, -18.

- **- 10:** [Category I] “not suitable under 10”
- **-12:** [Category II] “not suitable for children under 12 or forbidden under 12 for theatrical release”
- **- 16** [Category III] “not suitable for minors under 16 or forbidden under 16 for theatrical release”
- **- 18** [Category III] “not suitable under 8 or forbidden under 18 for theatrical release”.

The screen-icon must now appear at the bottom of the screen during the whole broadcasting time of the trailer / advertisement for the programme.

Additionally,

- Programmes under category II: the screen icon must appear during 5 minutes (instead of 2 minutes until now) when the programme starts. It must be displayed during one minute after any programme interruption. For all the programmes over 30 minutes and that are not interrupted, the screen-icon must be displayed during one second after the first 15 minutes.  
The warning sentence “not suitable under 10” (*déconseillé aux moins de 10 ans*) must be displayed for a minimum of one minute before the programme starts and after any interruption. For all the programmes exceeding 30 minutes and that are not interrupted, the same sentence shall be displayed a second time, together with the screen icon.
- Programmes under categories III, IV, V: screen icons must be displayed during the whole broadcasting time. The corresponding warning sentence must be displayed during one minute when the programme starts and one minute after any interruption of the programme

On-screen icons, “warning sentences” can be downloaded from the CSA website (tga format) together with the new guidelines

Same icons and warning sentences can also be downloaded in a “paper format” for publications<sup>13</sup>.

### Sanctions

The procedure for sanctions is launched if there is a previous formal demand relating to a TV channel’s failure to meet its contractual obligations.

Sanctions include possibilities for:

- financial sanctions
- a revocation of a broadcasting license.

<sup>13</sup> [http://www.csa.fr/themes/television/television\\_signalétique3.php](http://www.csa.fr/themes/television/television_signalétique3.php)

Once the procedure is launched, the CSA meets in plenary session (at least 6 members nominated for a six year period – three of which, including the president, are appointed by the French President of the Republic, three by the president of the Senate, and three by the president of Parliament)<sup>14</sup>.

#### 4.4.2. TV Channels Rating System: Content and Enforcement

The “terms of reference” (negotiated by the CSA with public channels<sup>15</sup>) and “agreements” (negotiated with private channels<sup>16</sup>) regulate the conditions attached to the granted broadcasting authorisation.

They include provisions relating to the control of programmes’ content, in conformity with the uniform rating system mentioned above.

##### • TV Channels’ rating system – an overview

|   | France 2 France 3   | La Cinquième                                       | TF1 – M6   | Canal Plus  |
|---|---|--|--|---|
|   | Decree n° 94-813 16 September 1994  | Decision n°98-774 of 20 <sup>th</sup> October 1998 | Agreement of 31 July 1996  | Agreement of 29 May 1999  |
| Rating system                             | <i>Application of the uniform rating system of five categories, defined in agreement with CSA</i> |  |  |   |
| Visual codes                              | <i>Application of same visual codes</i>   |  |  |   |
| Time watershed                            |   |  | <ul style="list-style-type: none"> <li>• Family programmes (i.e. no violence, nor violent sex) are broadcast between 6am and 10.30pm.</li> <li>• Programmes belonging to CAT 3 can not be broadcast before 10pm</li> <li>• CAT 4: after 10.30pm</li> </ul> | <ul style="list-style-type: none"> <li>• CAT 3: can not be broadcast on Wednesday before 10.30pm</li> <li>• CAT 4: not before 8.30pm</li> <li>• CAT 5 Can not be screened during unencrypted programmes between 5am and 12pm</li> </ul> |
| Enforcement of the system of visual codes | It varies from one channel to another<br>See table 2.   |  |  |   |

##### • Enforcement and Control of the Uniform Rating System by TV Channels

Each TV channel has set up its own committee responsible for the enforcement of content control. The following table was taken from the Oxford Report, which was completed for the European Commission on Parental Control of Television Broadcasting.

|                      |  |
|----------------------|--|
| France 2             | France 2:<br>Internal commission composed of channel’s staff – session every week. Experts appointed by the broadcaster make notes on the programmes to be broadcast. The internal commission examines the notes to establish classification. If there are any difficulties, the commission refers to other members of the channel.  |
| France3              | Internal commission composed of 6 members.<br>The broadcasting time is not a variable that is taken into consideration for the rating; meaning that the same criteria are applied whatever the envisaged time schedule.  |
| TF1<br>TF1 continued | Internal commission composed of one representative per programming unit (approx.10 members). The members are in charge of rating their own programmes. This is checked by two people, one of whom is the programming Director, who gives a favourable or unfavourable opinion. In case of disagreement, arbitration is made at the level of the General Direction or the President.  |
| M6                   | 2 committees:<br>- selection committee: external committee composed of mothers and young people, who watch every programme prior to making the decision whether to buy it. It gives qualitative assessment as well as an initial classification per age. The decision to buy the programme is made according to its quality and to the icon that must apply<br>- screening committee: external committee composed of solely mothers (with children under 12 who watch programmes a second time 4 to 5 weeks prior to the broadcast (films whether or not prohibited under 12’s, TV |

<sup>15</sup> France 2, France 3, La Cinquième

<sup>16</sup> TF1, M6 and Canal Plus

|            |  |
|------------|--|
|            | <p>films, documentaries or magazines which could cause problems as well as series that are broadcast in the first second or third part of the evening). This committee confirms or modifies the first assessment regarding the icon to be displayed.</p> <p>The committees do not take decisions but only make proposals. The final decision is made by the Programming Director, or if there is a dispute, the Assistant General Director in Charge of Programmes, the General Director or the President</p>  |
| Canal Plus | <p>Follow the rating of the Film Classification Board when a film is broadcast.</p> <p>Occasionally Canal Plus rates a film more strictly.</p> <p>There is no screening commission as such.</p> <p>For films prohibited to under 12s there is no restrictive regulation applying to Canal Plus (Canal Plus being broadcast in encrypted form). But the decision was taken not to broadcast them during times where parental control may not be exercised.</p>  |
| ARTE       | <p>Arte is part of the Groupement Européen d'Intérêt Economique (GEIE) that consists of a French company, la Sept and the German public broadcasters (ZDF and ARD stations).</p> <p>It is not specifically the broadcasters that rate the programmes but the content providers (who are mostly broadcasters themselves in their own country, except la Sept. Each broadcaster providing a programme to Arte must:</p> <ul style="list-style-type: none"> <li>- verify if a programme is adapted to a young audience</li> <li>- indicate to ARTE GEIE the ideal broadcasting time</li> </ul> <p>Nonetheless there is a commission, the <i>Conférence des programmes</i>, which deals with contentious issues and other programmes of ARTE. A member of this commission is responsible for the protection of minors and is completely independent. They must be consulted if any doubts are raised regarding a programme.</p> <p>The most important difference from other channels comes from the international Treaty creating ARTE which states clearly that Arte is not subject to any Government or administrative authority. This is why arte does not apply the visual icons system.</p> |

## GERMANY

In Germany the practice of classifying of audiovisual products is mostly the product of self-regulation by the industry. A law on the protection of the youth exists, which sets out clear criteria (age categories, admittance hours for film theatres) for the exhibition and distribution of films, videos and DVDs. The actual rating process is implemented by voluntary boards of classification, created by the film industry and submitted to public control at regional level. FSK is the board competent for film classification. USK classifies video games on a voluntary basis. Besides regular classification, a special board (BPjS) deals with publications, which on grounds of their particularly harmful content, are forbidden to minors and may not be accessible to everyone.

The German Parliament, following the tragic collective slaughter in Erfurt, has recently adopted a new law on the protection of minors, but it has not yet entered into force. It foresees stricter criteria for the rating of audiovisual products and it makes video games classification mandatory by law.

Within the broadcasting sector, self-regulation is implemented by private networks, which have set up the FSF as common rating board in charge of the examination of films and other programmes prior to their broadcast. Public service channels such as ARD and ZDF follow internal codes of practices as regards protection of minors.

## **1. Film, video and video games**

### **1.1. Applicable legislation<sup>17</sup>:**

- Law on the protection of the youth in public places (*Das Gesetz zum Schutze der Jugend in der Öffentlichkeit – JÖSchG*) of 25 February 1985, modified on 28 October 1994
- Law on the diffusion of writings and media content endangering the youth (*Das Gesetz über die Verbreitung jugendgefährdender Schriften und Medieninhalte – GjSM*) of 12 July 1985, modified:
  - i) by law of 29 October 1993
  - ii) by art. 16 of law of 28 October 1994
  - iii) by art. 6 of law on information and communication services (IuKDG) of 22 July 1997

- §6 of the law on the protection of the young in public places (JÖSchG) deals with public film screenings in the framework of the protection of minors. It states that people under the age of 18 can only attend public screenings of films that have been previously released for exhibition by the competent authorities, which in this case are the Supreme Youth Authorities of the Federal States (*Oberste Landesjugendbehörden*). Children under 6 years can only attend public screenings if accompanied by an adult. Films, which are considered likely to endanger the physical, moral or spiritual development of young people cannot be released for general exhibition.

The law provides the Supreme Youth Authorities with a series of age categories:

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<sup>17</sup> German laws applicable to minors protection in the media field are available on the website <http://www.jugendjockel.de/jugendgruppenleiter/schutz.htm> with an accurate commentary of their content.

| 1                 | 2                                | 3                                 | 4                                 | 5                                 |
|-------------------|----------------------------------|-----------------------------------|-----------------------------------|-----------------------------------|
| No age limitation | Suitable for people older than 6 | Suitable for people older than 12 | Suitable for people older than 16 | Suitable for people older than 18 |

Besides these age limitations, the law adds some measures intended to regulate film attendance by children and young people in relation to screening hours. Consequently, unaccompanied children and young people must respect the following timetable when they go to the cinema:

|   |                              |            |
|---|------------------------------|------------|
| 1 | Children                     | Until 8pm  |
| 2 | Young people younger than 16 | Until 10pm |
| 3 | Young people older than 16   | Until 12pm |

This combination of conditions creates quite a complex situation, which can be summarised as follows:

| Attendance to public screening of films rated as: | Children and young people               |                                   |  |                    |
|---|---|-----------------------------------|--|--------------------|
|   | Under 6                                 | Older than 6                      | Older than 12  | Older than 16      |
| Free for all                                      | Allowed only if accompanied by an adult | Without the presence of an adult: |  |                    |
|   |   | Allowed until 8pm                 | Allowed until 8pm<br>Older than 14: allowed until 10pm | Allowed until 12pm |
| Suitable for people older than 6                  | Not allowed                             | Allowed until 8pm                 | Allowed until 8pm<br>Older than 14: allowed until 10pm | Allowed until 12pm |
| Suitable for people older than 12                 | Not allowed                             | Not allowed                       | Allowed until 8pm<br>Older than 14: allowed until 10pm | Allowed until 12pm |
| Suitable for people older than 16                 | Not allowed                             | Not allowed                       | Not allowed  | Allowed until 12pm |
| Suitable for people older than 18                 | Not allowed                             | Not allowed                       | Not allowed  | Not allowed        |

In addition to the complexity of this scheme, it is important to underline that only films rated by the Supreme Youth Authorities can circulate freely in the country. Other films are not prohibited, but they are automatically intended as films for adults, i.e. people older than 18.

§ 7 of JÖSchG applies to videocassettes, DVDs and other similar supports. It provides for this modality of film exhibition the same rules as for theatrical release, the prohibition to sell and/or distribute in any way videos and DVDs that have not been examined and rated by the Supreme Land Authorities. Same age categories apply.

Law on the diffusion of writings and media content endangering the youth (GjSM) applies to films that have not been rated, or that have been rated as unsuitable for minors. Under this law, films, which could endanger the moral development of children and young people have to be put on a "list". The board entitled to implement provisions laid down by the GjSM is the BPjS (*Bundesprüfstelle für jugendgefährdende Schriften*, Federal Examination Department for publications endangering minors). Films must be put on the list in particular when they contain sexually explicit scenes, extreme violence, criminal behaviour, racial discrimination or if they glorify of war. However, to prevent any form of ideological censorship, an audiovisual work may not be included in the list only because of its political, social, religious or philosophical content, or if it has cultural or scientific purposes.

## 1.2. Enforcement

- Even though the authorities responsible for film classification are the Supreme Youth Authorities of the Länder, in practice the actual rating process is delegated to an independent body called the **FSK** (*Freiwillige Selbstkontrolle der Filmwirtschaft*, Voluntary self-regulation board of the film industry).

The FSK is an institution organised under private law. It depends in its juridical status on the SPIO (*Spitzenorganisation der Filmwirtschaft*), the federation of 11 German film and video industry groups. It has a double nature. On the one side, it is a direct emanation of the film industry interests. On the other side, it has been entrusted on 1 April 1985 by mean of an agreement with the Supreme Youth Authorities of the Länder with the task of examining all the films intended for exhibition on the German territory. Moreover, SPIO members committed themselves to rate all films and video they put into commerce.

About 150 people work as examiners for the FSK. They come from different professional backgrounds including journalists, teachers, psychologists, media experts and students. The normal working committee is composed of seven members:

- the permanent representative of the Supreme Youth Authority
- an expert of youth protection coming by turn from one of the 16 Länder
- two rotating representatives of the public authority
- three experts appointed by the film and video industry

Decisions are the result of a simple majority vote. The permanent representative of the Supreme Youth Authority acts as president of the committee. In the case of films deemed unsuitable for minors, the three industry experts can decide whether to rate the film as “unsuitable for people under 18”. Short films, films having already been broadcast on TV or films older than 15 years are examined by a smaller committee composed of the public authority representative, the film and video industry expert and the permanent representative of the Supreme Youth Authority. In this case the decisions are taken unanimously. Music videos and other special programmes undergo a simplified rating procedure.

- The **BPjS** is a public board reporting to the Federal Ministry for women and youth. The Minister appoints the president and some of the members of the BPjS; other members are appointed by Land regional governments. The Minister can select the experts he/she wants to appoint among the following categories:

- Arts
- Literature
- Book shops
- Publishing industry
- Persons in charge of free youth aid
- Persons in charge of public youth aid
- Teachers
- Churches, Jewish communities and other religious groups

A detailed list of organisations belonging to these areas is given by § 9a of GjSM. The BPjS working committee is composed of 12 people: the president, three Länder representatives and one representative for each one of the above mentioned categories. Quorum is set at 9. It is

important to underline that the BPjS can only act on request of authorised institutions. These include 1) the Supreme Youth Authorities of the Länder, 2) the youth welfare departments, 3) the youth welfare departments of the Länder, 4) the Federal Ministry for women and youth. Altogether, about 900 institutions can address themselves to the BPjS in order to make a request for a publication to be examined as potentially dangerous for minors.

### **1.3. The rating process**

#### *1.3.1 Application*

The FSK screens all the films and videos/DVDs that are put on the market in Germany. Unclassified films are not prohibited, but their circulation is limited to an adult public. The BPjS only examines films rated as “unsuitable for minors” and those including pornography and/or scenes of extreme violence, on request of a competent authority. Practical consequences of the inclusion of a film on the BPjS list are some limitations to the film circulation: the indexed film may not be sold, rented, delivered or distributed in any form to children and minors, and it may not be advertised.

#### *Duration and cost:*

The average cost per a 90-minute feature film is €1500. It takes one week to get the FSK certificate. The cost of the appeal procedure is €750 and the duration is the same as for the normal procedure: one week.

#### *Cuts:*

The FSK may submit the certificate release to a recommendation of re-editing some parts of the film. The producer/distributor can accept this advice and agree to the recommended cuts otherwise he/she can apply for a higher age limitation. The possibility exists to present different versions of the film to the FSK examination.

#### *Appeal:*

The submitter may appeal the decisions made by the FSK. The new committee is composed of nine people that have not taken part in the first decision. The two additional members are representatives of the film industry and of public authority.

Another possibility of appeal is open for each one of the Länder and the SPIO. A committee can be appointed, whose members consist of a jurist, two experts in the field of youth protection and four representatives of the Supreme Youth Authorities of the Länder. The decisions taken by this committee are valid throughout the national territory.

*Video:* Regarding practical consequences of the FSK rating on videos and DVDs, § 7 of JÖSchG provides that the age limitation be clearly displayed both on the package and on the cassette/disc, in a way that avoids falsification and piracy, before the product is put into the market.

Unclassified films, as well as films rated as unsuitable for minors, may not be offered, rent or sold to children and minors. Videos and DVDs cannot be distributed through automatic devices to the public.



## 1.4. Video games

In Germany video games are rated on a voluntary basis by the **USK** (*Unterhaltungssoftware Selbstkontrolle*, Entertainment software self-regulation body), established on October 1, 1994. The USK acts mainly as a provider of expertise in the field of the interactive media and entertainment software industry. There is no legal provision that video games be classified, but the work of the USK has practical consequences. The VUD (*Verband der Unterhaltungssoftware Deutschland*), the German Association of the Entertainment Software Industry, has publicly recognised the USK as the relevant self-regulation board for software products. Furthermore, German department stores have agreed on a common policy requiring that only video games previously rated by the USK can be sold to the public. In fact, even in the absence of a legally binding framework, self-regulation has reached the important goal of raising awareness among users and consumers about opportunities and risks linked to interactive media software.

The USK is an independent body, exclusively financed from the fees paid by submitting companies. Its advisory council is composed of experts coming from various fields (science, culture, minors protection) and members of the two USK official supporters, the VUD and the association for the promotion of youth and social work. This advisory council checks and monitors the USK activities. In practice, the USK structure is quite reduced. With only four staff members, 27 experts and seven game testers, it manages to get applications from 195 companies. The advisory council appoints experts and testers and they may not be active in the video games industry and their function is honorary.

Concerning the actual rating procedure, the USK acts on request from producers. It examines interactive media software, in particular video games, prior to their public release. The age limitations are the same as the ones established by the FSK for films and videos. This rating cannot lead to any restriction on the selling or renting of video games. Rather, it is intended to offer some practical advice to users, and especially to families and children. On its website<sup>18</sup> the USK provides for a clear explanation on the rating categories it uses in its work. The USK evaluation is displayed on the product by mean of a sticker.

Since its foundation, the USK has assessed 6610 products (2001 figures):

| Year | Number of products rated per year |
|------|-----------------------------------|
| 1994 | 215                               |
| 1995 | 1107                              |
| 1996 | 1039                              |
| 1997 | 823                               |
| 1998 | 696                               |
| 1999 | 849                               |
| 2000 | 932                               |
| 2001 | 949                               |

The following chart gives an idea on how these games were rated:

|                                   |       |                                      |      |
|-----------------------------------|-------|--------------------------------------|------|
| Suitable for all                  | 37.9% | Suitable for people older than 18    | 4.1% |
| Suitable for people older than 6  | 15.6% | Certificate denied after examination | 0.3% |
| Suitable for people older than 12 | 21.6% | No uniform opinion of the committee  | 0.1% |

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<sup>18</sup> <http://www.usk.de/>

|                                   |       |                      |      |
|-----------------------------------|-------|----------------------|------|
| Suitable for people older than 16 | 19.2% | Application rejected | 1.2% |
|-----------------------------------|-------|----------------------|------|

## 1.5. Recent legislative developments

The German Parliament has recently approved<sup>19</sup> a new law dealing with the protection of minors. The *Jugendschutzgesetz* (*JuSchG*, Law on the protection of minors) brings together into one single text provisions previously contained in laws JÖSchG and GjSM. Legislation has become stricter, especially regarding illegal and harmful audiovisual content. The main change will be to the classification of video games. Whereas until now the rating of interactive leisure software products happened on a voluntary basis, the JuSchG now states that computer and video games (whatever their destination, home usage or public places) have to be labelled according to age categories. Age categories for interactive leisure software are the same as for films and videos. The law indicates the Supreme Youth Authorities as the institution responsible for implementing measures and adopt sanctions with regard to the protection of minors' protection in the media. However, the Supreme Youth Authorities may delegate the actual rating activity to specific self-regulatory boards supported by industry and trade associations (the reference is to existing boards such as FSK and USK).

The law states also that Youth Authorities may decide upon the content, size, form and colour of the rating labels. The selling, renting or any form of provision of unlabelled material to minors may be punished by a fine of up to €50,000.

The BPjS has had its name changed to BPjM (Federal examination department for the *Media*). Its responsibilities have been extended to encompass any form of new media (excluding broadcasting, which has its own regulation). Besides publications put on the index by the BPjM, media content may be banned on the grounds of glorification of war, representation of contempt for human dignity, or by showing of young people in unnatural and sexually ambiguous attitudes.

Even though the law has been approved, its coming into force is postponed until a new law on the protection of minors with regard to TV will have been voted. This is likely to happen in March or April 2003.

## 2. Broadcasting

### 2.1. Applicable legislation<sup>20</sup>

- *Rundfunkstaatsvertrag* (RSTV, Federal broadcasting act) of 31 August 1991

The most recent revision (the fifth) of this law came into force on 1 January 2001.

§3 of the RSTV deals with unauthorised transmissions and minors protection.

§3.1 lists a series of reasons impeding transmissions, such as infringements to the criminal code, glorification of war, gratuitous violence or contempt for human dignity.

<sup>19</sup> On 14 June 2002 the draft proposal has been voted by the Federal Chamber (*Bundestag*) and on 21 June 2002 the Chamber of the Regions (*Bundesrat*) has given its approval.

<sup>20</sup> The complete text of the *Rundfunkstaatsvertrag* can be found on the website <http://www.alm.de/index2.htm>

§3.2 provides rules governing transmissions that are potentially harmful for minors. In general, this type of broadcasting must be limited to the time band 11pm – 6am. However, the law makes some differences in relation to the age of the viewers:

| Age limitation indicated by the JÖSchG | Broadcasting time           |
|--|-----------------------------|
| Unsuitable for people younger than 12  | Left to broadcaster' choice |
| Unsuitable for people younger than 16  | 10pm – 6am                  |
| Unsuitable for people younger than 18  | 11pm – 6am                  |

§3.3 when content is “indexed” by the BPjS (i.e. it contains pornographic or extremely violent scenes), it shall not be broadcast. Exceptions to this rule are limited to the stipulation of time band 11pm- 6am, with the condition that such transmissions do not endanger in a significant way children and young people. In the case that an exception is not allowed, a new version of the transmission can be broadcast where the indexed parts have been eliminated.

§3.4 states that transmissions whose broadcasting time is limited between 10pm and 6am must be preceded by an acoustic warning or be marked by a visual symbol throughout their duration.

§3.5 provides exceptions for the limitations described above, if broadcasters transmitting through a digital signal can effectively block or limit access to content potentially harmful for minors.

§3.6 extends these rules to advertisements.

§3.7 sets out certain exceptions to rules explained in § 3.2. Broadcasters may decide on different broadcasting times when broadcasting:

- films that were rated “15 and over”
- or in case of films and fictions especially conceived for TV, and that have consequently not been rated as “cinematographic works”.

§4 of RSTV stipulates, for each national broadcaster, the obligation to institute a special office in charge of the implementation of the rules concerning minors protection. This office must monitor programmes in order to ensure that the rights of children and young people are respected, and be entitled to receive complaints from the public on possible infringements to the aforementioned rules.

## 2.2. Enforcement

There is no unique authority in charge of the control and sanctioning of programmes broadcast by TV channels. The system is dual: on the one hand private broadcasters, associated under the FSF umbrella; on the other hand the two public service broadcasters, ARD and ZDF.

### 2.2.1 Private broadcasting companies

In November 1993 private broadcasters, following strong pressure from politicians and the civil society to reduce the presence of violence and sex on TV, decided to found the FSF (*Freiwillige Selbstkontrolle Fernsehen*, Voluntary self-regulation board of the broadcasting sector) on a voluntary

basis, in order to avoid the need for strict legal rules. Since then, this self-regulation system has well functioned. Its task is to examine programmes prior to their transmission. There are currently 13 German private broadcasting members of the FSF.

The FSF is composed of three main organisations: the executive body (*Vorstand*) which regroups the representatives of private channels and is responsible for the financing and the general guidelines orientating the FSF action; the examining boards, in charge of assessing programmes submitted to them (there are in all 70 examiners engaged by the FSF); and the *Kuratorium* (Committee), composed of media scientists, media critics, experts in the field of minors protection, one representative of the Supreme Youth Authorities, one representative of the BPjS, 11 neutral members and 4 representatives of the private TV channels. The *Kuratorium* establishes the FSF examination regulations and relevant criteria to assess programmes; it also selects the examiners.

The examination procedure is quite similar to the FSK voluntary self-rating system used for film classification. The ultimate authority in matter of TV programmes is in the hands of the various Land Media Agencies (*Landesmedienanstalten*). They can decide whether or not a programme can be broadcast, while the FSF only plays a role of expertise provider. When receiving applications from private TV channels submitting programmes they intend to broadcast at a certain time, FSF examiners can:

- Comply with the station's request and consent to the intended broadcasting time
- recommend a later broadcasting time
- Condition the broadcasting time to editing instructions
- Reject the station's request

Once the FSF has made a decision, it has to write a report and to submit it to the requesting channel or to the competent Land Media Agency.

There is the possibility of taking the FSF decision to an Appeal Committee, which is composed of seven expert examiners. The private TV channels, Land Media Agencies and members of the *Kuratorium* can decide to submit a programme to the FSF examination. In reference to sanctions, the FSF has two ways of upholding the decisions: it can oblige broadcasters to show the results of its assessment, and it can expel a member from the association.

Since its creation, the FSF has examined 4190 transmissions (figures updated on 30 April 2002):

|                              |      |
|------------------------------|------|
| Total assessed transmissions | 4190 |
| Requests of exception        | 838  |
| Information reports          | 3    |
| Erotic films                 | 740  |
| Films put on the BPjS index  | 617  |
| No specific mark             | 80   |
| Reality                      | 17   |
| Series                       | 1626 |
| TV-Movies                    | 269  |

The following table presents the number of rejections / acceptance:

|                                      |      |
|--------------------------------------|------|
| Total assessed transmissions         | 4190 |
| Decision consistent with request     | 2603 |
| Decision not consistent with request | 1587 |
|                                      |      |

|   |      |
|---|------|
| Rejected requests   | 1587 |
| Proposed broadcasting time and cuts suggestions / other editing | 678  |
| Later broadcasting time   | 689  |
| Later broadcasting time and cuts suggestions / other editing    | 108  |
| Suggestion not to broadcast programme                           | 112  |

### 2.2.2 Public broadcasting companies

ARD and ZDF, the two public TV channels in Germany, do not answer to the FSF, as they have internal guidelines regulating the broadcasting of programmes that are potentially harmful to minors. These guidelines essentially cover all provisions laid down by the RSTV regarding broadcast time, age limits and prohibited films. The implementation of protection rules for minors is assured by internal Broadcasting Councils (*Rundfunkrat*) at the regional level. These monitor the compliance of TV programmes with the law, and receive and manage complaints coming from users and consumers. In order to ensure a wide representation of the public, these organisations consist of members from a variety of social backgrounds, including the areas of economics, culture, sport, religion, and environmental protection. Political party representatives are members of Broadcasting Councils as well. This wide composition explains why the term *social monitoring* is often employed to designate the function completed by Broadcasting Council.

## GREECE

In Greece the classification of film and video is regulated by law 1597/86, where, “the protection and development of cinematographic art, support of Greek cinema and other provisions”. This law provides for an age category system and has set up a specific board in charge of film rating, the Youth Committee, under the aegis of the Ministry of Culture. Law 1597/86 emphasises the importance of the principle of freedom of expression, as it prevents any form of partial or complete censorship of a film.

Two laws, 2328/95 and 2644/98, both of which are incorporated in national legislation, which cites the rules stated by the Television Without Frontiers Directive, cover the broadcasting sector. These laws deal respectively with analogue and digital TV services. An independent authority, the National Radio-Television Council (ESR), assures the monitoring of TV programmes and the compliance with existing legislation.

### **1. Film, video and video games**

#### **1.1 Applicable Legislation**

**Law 1597/86 on the protection and development of cinematographic art, support of Greek cinema and other provisions<sup>21</sup>**

##### **Article 2**

- States that censorship and any other kind of preventative measures are forbidden.
- Provides for the setting-up of a youth committee. The composition and operation of this committee aims to “*contribute to the development of youth as free and responsible citizens without infringing upon the freedom of expression and the distribution of cinematographic works*”.

##### **Article 36 sets up a system of classification**

- It is mandatory to submit any film aimed to public release: “*Each film is submitted by its producer or its importer to the youth committee*”
- The committee classifies the film into one of the following categories:

| 1                   | 2                                     | 3   | 4                                       |
|---------------------|---------------------------------------|---|---|
| Suitable for minors | Limited suitability                   | Unsuitable for minors                             | Viewing by minors strictly prohibited   |
| No restrictions     | Suitable for people aged 13 and above | Not permitted to young people under the age of 17 | Not permitted to people younger than 18 |

##### **Article 37**

States that “*the preconditions and limitations for the filming and screening of films in border regions are determined by joint decisions of the Ministries of Foreign Affairs and Culture, if exceptional reasons for the protection of the Country's international relations impose special deviations from the provisions of this law*”.

##### **Article 38**

Provides for a system of fines and imprisonment up to eighteen months for whomever infringes rules relating to minors protection as laid down by law, especially with regards to persons

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<sup>21</sup> The text of the law can be found on the Greek Film Centre website: <http://www.gfc.gr/1/11.html>

permitting minors to enter a cinema showing a film whose viewing is strictly forbidden to people under the age of 18.

## **1.2 Enforcement: The Youth Committee**

The youth committee comes under the aegis of the Ministry of Culture and is made up of:

- A representative of the Ministry as president,
- A representative of the General Secretariat for Youth,
- Two directors,
- A film critic,
- A sociologist,
- A child psychologist
- One member each from the Educational Federation of Greece (D.O.E.), the Federation of the Officials of Middle Education (O.L.M.E.), the National Student Union of Greece (E.F.E.E.) and the Higher Federation of Parents and Guardians, who are selected by these organisations.

The Minister of Culture appoints the members of the committee and their deputies, and the length of their term of service is one year.

In order for the ratification of the films to be made, other youth committees can be established by a decision of the Ministry of Culture, the composition and purpose of which are laid out by this law.

## **1.3 The Rating Process**

*Cost* – The cost to have a film rated in Greece is dependent on its length. A theatrical trailer is €18, as is a film of up to 500m in length. A film between 501 and 1600 meters costs €30, and anything upwards of 1601 meters is €60. Should a distributor appeal the decision, they face additional costs of €35 for a film between 200 and 1600 metres, and if the length should exceed 1600 metres, €70.

## **2. Video and DVD**

The board in charge of video and DVD rating is the Youth Committee. Therefore, the same classification and age categories apply for videos as for films intended for theatrical release.

### **3. Video games**

No specific law, or any voluntary regulatory system, governs interactive leisure software rating, but the government is currently working on a draft proposal in order to make the labelling of electronic toys (including PC and video games) obligatory.

### **4. Broadcasting**

#### **4.1 Applicable legislation**

- Law 2328/95 covering analogue private radio and television stations
- Law 2644/98 on digital television and pay-TV services

Law 2328/95 contains provisions aimed at ensuring effective protection of minors against harmful broadcast content, namely gratuitous violence and pornography as well as programmes showing minors as witnesses, victims or authors of criminal acts. It also provides for a double watershed system, with two break points, one at 9.30pm for less harmful programmes and the other at 12am for more harmful programmes.

Law 2644/98 conditions that to obtaining a broadcasting license, cable and satellite broadcasters are obliged to install technical devices allowing owners to filter access to their services for minors. It also requires broadcasters put a clear visual indicator on the screen before the transmission of content, which could be harmful for children. Moreover, the law states that rules applying to minors protection as laid down in law 2328/95 are valid for digital and pay-TV as well.

#### **4.2 Enforcement**

Supervision of the compliance with legislation in the broadcasting field, namely regarding respect for human dignity, the safeguarding of political and cultural pluralism, and protection of minors, has been assigned to the National Radio-Television Council (ESR).

The ESR, created in 1989, has different responsibilities associated with the monitoring of the broadcasting market, particularly in view of new technological developments. The ESR has an elaborate code of ethics aimed at protecting the fundamental rights of users and consumers in the media. In particular, the code n° 1/91 (art. 2 § 5 and art. 9) deals with measures for the protection of minors against harmful content.

The ESR is not only a consultative body, however. It can exert its influence on broadcasters in the form of special recommendations, general guidelines and cautions, and effective sanctions.



## ICELAND

The Film Inspection is the board responsible for film classification in Iceland. It was established by act No. 47/1995. Following this law, the main criterion under which films may be cut or banned is violence. Even though the law is quite strict on this topic, in practice films have not been prohibited in Iceland in recent years. The Film Inspection classifies both films for theatrical release and videos/DVDs. Age categories applied for the video distribution are stricter, however, than the ones for public exhibition, as the Film Inspection thinks that private consumption of audiovisual works is subjected to less strict control than public attendance at cinemas.

TV stations must examine and classify films they intend to show in collaboration with the Film Inspection. The Broadcasting Act (No. 53/2000) also demands a system of spoken warnings and visual symbols to help prevent young audiences from watching harmful TV programmes.

### **1. Film, video and video games**

#### **1.1 Applicable legislation<sup>22</sup>**

- Act No. 47/1995 on the inspection of films and prohibiting of films of violence

Art. 1 of this act states that films of violence may not be produced, imported, distributed nor sold into the country. A definition of violence is given, which encompasses any type of physical maltreatment or brutal and abhorrent methods of killing people and animals.

Art. 3 reads however that the showing of violence has to be appreciated in its context, so that violence can be considered as justified for reasons of informative or artistic nature.

As violence constitutes the main criterion upon which films are rated, article 3 expressly bans distribution and exhibition of films of violence in Iceland. Other issues, such as the detrimental effects a film can provoke on children psychology, whatever the cause, may lead to a limitation on the viewers' age. Article 3 provides an indicative age limit of 16 years as sole rating basis, but it leaves the choice on different age limitations to the competent authority. In fact, the Film Inspection (the Icelandic Board of Film Classification) has established a series of younger age categories for films destined to theatrical release. The current age ratings are the following four:

| 1  | 2  | 3  | 4  |
|----|----|----|----|
| 10 | 12 | 14 | 16 |

#### **1.2. Enforcement**

Art. 2 of act 47/1995, provides rules for the board in charge of film examination. While the final authority in the matter is the Minister of Culture and Education, the body, which is responsible for a film's rating is the Film Inspection authority. This authority is a committee of six persons, appointed for a period of three years by the Minister of Culture and Education. Three members

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<sup>22</sup> The two acts concerning film and video rating in cinema and TV are available, in English, on the website of the Icelandic Ministry of Education, Science and Culture: <http://mrn.stjr.is/mrn/mrn-eng.nsf/pages/acts>

are selected upon the recommendation of the Minister of Social Affairs, one on that of the Icelandic Filmmakers' Association, one on that Minister of Justice, and one without nomination. The member acting as the committee director is appointed directly by the Minister among the six mentioned above.

### 1.3. The rating process

*Scope.* As we have seen, all films intended for distribution or exhibition in Iceland must be submitted in advance to the Film Inspection. The system is therefore mandatory.

*Appeal.* Assessments given by the Film Inspection have to be considered as final. However, the Film Inspection can evaluate once more a film whose rating is contested by the submitters if it finds that there are special reasons for doing that.

*Cuts.* The Film Inspection may not impose mandatory cuts on a film, but it can ban the exhibition and distribution of a film on the ground of violence. This very strict rule is hardly applied, and in any case it has not been followed in the last years.

*Procedure.* Parties who produce, import, distribute, exhibit or sell films in Iceland must apply to the Film Inspection in order to obtain a certificate, which allows the film to circulate in the country. The Film Inspection evaluation occurs upon payment of a special inspection fee. Once obtained, the certificate must be displayed on each of the copies of the film. All sales, exhibition or distribution of a film without a certificate is forbidden by law. If the Film Inspection takes specific decisions as regards age ratings, these decisions must be clearly included in every advertisement material promoting the film.

*Cost.* The cost of having a film classified is IKR 18,500. This fee includes the rating of the video/DVD version of the film. The classification of a film for the video/DVD release only costs IKR 9,500. The cost of the rating of a film intended for festival exhibition is IKR 8,500.

*Sanctions.* Cinema directors and video rental/retail operators are responsible for ensuring prohibitions issued by the Film Inspection. Law officers check regularly that the dispositions are observed. If any infringement of the law occurs, it can be punished with fines, confiscation of the film or even imprisonment up to six months.

*Statistics.* All the statistics concerning the Film Inspection work, with a complete review of the examined films and the corresponding age rating are available on the Film Inspection's website<sup>23</sup>

*Video and DVD:* The Film Inspection decisions apply to films regardless their means of support, therefore, video and DVD versions of a film are subject to the rating of the version intended for theatrical release. The age categories for the video/DVD distribution are however different from those applicable to theatrical release:

| 1                                     | 2  | 3  |
|---------------------------------------|----|----|
| Not suitable for the youngest viewers | 12 | 16 |

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<sup>23</sup> <http://www.mmedia.is/~kvikmynd/>

Video games: video games are not classified by the Film Inspection authority despite it being permitted by an act of Law - No. 47/1995.

## **2. Broadcasting**

### **2.1. Applicable legislation**

- Act No. 47/1995 on the inspection of films and prohibiting of films of violence
- Act No. 53/2000, "Broadcasting Act"
- Art. 5 of act 47/1995 states that television stations must examine films they intend to show in collaboration with the Film Inspection
- Art. 14 of act 53/2000, provides some general indications on the protection of minors against unauthorised programmes. It forbids broadcasters transmitting content, which may impair minors, especially because of pornography or gratuitous violence, at times when minors are likely to view this type of content.

The law also demands that programmes considered unsuitable for minors be broadcast with technical devices allowing harmful content to be clearly and easily detected, namely a spoken warning before the beginning of the programme or a visual symbol throughout its duration.

## IRELAND

In Ireland, a single body, placed under the aegis of the Ministry of Justice, is in charge of classifying audiovisual works for theatrical release or for video rental/sale supply.

Following a recent reform in the broadcasting sector, a new authority, the Broadcasting Commission of Ireland, was set up with the aim of drawing guidelines applicable to all Irish TV channels. It replaces the Irish Radio and Television Commission (which used to be responsible for Irish commercial channels) and completes the RTE authority' activity in monitoring the Irish public service broadcaster.

### 1. Film, Video, and Video games

#### 1.1. Legislation

- Censorship of Film Act, 1923 n° 23 of 16 July 1923 (CFA)<sup>24</sup>
- Video Recording Act of 1989 (VRA)<sup>25</sup>

The system requires that all films for public viewing be submitted (by the film producer, video supplier or importer) in advance to the Censor, with the goal of obtaining a certificate. A work, which has already been given a certificate for theatre exhibition must go through the whole rating process again in case its exhibition in another form of media (video) is foreseen.

The “Film Censor” can:

- Grant the certificate in full, or with conditions.

The following classification applies to all films, trailers and advertisements:

| VIDEO                                |  |  |  |   |
|--------------------------------------|--|--|--|---|
| G                                    | PG   | 12's   | 15's   | 18's  |
| Fit for viewing by persons generally | Fit for viewing by persons generally, but in the case of a child under the age of 12 years, only under parental guidance | Fit for viewing by persons aged 12 or more   | Fit for viewing by persons aged 15 years or more   | Fit for viewing by persons aged 18 years or more  |
| FILM                                 |  |  |  |   |
| GENERAL                              | PG   | 12 PG  | 15 PG  | 18  |
| Fit for viewing by persons generally | Parental Guidance recommended for persons under 12 years of age  | While a film is, in the opinion of the Film Censor suitable for those over 12 years only, a person under that age may be admitted to a cinema screening if accompanied by a Parent or a Guardian | While a film is, in the opinion of the Film Censor suitable for those over 15 years only, a person under that age may be admitted to a cinema screening if accompanied by a Parent or a Guardian | Fit for viewing by persons aged 18 years and over |

- Refuse to grant the certificate.

Refusal may occur if part of a feature film is deemed indecent, obscene, blasphemous or tends to inculcate principles that are contrary to public morality or is otherwise subversive of public morality. There is no definition of “indecent, obscene or blasphemous”. However the Censorship Publications Act (1929) gives the following definition for indecent “*shall be construed*

<sup>24</sup>Text available on: [http://www.ucc.ie/ucc/depts/law/irlji\\_statutes/1923-23.htm](http://www.ucc.ie/ucc/depts/law/irlji_statutes/1923-23.htm)

<sup>25</sup> Text available on: <http://193.120.124.98/front.htm>

*as including suggestive of or inciting to sexual immorality or unnatural vice or likely in any other similar way to corrupt or deprave”.*

Under the VRA, the certificate is not granted if the video:

- Would be likely to cause persons commit crimes
- Would be likely to stir up hatred against a group of persons in the State or elsewhere on account of their race, colour, nationality, religion ethnic or national origins, membership of the travelling community or secular orientation
- Would tend by reason of the inclusion in it of obscene or indecent matter to deprave or corrupt persons who light view it
- Depicts acts of gross violence or cruelty

- The Act foresees the setting up of an Appeal Board.

## **1.2 Enforcement**

### *1.2.1 The Film Censor*

The Official Censor of Films was established by the 1923 Act. It is an agency dependent on the Department of Justice, Equality and Law Reform.

It is composed of:

- The Film Censor (current film censor has been in office for 16 years)
- A full-time official
- 7 part-time viewers that are members of the civil society, as individuals
- And not as representatives of given organisations.

It has the power to:

- Classify films (feature films, videos –and since recently video games<sup>26</sup>)
- Grant certificates accordingly
- Monitor the release of films
- Impose sanctions

### *1.2.2 The Appeal Board*

The Appeal Board is appointed by the Minister of Justice, Equality and Law Reform for a period of 5 years. It consists of 9 people that are members of the civil society, and operates with a quorum of 4. It is empowered to hear appeals in relation to the refusal to grant certificates, and appeals for changes in classification for both films and video works. Its decision is final but the film may be re-submitted to the Film Censor after 7 years.

It has power to affirm or reverse the censor’s decision and since 1965 it has been reconstituted to allow it to grant limited certificates itself in case of films that have been already rejected.

Where a certificate is refused and an appeal is either not sought or unsuccessful, the situations can be reviewed after a period of seven years.

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<sup>26</sup> Classification of video games is being achieved taking part in the ELSPPA initiative)

### 1.3. Rating Process

Producers are obliged to submit films for certification and to pay fees to get the film categorised. Any person wishing to acquire a retail license may also apply to the Film Censor's office by submitting a completed application form and the appropriate fee. There is a time span of about 2 weeks from the date of receipt of all documentation to the date of issue of the license. For detailed information on pricing, see Annex. 2

The pricing for obtaining a certificate has posed a problem for smaller films. Various alternatives have been rejected including linking fees to gross revenue, but since a measure of that nature would involve the large American mainstream films essentially subsidising the rest, they have not been uniformly welcomed. Fees are recoverable in the event of a successful appeal if a ban is revoked.

Once the certificate including the attributed age category is granted:

- The producer must include the certificate at the top of each print.
- The certificate must be displayed for ten seconds before the screening starts. Failure to do so is an offence
- The certificate must be displayed at the box office, on papers ads.

Note: The Irish Film Centre exhibits films that have not been previously certified by the film censor. The only condition put on the viewer is that he/she must be 18 and over (and must have paid his/her subscription to the film club).

Once a video has been rated, it must be labelled correctly in accordance with the labelling regulation. The video spool or other thing on which the recording is kept shall have affixed to it a label in the prescribed form (which may be obtained from the Official censor by persons of prescribed categories on payment of a fee)

Any case or other thing in which the recording is kept shall bear such indication of the content of the label.

The non-compliance with these requirements makes the supplier guilty of an offence and liable to a fine not exceeding €635.

Where part of the film falls into any of the categories "indecent, obscene or blasphemous", the censor obliges to indicate which part to the applicant who may then remove the offending part or appeal to the appeal board. In cases where cuts have been required, the certificate will not be issued until these cuts are made and viewed by the film censor. The Film Censor can also prohibit a work.

Under the 1923 Act it is an offence, punishable by fines, including daily fines for offensive material, to show an uncertified film in public or to permit one to be shown in breach of the terms of a limited certificate.

Under the VRA:

- A person who supplies an un-certificated video recording shall be guilty of an offence and be liable to a fine of no more than €1,270 or to imprisonment for a term going up to 3 years.

- A person who supplies a video recording containing a prohibited work shall be guilty of an offence and shall be liable to pay a fine not exceeding €1,270 or to imprisonment of up to 3 years.
  - A person who imports into Ireland a video recording containing a prohibited video work is guilty of an offence and is liable to a fine not exceeding €1,270.
- An officer of customs and excise may detain on importation into the State any video recording that in his opinion ought to be examined by the official censor.

#### **1.4. Video games – Self-Regulation**

All computer games distributed in Europe are rated by the European Leisure Software Providers Association, as being suitable for various age ranges. Under the Irish Video Recording Act of 1989, computer games are generally exempted from classification and certification by the Film Censor. The exceptions to this are where the game in question would be likely to cause persons to commit crimes, to stir up hatred against any group of persons, to deprave or corrupt persons by the inclusion of indecent or obscene material or where the game depicts acts of gross violence or cruelty towards human or animals.

In 2000, the Irish distributors recognised their responsibilities and recommended to their members that all games, which are rated over 15 or over 18 should be submitted to the Film Censor's Office for classification and certification. The Minister for Justice was expected to issue a discussion paper on the issue by early 2001.

## **2. Broadcasting**

### **2.1. Legislation:**

- Radio and Television Act 1988
- Broadcasting act 2001

### **2.2. Enforcement**

#### **• Commercial TV: the former IRTC and the new BCI**

So far, the Independent Radio and Television Commission (established under the Radio and Television Act 1988) has been monitoring programme content on TV3 (commercial TV) exclusively. A system of self-regulation used to apply:

- with no censorship
- no system of visual codes (the audience was only warned on programmes content through Presentation before the broadcast)
- if they have not been granted a certificate by the Film Censor, feature films are previously viewed internally. As a general rule commercial TVs do not broadcast films that have been banned by the Film Censor.

The Broadcasting Act of 2001 has replaced the IRTC by the **Broadcasting Commission of Ireland (2.1)**. It will have to draw Codes and Rules relating to the control of content that will be applicable to all TV Channels established in Ireland.

• **Public Television and the RTE Authority**

Public television (RTE) applies a system of self-regulation, based on guidelines that were set up by the RTE Authority (2.2).

In principle, an Irish TV channel will not broadcast a film, which was banned by the Irish Film Censor. However, some years ago, TV3, having been under pressure for a while, eventually broadcast *Natural Born Killers*, a feature film, which had been banned by the Film Censor. In order to transmit the film, TV3 had previously obtained a special permission certificate by the Film Censor.

2.2.1. *The Broadcasting Commission of Ireland*

Under the Broadcasting Act 2001, the name and role of the Independent Radio & Television Commission (IRTC) was changed in September 2001, to the Broadcasting Commission of Ireland.

The Commission members are appointed by the Government and hold office for a period of five years. The current Commission was appointed in October 1998 and include:

- A chairperson
- A member of the Human Rights Commission
- A Media and Public Relation Consultant
- A Senior partner from the Consultancy Accenture
- A Senior lecturer in Communication at DCU
- A Journalist and Barrister
- A chartered Accountant and Financial consultant
- The deputy general secretary of the Irish nurses' organisation
- The chairman of Dublin South Community Radio National president,

The original functions of the Commission as laid down in the Radio and Television Act 1988 included:

- Licensing
- Monitoring all licensed contractors in all areas of their operations to ensure compliance with their statutory obligations.
- Developing a culture of excellence within the independent broadcasting sector through the provision of support for training and development initiatives and programming initiatives.
- Allowing for the inspection of licenses and broadcasting contracts by the general public at the Commission's registered office, publications, dissemination of information to the public and rendering advice to those working in the sector.

With the enactment of the Broadcasting Act 2001 additional functions of the Commission include

- Codes and Rules: the Commission has been given responsibility to draw up Codes & Rules in relation to programming and advertising standards, which when introduced will be applicable to all broadcasters, both public and private. The Commission will engage in a wide-ranging



consultation process with all interested parties, including broadcasting organisations, the advertising industry and representatives of consumer interests, prior to their introduction. These codes will relate to issues of “taste and decency” and will not be drafted before one year. They should further become valid for all Irish TV channels.

- Children's Advertising: The BCI will have to give priority to the introduction of Codes and Rules specifically relating to children's advertising.
- The provision of a secretariat service to the newly enhanced Broadcasting Complaints Commission
- The BCI has a specific procedure to deal with non-standard programme material, including movies that have not obtained a certificate from the Film Censor. However, this procedure has never been implemented in practice.

### *2.2.2. The RTE Authority*

Radio Telefís Éireann is the Irish National Public Service Broadcasting Organisation. As a statutory corporation, it provides a comprehensive service on radio (since 1926) and on television (since 1961), and a large range of ancillary services. It includes 5 radios and 2 TV Channels.

All programmes broadcast on RTÉ Radio and Television are subject to RTÉ Programme-Makers' Guidelines, which are set up by the RTE Authority. The Authority is made up of Government appointees.

### *2.2.3. RTE Guidelines*

Guidelines are given as to how to proceed with content controls regarding different themes. A 9pm watershed is in place. Tonal warnings are suggested but there is no visual code implemented.

The following themes are taken into account when classifying films to be broadcast on RTE:

- Violence
- Taste and decency
- Obscenity, which is defined as matter that depraves or corrupts
- Sexuality
- Swearing and offensive language of programmes
- Religious beliefs
- Specific provisions towards children and the youth

Broadcasters must “treat their physical, mental and emotional health as being of paramount importance”. Children are defined as “under 15”, and young persons as aged 16 or 17. Material unsuitable for children must not be broadcast when large numbers of children may be expected to be watching. Similarly, a warning or appropriate information should precede any programme/news report that contains material likely to be viewed by children and which some younger viewers might find disturbing.

#### 2.2.4. *Complaints*

If members of the public are of the opinion that a programme or a segment of a programme has breached the Guidelines they are entitled to complain either in writing or by e-mail. Initially the complaint should be addressed directly to the programme or the relevant department.

Procedure:

- editorial managers must be informed of all complaints
- all complaints received in writing or by e-mail should be replied to by the appropriate member of the production team within 20 working days.
- if the person making the complaint is not satisfied with RTÉ's response she/he may seek a review of the original complaint and the response. The review will always be carried out by someone more senior than the person issuing the original reply.
- copies of all complaints and their replies should be kept on files for two years after the broadcast of the programme which led to the complaint.

#### 2.2.5. *Complaints related to both commercial and public TVs*

Complaints may also be addressed to the Broadcasting Complaint Commission, which was established by the minister for Post and Telegraphs on 31 March 1977, under the Broadcasting Authority Amendment Act 1976.

The BCC can adjudicate on complaints relating to a limited area of RTE activities, in particular if a viewer believes that guidelines on taste and decency have been broken  
It is administered by the Broadcasting Commission of Ireland.

## ANNEXES

### **1. Films banned/cut by the Film Censor**

August 1956/March 1964

|              |      |
|--------------|------|
| Films cut    | 1476 |
| Films banned | 160  |

April 1964/June 1972

|              |     |
|--------------|-----|
| Films cut    | 925 |
| Films banned | 131 |

June 1972/ October 1978

|              |     |
|--------------|-----|
| Films cut    | 818 |
| Films banned | 46  |

October 1978/September 1986

|              |     |
|--------------|-----|
| Films cut    | 221 |
| Films banned | 14  |

October 1986/to date

|              |    |
|--------------|----|
| Films cut    | 12 |
| Films banned | 9  |

The following 9 films have been banned in the present Censor's tenure

*Working Girls*, 08.1987

*Whore*, 08.1991

*The Bad Lieutenant* (01.1993)

*U.F.O* (02.1994)

*Lake Consequence* (05.1994)

*Natural Born Killers* (10.1994) (*the video version of Oliver Stone's film was granted OVER 18 certificate in May 2001*)

*Showgirls* (01.1996)

*From Dust Till Dawn* (05.1996)

*Preaching to the Perverted* (10.1997)

**The following 12 films have been cut:**

*About Last Night* (1986)

*Howard the Duck* (1986)

*Bliss* (1987)

*Playbirds* (1987)

*Prince, a sign of the times* (1988)

*Big* (1988)

*Krays* (1990)

*Die Hard 2* (1990)

*Look Who's Talking Too* (1991)

*Zandalee* (1991)

*Last Action Hero* (1993)

*Highlander 3* (1995)

## **2. The Cost of Censorship – Current fees**

| <b>1. CINEMA</b>   |                          |
|--|--------------------------|
| Type   | Cost                     |
| Educational Films  | Nil                      |
| Feature Films  | €9.85 per minute of film |
| The average cost for viewing a feature film is approx. €1,094.46 |                          |
| <b>2.VIDEO</b>   |                          |
| Type   | Cost                     |
| A video work for release on the Rental market                    | €281.42                  |
| A video work for release on the Sell-through market              | €125.08                  |
| Trailers and advertisements                                      | €31.27                   |
| <b>APPEAL COSTS</b>  |                          |
| Film Appeal  | €7.82                    |
| Video Appeal   | €234.52                  |
| <b>LICENSING COSTS</b>   |                          |
| Rental License   | €156.34                  |
| Wholesale license  | €6253.74                 |

## ITALY

In Italy, the classification of films is regulated by law 161/62, which sets out an age category system and places the Commission in charge of examining the films intended for public screening (Revision Commission). Even though the law provides for a complete ban of films on the grounds of their “offence to public morality”, this rule is hardly applied by the Revision Commission. If a film is rated as unsuitable for minors, the distributor may submit it again for a more favourable classification, provided that the “incriminated” scenes have been cut. Different versions (cut and uncut) of the same films may therefore circulate within the country. Italy is currently planning to establish a new film censorship law, ensuring that no film can be banned from release, however, tighter restrictions for children will be imposed.

The local censorship commission can ban a film from being released altogether at the cinema. However, restrictions for minors are rarely applied and the current system has been criticised for allowing young children to see violent films such as *Hannibal*, which went on unrestricted release in Italy unlike the UK.

With regard to the broadcasting landscape, all TV channels are submitted to the control of an independent regulatory authority instituted by law 249/97, the *Autorità per le Garanzie nelle Comunicazioni*, AGCOM. The AGCOM was the first authority established following the convergence principle: it is therefore responsible for matters pertaining to the field of communication in general (telecommunications, broadcasting, press and publishing) regardless of the support underlying the transmitted content. Besides the common regulatory framework, the three major national private channels, belonging to the MEDIASET group, have established a voluntary code of conduct for the protection of minors, including a system of visual symbols and a protected afternoon slot.

## **1. Film, video and video games**

### **1.1 Applicable legislation<sup>27</sup>**

- Law 161/62 of 21 April 1962 on the revision of films and theatre works.
- D.P.R. (Presidential Decree) No. 2029 of 11 November 1963, implementing Law 161/62
- Law 203/95 of 30 May 1995 on the reorganisation of offices referring to tourism, spectacle, and sport
- D.L. (Legislative Decree) No. 3 of 8 January 1998 on the reorganisation of collegial bodies under the authority of the Prime Minister’s Office

- **Law 161/62** establishes the basic principles regulating film screening and distribution in Italy:

Art. 1 states that any public screening, or export of national films must be subject to the release of a special certificate (*nulla osta*) granted by the Ministry responsible for spectacle. The system is mandatory: no film can be distributed if it has not received this certificate. The Ministry releases the *nulla osta* in accordance with the opinion of special commissions, in charge of the examination (revision) of the films. The commissions opinion is therefore binding.

Art. 2, 3 and 4 deal with the composition and functioning of such commissions.

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<sup>27</sup> All the relevant legislation covering film and video classification is available on the website of the DG Spectacle of the Ministry for Cultural Goods and Activities: <http://www.spettacolo.beniculturali.it/cinema/informaz.htm>

Art. 5 establishes the age limits the revision commissions must follow in the issue of their opinion. They are defined as follows:

| 1                | 2                  | 3                  | 4                  |
|------------------|--------------------|--------------------|--------------------|
| Suitable for all | Unsuitable for <14 | Unsuitable for <18 | Unsuitable for all |

Article 6 lays out the reasons for rejecting a film as unsuitable. Art. 7 and 8 illustrate the appeal procedure.

D.P.R. No. 2029/63 provides the administrative measures to give execution to Law 161/62 (application forms, taxes, examination procedure). It also adds some criteria leading to the definition of a film as unsuitable for minors: a) vulgar content; b) induction to immoral behaviour; c) erotic or violent scenes involving human beings or animals, scenes representing particularly impressing surgical operations and hypnotic phenomena, scenes dealing with the use of drugs; d) incitation to hate and revenge; e) presentation of crimes inducing to imitation or suggestive presentation of suicide. The different gravity and persistence of one or more among these elements results in a different age rating attributed to the film.

Law 203/95 reorganises the responsibilities allotted to the different Ministries regarding film revision. Film commissions become part of a special Department (Department of Spectacle) under the Prime Minister's Office. This law also modifies the composition and functioning of the commissions.

**D.L. No. 3, 8/1/1998** makes changes to Law 203/95 regarding film commissions.

## 1.2 Enforcement: the Revision Commission

The body in charge of the examination of all the films intended for public exhibition is the revision commission. Its composition and its functioning have changed considerably during the years. Law 161/62 fixes the number of each division within the commission as the following:

- A magistrate whose grade cannot be inferior to that of Cassation councillor, appointed by the Superior Council of Magistracy (the highest self-governing body of the Italian magistracy)
- A university law professor
- A pedagogy professor
- A university psychology professor
- Three members, each one appointed by one of these trade associations: cinema directors, cinema industries and cinema journalists.

They are granted a two-year mandate, and the magistrate performs the duties of president of the commission.

The commission of second degree, whose function is to act as an appeal commission, consists of two unified divisions of the first-degree commission, different from the one who first pronounced its opinion. Art. 4 of law 161/62 states that decisions are taken with the simple majority of the votes. In case of parity, the president's vote decides. D.P.R. 2029/63 specifies that decisions are valid only if the majority of the components are present at the moment of the

vote. It also states that any negative rating of a film (rejection or prohibition for certain age categories) must be well motivated.

As it was felt that the commission lacked an appropriate representation of consumers' interests, especially with regard to the principle of protecting minors, law 203/95 modified significantly the commissions structure. Art. 3 of law 203/95 states explicitly that "*in order to achieve a better degree of minors and families protection*" the new film revision commission must consist of:

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

In the case of films containing scenes where animals are employed, an expert in the field of animal protection must join the commission.

Moreover, the law provides that decisions are passed not by simple majority of the votes, i.e. of the members actually present at the meeting, but with the majority of the members, therefore for any absent member a substitute is appointed. This was introduced in order to take account of complaints made by civil society representatives (teachers, parents), who claimed they would not be able to attend all the commission meetings, whereas the representatives of cinema interests could attend them more regularly.

However, recent overhauls in law 203/95 led to a reduction in the representation of parents associations, which has caused concern amongst users and consumers associations about a possible laxness in the rating of films with regards to children. This apprehension has been alleviated only recently, with the appointment of the new sections of the film revision commissions by minister Melandri in February 2001<sup>28</sup>.

### 1.3 The rating process

*Application:* Under law 161/62, every film intended for public screening must be submitted to the examination of the film revision commission. Rules for the application are explained in art. 1 of D.P.R. 2029/63. Demands can come from the producer, the distributor or the importer. Each demand has to be followed by the payment of the corresponding fee; the fee is proportional to the film length.

*Cost:* Even though the law states that the fee to be paid in order to get the film classified is proportional to the film length, this provision has been suppressed. In practice, each demand for a certificate must only be accompanied by a revenue stamp costing €10. However, as the certificate is to be displayed on each copy of the film intended for theatrical release, distributors have to present as many application forms (and corresponding revenue stamps) as the copies they want to put on the market.

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<sup>28</sup> The complete list of the members of the eight sections is available at <http://www.spettacolo.beniculturali.it/cinema/finanz.htm>

*Procedure duration:* To prevent bureaucratic tardiness from damaging commercial interests of the film industry, law 161/62 provides in art. 6 that, if 20 days after the receipt of the application the revision commission has not made its judgement, the applicant can ask for the certificate to be automatically released. The commission has then 10 days to answer; if it fails to do so, the certificate is released. The total maximum delay allowed by law is therefore 30 days following the date of the application.

*Appeal:* If the applicant is not satisfied with the rating chosen by the film commission, he/she can appeal to the second-degree commission, within 20 days of the certificate notification. The commission must express its opinion within a delay of 20 days; afterwards the same procedure described above applies. If the applicant feels that the second-degree commission's decision is unsatisfactory, he/she can appeal to an administrative court (*Consiglio di Stato*). In this case, the maximum delay is fixed in 30 days from the receipt of the file. The court decision is definitive and valid as certificate.

The possibility of appeal is open by law (art. 7, law 161/62) to films which have been denied a certificate or which have been rated as unsuitable for minors. In fact, D.P.R. 2029/63, states that, "works not having obtained a certificate may be resubmitted to a new examination, provided that they have been modified as regards title, scenes or dialogues" (art. 11 D.P.R. 2029/63). This prescription has led to a situation where film producers and distributors can submit new versions of their work in order to obtain more favourable certificates. Therefore, cut and uncut versions of the same film co-exist and circulate in the country. The point is that only films rated "suitable for all" or prohibited for people younger than 14 can be broadcast on television. The existence of different versions of the same film can thus be seen as a tool facilitating circulation of audiovisual works.

*Sanctions:* The verification of a cinematic offence is left to the court responsible for the territory where the film was produced. Sanctions include fines, the closure of the theatre, the confiscation of the film, and the prohibition of its public screening, in case the film is found without certificate. If the film is rated as unsuitable for a certain age category, this information must be included on each copy of the advertising material. The theatre manager is considered responsible for the respect of age limitations.

*Video and DVD:* No specific provisions are laid down for other distribution supports, so the same age ratings apply to theatrical release, video and DVD distribution.

*Video games:* Italy lacks a specific legislation or regulation dealing with video games. However, imported games are labelled according to current European rating systems (most often the UK ELSPA system).

## **2. Broadcasting**

### **2.1 Applicable legislation<sup>29</sup>**

Before 1990, the only relevant law regulating content in the broadcasting sector was law 161/62, which in its art. 13 states that films (and theatre works) which have been denied an admission certificate for public screening cannot be broadcast via radio or TV. Since 1990, however, a

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<sup>29</sup> Relevant legislation referring to the broadcasting system can be found on the site of AGCOM: [http://www.agcom.it/norme\\_.htm](http://www.agcom.it/norme_.htm)



series of legislative acts have been issued concerning protection of minors from harmful audiovisual content:

- Law 223/90 of 6 August 1990 (also known as *Mammì law* from the name of its proposer), on the regulation of public and private broadcasting system. It is the law implemented in Italy Directive 89/552/CEE (*Television Without Frontiers Directive*)
- Law 203/95 of 30 May 1995 on the reorganisation of offices referring to tourism, spectacle, and sport
- Law 249/97 of 31 July 1997 (also known as *Maccanico law* from the name of its proposer), on the appointment of the Guarantee Authority for Communications (AGCOM)
- Law 223/90: art. 15 of the law deals with general obligations that concessionaries of public broadcasting licences must respect.

§10 states that, “*it is forbidden the broadcasting of programmes potentially harmful for the psychical or moral development of minors, containing gratuitous violent or pornographic scenes, as well as inducing to intolerant behaviours based on racial, sexual, religious or national differences*”.

§11 prohibits the broadcasting of films having been denied the *nulla osta* from the film revision commission or having been rated as unsuitable for minors.

§12 provides, as sanction for the non-respect of rules contained in §11, the closing down of the broadcaster’s installation.

§13 institutes a system of watershed, according to which films rated unsuitable for young people under the age of 14 cannot be broadcast before 10.30pm and after 7am.

Art. 30 and 31 deal with sanctions.

Art. 30 contains penal dispositions applicable in case of infringement of the penal code (programmes showing obscenity).

Art. 31 provides a series of administrative sanctions. §3 states that in case of non-compliance with rules concerning minors protection the responsible authority can impose the payment of a fine of up to 100 millions lire (about €50,000) or the suspension of the broadcasting concession for up to ten days.

Law 203/95 reorganises the structure of the film revision commissions.

It also provides specific measures for fictions and films especially conceived for TV distribution: art. 3 §4 states that TV films and fictions containing images of sex and violence capable of impairing minors sensitivity can be broadcast only between 11pm and 7am. There is therefore a difference between this watershed and the one provided by law 223/90 for cinema films (10.30pm), TV products enjoying the privilege of half an hour of later broadcasting. Art. 3 §5 adds the possibility to broadcast TV films and fictions outside the “11pm – 7am.” watershed, provided that producers or distributors make a specific demand by submitting the products to the film commissions. Following this rule, the film commissions are also entitled to examine TV films. For this purpose, D.L. 8/1/1998 No. 3 provides that *ad hoc* sections of the commission be created. In fact, because of bureaucratic inefficiency, this provision has not been implemented yet. As a result, no institution currently has the power to view and rate TV films and fictions before they are broadcast.

Law 249/97 creates the Authority for Guarantee in the Communications (AGCOM) as an independent body responsible for the implementation and monitoring of provisions laid down by law 223/90.

## 2.2 Enforcement

The control and sanction of broadcasting content are the responsibility of the Guarantee in the Communications (AGCOM). Law 249/97 defines the AGCOM as a convergence Authority, in charge of the whole field of communications, including fixed and mobile telecommunication, Internet, audiovisual and publishing media. This choice is motivated by the deep changes that digital technology produces in the area of communication, leading to an increasing convergence of different content providers on the same technological platform.

The AGCOM plays the role of guarantor, assuring a co-operation among the operators and the respect of fundamental rights and freedoms for the consumers. The AGCOM is entrusted by law with the power to verify the compliance in the broadcasting sector with existing regulations or self-regulations concerning the protection of minors from audiovisual content. In order to fulfil this requirement, the AGCOM monitors all programmes broadcast by national television channels. For regional and local broadcasters, territorial inspectorates of the Ministry of Communications are responsible for the monitoring. If an infringement to law is detected, the AGCOM applies administrative sanctions as provided by art. 31 of law 223/90.

The AGCOM is the sole authority responsible for law enforcement regarding the protection of minors in the broadcasting sector. Besides that, however, a number of responsible organisations exist, whose role is not always well defined; this contributes to the complexity and lack of clarity of the situation. In addition to the creation of the AGCOM, law 249/97 establishes another body, specifically devoted to the issues of minors protection and human dignity: the National Users Council (***Consiglio Nazionale degli Utenti, CNU***). The CNU has a consultative function; it consists of experts in the field of sociology, pedagogy, psychology and education, whose role is to express opinions but also make proposals to the AGCOM, the Parliament and the Government in order to improve the protection of the rights of consumers, notably children and minors, in the field of media and communication.

The other two boards responsible for the regulation of audiovisual content harmful for minors operate on a public level. On one side, the **Parliamentary Committee of inspection on audiovisual services**, which is in charge of the control on public broadcasting, establishes the general guidelines for the public TV service, performed by the three RAI channels. It can also express its disapproval of TV content, and exerts a form of censorship by prohibiting the broadcasting of certain programmes. On the other side, at governmental level, a **special department operates within the Prime Minister's Office, the Committee on minors and TV** in order to control the observance of rules and codes of conduct dealing with the protection of children from harmful TV content.

## 2.3. Self-regulation

The main self-regulating system existing in the Italian broadcasting landscape is the one adopted by FRT. FRT (*Federazione Radio Televisioni*) is the major association assembled of Italian private

broadcasters. It includes among its members the MEDIASET group, consisting of Canale 5, Italia Uno and Retequattro, the three main national commercial broadcasters; the TELE + group, Italian branch of French pay-TV group CANAL +; 150 local TV broadcasters and 200 local radio broadcasters. FRT covers with its associates more than 95% in terms of turnover, audience and employment of the total private broadcasting sector in Italy.

In 1993 FRT subscribed, together with the parents, teachers, users and consumers associations the “TV and minors” code of conduct in order to protect young TV users from potentially harmful content during certain time bands. This code provides a number of rules that FRT members are supposed to follow. It states that subscribers commit themselves to pay particular attention to the time band 4pm-7pm, and avoid the broadcasting of programmes or advertisements which could endanger the mental development of children. Another time band which should be considered as delicate is the 8pm – 10.30pm break.

Following the adoption of the code, and its revision in 1996, a special committee has been created, which regroups sector operators and the subscribers. Its task is to monitor adherence to the code of conduct, and to collect and handle reports or protests from the consumers concerning infringements of the code by broadcasters.

In addition to the aforementioned code of conduct, the three MEDIASET channels have implemented a system of visual symbols aimed at guiding parents in the choice of appropriate programmes for their children. The symbols are shown in trailers, announcements, newspapers and at the beginning of every fiction programme (film, TV film, drama, serial, telenovela and soap opera) and after every commercial break. After being introduced on *Canale Cinque*, Mediaset’s flagship channel, in 1994, the system has been extended to the other two group’s networks, *Italia Uno* and *Retequattro* in 1997. The system is quite simple to understand, as it follows a sort of “traffic-light” scheme: a green symbol (a circle with a stylised child on the inside) means that the programme is suitable for all; a yellow one (a circle with a child and an adult on the inside) means that parental guidance is advisable; a red one (a circle with a child on the inside) means that the programme is not suitable for children.

Besides the FRT Code of Conduct, another self-regulatory text exists which addresses to all broadcasters in Italy. The Committee on minors and TV approved on 26 November 1997 a Code of Practice to safeguard minors from harmful broadcast content. The Code was signed by the Prime Minister and Italian Television Companies. This code covers various aspects of the relationship between minors and TV, namely the participation of minors in TV programmes, the impact of violent images shown in TV news, advertising and fiction films. Regards films, the Code invites TV channels to establish an internal committee in charge of assessing the admissibility of fiction programmes for a young audience. If potentially harmful content is to be shown on TV, broadcasters are required to announce clearly its unsuitability for children.

## **LUXEMBOURG**

In Luxembourg the classification of films is regulated by a law dating back to 1922, providing a unique age category (17 years) below, which attendance to film theatres is forbidden. However, an intermediate age category of 14 has been introduced to make the system more flexible and adapt to a changing society. The rating board is the *Commission de Surveillance*, established in Luxembourg and Esch-sur-Alzette, the country's second largest city.

For the broadcasting sector, law of 27 July 1991 on electronic media represents the relevant legislation. It sets out a National Programme Council, in charge of examining the content of broadcast programmes and monitors the appliance to existing legislation.

### **1. Cinema**

#### **1.1 Applicable legislation**

- Law of 13 June 1922
- Grand-Ducal order of 16 June 1922, implementing law of 13 June 1922, as modified by Grand-Ducal orders of 14 November 1925, 22 August 1938 and 18 December 1950
- Ministerial regulation of 28 November 1977

Following law of 13 June 1922, the entrance to movie theatres is a priori forbidden for people 17 years of age and under. Nevertheless, films intended for a young public may receive a special authorisation in order to be shown to minors as well. The body responsible for this authorisation is the Commission for the surveillance of cinemas and public theatres (*Commission de Surveillance, CdS*). Even though the only age limit provided by law is 17 years, in practice an intermediate age rating of 14 years has been introduced. Moreover, the Government, acting officially or on the proposal of the CdS, may order the suppression, partial or total, or prohibition of a screening of a film if it is considered scandalous, or a threat of endangerment to public morality and order. Therefore, the classification system applied by the CdS consists of four categories:

| 1       | 2                                   | 3                                   | 4   |
|---------|-------------------------------------|-------------------------------------|---|
| For all | Unsuitable for people aged under 14 | Unsuitable for people aged under 17 | Unsuitable for all on ground of public morality |

#### **1.1 Enforcement and rating process**

The Commission of Surveillance (CdS) consists of two sections, one located in Luxembourg and the other in Esch-sur-Alzette. Even if in theory the responsibility of each section covers the territory of the respective province, certificates released by one of the sections are valid throughout the country. Each section is composed of a president, four effective members and two substitutes, appointed for a period of two years.

Decisions are arrived at via a simple majority vote, the vote of the president deciding in the case of a draw. No appeal procedure is provided by law. The CdS may condition the release of a

certificate on the removal of or re-editing of certain parts of the film. Besides age rating, the CdS can issue a particular recommendation for films specially conceived for a young public.

To obtaining an authorisation, applications must be presented by cinema exhibitors and they must include various pieces of information on the film intended for screening<sup>30</sup>. They have to be presented at least one month before the date of the foreseen exhibition. Once released, the authorisation is sent by the CdS to the cinema exhibitors, the police and the press throughout the country.

Sanctions including fines and imprisonment up to seven days may be imposed upon movie theatre managers or spectators not respecting the age limitations provided by the CdS.

## **2 Video**

The only applicable legislation in the case of video and DVD is the criminal code, which sanctions the delivery of pornographic products to minors. However, in practice, video distributors apply the rating system of neighbouring countries on imported items.

## **3 Video games**

No specific law covers the classification of video games. In practice, most products are imported from the UK or the neighbouring countries and labelled following the respective rating systems.

## **4 Broadcasting**

### **4.1 Relevant legislation: law of 27 July 1991 on electronic media<sup>31</sup> amended by law of 2 April 2001<sup>32</sup>**

Art. 6 of the law lays down common provisions with regards to broadcast content. It states that TV programmes, besides respecting moral and intellectual values of the public, may not contain any incitation to hate on ground of race, sex, opinion or nationality. Moreover, programmes seriously endangering the physical, mental or moral development of minors, namely programmes showing pornography or gratuitous violence scenes, are forbidden. Where the danger for the youth exists in a limited form, broadcasters have to ensure by the time of airing or through technical devices that the younger audience do not see this kind of programmes.

Provisions laid down by the amended TVWF Directive in 1997 on the need for broadcasters to mark potentially harmful programmes through visual or auditory signals, have been translated into national legislation through amendments to the law made in April 2001. TV broadcasters

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<sup>30</sup> The list of the necessary documents is provided by ministerial regulation of 28 November 1977.

<sup>31</sup> The text of the law is downloadable on the following website: <http://www.etat.lu/SMA/text-sma/french/legx1.htm>

<sup>32</sup> The text of the amended law is available at <http://www.chd.lu/fr/portail/recherArch/rechersimp/textonly.jsp?resSet=3&docNum=2>

also apply TV rating systems used in neighbouring countries such as France, Germany, Belgium and the Netherlands.

## 4.2 Enforcement

The control and monitoring of programmes broadcast on TV is the responsibility of the National Programme Council (*Conseil National des Programmes, CNP*), whose functions and composition are described under art. 31 of the law above mentioned.

The CNP examines the content of:

- trans-frontier TV programmes
- local TV programmes
- cable TV programmes
- satellite TV programmes

The CNP is responsible to the government for the monitoring of TV programmes and their compliance with legislation. It can also make propositions in order to foster balanced programming content in favour of minors.

The CNP consists of 25 members appointed for a period of five years by representative cultural and social organisations of the country, including religious and political groups, trade unions, parents, youth, sport, and environmental associations.

During the last year, the CNP has demanded greater independence from the Service for Media and Communications, which assured previously the CNP's secretariat. As a result, it now has its own administrative structure. One of the tasks attributed to the CNP is to prepare the future reform of the 1991 law on the media, which should occur shortly.

## 4.3 Recent legislative developments

A draft proposal for a new legislative text covering the protection of minors and human dignity in the electronic information and communication services is currently under discussion at the German Parliament. The outcome of the legislative procedure is likely to be expected for the next spring (March-April 2003).

The new law should be named *Jugendmedienschutz-Staatsvertrag* (JMStV, Act on the protection of the Youth in the media). In the legislator's intention it should encompass traditional broadcasting activities and new media services (*Telemedia*). The main measures aimed at protecting children and young audience from harmful content already contained in the RSTV are transposed in the new text. They include a list of unauthorised transmissions, watershed rules, provisions for indexed material, visual and tonal signalling and the need to institute a person responsible for the issue of the protection of minors. These conditions should remain unvaried.

The principal modification concerns the monitoring system. Whereas until now the authorities responsible for controlling and sanctioning infringements to broadcasting rules by private channels are the Land Media Agencies, the JMStV foresees the creation of a new board called *Kommission für Jugendmedienschutz* (Committee for the protection of the Youth in the media). This committee should be composed of representatives of the Land Media Agencies, the Supreme

Youth Authorities of the Länder and the Federal Youth Authorities. It would be responsible for the implementation of rules dealing with the protection of minors and in particular it would examine applications for self-regulatory codes of conduct developed by private broadcasters. The law underlines the importance of self-regulation but it insists on the necessity of the compliance of self-established measures with a body of common guidelines.

The draft law proposal recommends then a series of sanctions and appeal measures in order to ensure the respect of provisions laid down by law.

It is still too soon to say if the law proposal will be approved in its present form. The debate is open between those who prone a stricter control by public authorities and those who see self-regulation as the best balanced form for ensuring the respect of public interests without placing too much legislative burden on the shoulders of private broadcasters.

## **THE NETHERLANDS**

The Netherlands have implemented an original system based on:

- Self-regulation

A uniform rating system for TV broadcasting, films aimed at theatrical release, films supplied in video formats (VHS and DVD) and video games.

This newly developed framework has been called NICAM, and began operations in February 2001. It is in charge of setting up the rating system and ensuring its implementation.

### **1. A Uniform Classification for TV programmes, Films, Videos and Video games: NICAM**

#### **1.1 NICAM: Purposes and Missions**

In view of the need to set up self-regulatory measures aimed at the protection of young audience and suitable across all media supports, NICAM was created in 1999. It was founded in a close cooperation between the Ministry for Education, Culture and Sciences, the Ministry for Health and Sport, and the Ministry for Justice. NICAM replaced all former Dutch bodies entrusted with the task of classifying audiovisual works (such as the former NFK, or Commission for Film Classification), and represents an unprecedented initiative in Europe.

NICAM's Board is made up of representatives from the public and commercial broadcasters, film distributors, cinema operators, video distributors, computer and video games representatives.

The following umbrella organisations participate in NICAM:

- Netherlands Association of Producers and Importers of Visual and Sound Recording Media (NVPI)
- Netherlands Video Retailers organisation (NVDO)
- Netherlands Association of Gramophone Record Retailers (NVGD)
- Netherlands Federation of Cinematography (NFC)
- Netherlands Broadcasting Foundation (NOS) which represents all national public broadcasters
- Association for satellite TV and Radio Programme Providers (VESTRA), which represents all commercial broadcasters in the Netherlands

The new system embodied by NICAM can be summarised as the following with NICAM providing for:

- A method (through an online questionnaire made available to film producer and video suppliers) for TV Broadcasters, film producers and distributors to classify audiovisual production into relevant age categories, on a voluntary basis. According to Mr Bekkers, director of NICAM, the online rating process takes about 10 minutes. At the end of the process, the system automatically provides the applicant with relevant classification and translated this classification into pictorial symbols that may also be downloaded.
- Related icons, aimed at signalling the category a given audiovisual work belongs to (also accessible online)











This voluntary system does not prevent broadcasters to apply additional rules on content, under the supervision of the Media Authority (see further below part II.)



In other terms, NICAM is an advisory body which gives guidance and fosters unanimity in the way audiovisual works, whatever their media support, are rated.

NICAM acts as “a national support and coordinating body for the self regulation of the audiovisual sector”. It pre-supposes that its members have trained staff (“the coders”) to deal with classification.

The rating system set up by NICAM is two fold: it includes age categories as well as indications on what the “harmful content” consists of:

|  |  |   |  |   |   |
|--|--|---|--|---|---|
| <u>For all ages</u><br> | <u>Adult supervision advisable for children under 6</u><br> | <u>Not for children under 12</u><br> | <u>Not for children and young people under 16</u><br> |   |   |
| <u>Violence</u><br>    | <u>Sex</u><br>   | <u>Fear</u><br>                     | <u>Drugs and alcohol abuse</u><br>                     | <u>Discrimination</u><br> | <u>Swearing</u><br> |

Once an audiovisual work has been rated, the relevant pictograms will be displayed in advertisements, programme schedules, TV guides and on the packaging of videos, DVDs and CD Roms. In addition they appear on the screen at the beginning of a TV programme or video.

## 1.2 The Self-Regulation Classification Process

On the basis of the questionnaires that are being provided by NICAM, it is up to NICAM's members to classify their work:

The supplier of an audiovisual work answers a questionnaire to help classify the content of the work. The list of questions used was developed by a group of experts. It constitutes a “measuring tool”.

Answers to the questionnaire lead a given “score per thematic category” for the audiovisual work.

|  |
|--|
| <p><u>For instance the analysis of a given audiovisual work through the answers given to the questionnaire would lead to:</u></p> <ul style="list-style-type: none"> <li>- <u>Under the theme “violence” a score which would lead to a classification under the age category “12”</u></li> <li>- <u>Under the theme “swear”, a score, which would lead to a classification under the category “suitable for all”.</u></li> <li>- <u>Under the theme “fear”, a score which would lead to a classification under the category “12” category</u></li> <li>- <u>Under the theme “discrimination”, a score which would lead to a classification under the category “suitable for all”.</u></li> <li>- <u>Under the theme “drug” a score which would lead to a classification under the category “suitable for all”</u></li> </ul> <p>⇒ As a result, scores reached under “violence” and “fear” lead to a classification under the age category 12.<br/> The visual code will consist in three different icon: “12”, “icon representing violence”, “icon representing fear”.</p> |
|--|

This uniform classification is expected to be utilised progressively across the whole audiovisual sector.

- Since February 2001 new films released in Dutch cinemas are classified according to NICAM classification.
- NICAM made its TV debut on 17 March 2001, starting with films and drama production. Other TV programmes on the Dutch channels followed, with the exception of news and current affairs programmes and live programmes. It may be said that classification of broadcast programmes is “almost mandatory” since, according to Mr Bekkers, TV broadcasters that are not members of NICAM are not allowed to broadcast programmes for people under 12 or 16 i.e. can only broadcast programmes that are “suitable for all” (this applies to all the TV channels that are licensed by the Dutch government and to Canal Plus).
- Since July 2001 new video releases have been given a NICAM age and content classification. There is no obligation for videos to be classified under the NICAM procedure. Yet, in practice, 75% of the videos that are released on the Dutch market are distributed by companies that are members of NICAM and that consequently applies its system of classification. According to Mr Bekkers, current debates at the Dutch Parliament have put forward the idea of getting the NICAM classification mandatory for all videos released on the Dutch territory. The proposal may be translated into concrete legal provisions in the short run.
- NICAM is currently seeking European partners for the classification of computer games. The ISFE system of self-regulation is currently applied to computer games in The Netherlands.
- NICAM does not deal with imported videos and has no power of investigation. However it tries to persuade distributors of imported videos that are still not members of NICAM to join the organisation.

### *1.2.1 Cost*

There is no fee to be paid in order to get an audiovisual work classified, since the system is voluntary and fully “computerised”. It has been evaluated that the total cost involved in the implementation of the NICAM self-regulation system (and in particular staff cost and training costs – for each member to be able to implement the NICAM system by themselves) amounted to €1.6 million per year (€700,000 per year for the institute and €900,000 total costs incurred by the members involved in NICAM), with the broadcasting sector being the most labour-intensive.

Staff cost and training costs relate to the creation “coders”. “Coders” are people who belong to the different audiovisual sectors (theatrical, video, TV channel programming departments, video games) and that are in charge of implementing the NICAM classification process, since their organisation belongs to NICAM. However, the system also factors in the possibility of an industry professional abusing the system by answering the NICAM questionnaire improperly. If false information is discovered in a film’s profile, the applicant may be fined €12,500, or up to €50,000 in the case of broadcasters.

### 1.2.2 Censorship

NICAM does not demand censorship or cuts. However, under the Media Law, programmes that can cause serious harm must be banned from broadcasting. Conformity to this principle is controlled by the Commissariaat voor de Media. Other media supports (theatrical releases and video) can only be banned when they include pornography and extreme violence. In such case, penal procedures apply.

## 1.3 Complaints

All organisations affiliated to NICAM now classify their products in accordance with the NICAM's regulations, and clearly mark their "products" accordingly. Anyone who thinks that an organisation or company involved has breached these regulations may submit a complaint to NICAM's Independent Complaints Committee. They may do so in the following cases:

- A film or video distributor applies a classification different from what would normally be expected
- A promotional trailer that is definitely not suitable for all ages is shown as part of the previews before a film classified as suitable for all
- An organisation fails to give sufficient publicity to the NICAM's pictograms
- A broadcaster broadcasts a TV programme at a time other than that permitted by the classification.

The 4 members of the complaint committee have no connection at all with the audio-visual world. The unsatisfied person has 6 weeks to submit his complaint. The Complaint Committee will then issue a ruling within 10 weeks. If a complaint is found to be justified, a warning or penalty will be imposed upon the offending party. The fines vary up to maximum of €11,344.5 for the film and video sector, and €22,689 for broadcasters. Rulings by the complaints Committee can be made public by the media.

There is the possibility of appealing the decision, to the Appeals Committee through NICAM. This committee is made up of three independent members with no connections to the audio-visual world. If the judgement is agreed upon, the case is transferred to the Complaints Commission.

## 2. Complementary Control Provisions for TV programmes

### 2.1 The Media Act

The Media Act 2000 lays down additional provisions relating to the control of content broadcast on TV Channels. Rules were adopted so as to meet the provisions laid down under the Directive *Television Without Frontiers*.

In particular, the Act includes the following provisions:

That "programmes shall not contain elements that might impair seriously the physical, mental or moral developments of persons under 16."

Programmes that could “*impair seriously the mental or moral developments of persons under 16*” can only be broadcast if the broadcaster has previously received an “accreditation” by the Government.

Such accreditation will have to include specific rules relating to the classification of programmes to be implemented by the TV Channel:

#### *2.1.1 Criteria for the classification of programmes*

Questionable material includes that in which:

- fear is aroused
- violent behaviour is shown or justified
- the use of drugs is made to look attractive or is condoned
- pornography is involved
- products are not suitable to be shown to certain categories of persons under the age of sixteen on other grounds according to generally held opinion

#### *2.1.2 Watershed*

Television programmes with the classification “from 12 years of age” are not broadcast before 8pm and TV programmes classified “16 and over” are not broadcast before 10pm.

#### *2.1.3 Symbols and warning*

TV channels have implemented a system whereby programmes are classified during the 5 seconds before the programme starts.

Compliance with these requirements is monitored by the Media Authority, although the latter does not handle complaints.

#### *2.1.4 The Dutch Media Authority*

The Dutch Media Authority (*Commissariaat voor de Media*) was created in 1988. It upholds the rules that are formulated in the Dutch Media Act. It provides information beforehand and supervises its implementation. It focuses on both public and commercial broadcasters as well as on cable operators.

## NORWAY

### 1. Film, Video and Video games

#### 1.1 Legislation

- Law n° 21 of 15 May 1987, amended on 1 January 2000
- Law on pornography (paragraph 204)
- Law on violent images (paragraph 382).

Under Norwegian Law, all films and videos/DVDs must be registered at the Norwegian Board of Film Classification prior to their release/sale/rental. Registration does not include control of their content.

The Norwegian Board for Film Classification classifies under rules laid down by law:

- All films for public exhibition – to that end the Norwegian Board of Film Classification determines the age limits of all ordinary cinema films (feature, short-films, trailers) to be shown theatrically in Norway. The Board can make exceptions for films to be shown in festivals or official cultural arrangements.
- Videos – rating is on a voluntary basis, initiated by the video distributor. The limits are often in accordance with those from the cinematic classifications of Norway, UK, US. The Norwegian distributor is held responsible that the video is not in conflict with the penal code. The Board has the right to draw in videos that may be suspected as to violate the acts, for control.
- Video games and Internet. The Board follows an “advisory approach”. While the advisers working with film and video are concerned with classification, the work done in the field of new media is more directed towards Public Relations and general information to the public, both on demand and on their own initiative. A proposal for government legislation was considered at one stage. However, the Ministry for Culture chose not to pursue the project of legislation and is currently waiting for the results of efforts to develop a European harmonised rating system, prior to any further move at national level.

Age categories under article 5 of Law on Film and Videograms of 15 May 1987 are as follow:

| For all | 7 years<br>(or 4 years<br>accompanied) | 11 years<br>(or 8 years<br>accompanied)     | 15 years<br>(or 12 years<br>accompanied)   | 18 years  |
|---------|--|---|--|---|
|         | Example:<br><i>Shrek</i>               | Example:<br><i>The mask of zorro</i> (1998) | Example:<br><i>Baby Boy</i> (2001)<br><i>The Score</i> (2001)<br><i>Lara Croft Tomb Raider</i><br>(2001)<br><i>Dungeons &amp; Dragons</i> (2001) | Example:<br><i>Kiss of the Dragon</i> (2001)<br><i>Romance</i> (1999)<br><i>Seul contre tous</i> (1998) |

There is a possibility of censorship (full and partial) in Norway but it is very rarely implemented. Distributors must pay for both registration and classification, which amounts to a total of €0.68 per unit for each audiovisual work. This sum is paid by both distributors of films intended for theatrical release and video distributors (who often submit videos both for registration-which is

mandatory- and classification of content –which is optional but constitutes a guarantee in case of complaints). Norwegian video distributors feel this tax is too heavy, and that they do not get their money back, as the sum paid to the State is then used for other purposes, in particular for supporting the film industry.

## **1.2 Enforcement:**

Is conducted through The Norwegian Board of Film Classification, which is an independent body reporting to the ministry of Cultural Affairs. The Board is divided into two departments, with one director general in charge.

The “advisory department” consists of 8 people working in different areas according to their expertise: film and video, computer games, Internet or other new media forms like convergence or e-cinema. The “department of administration” consists of 5 people and have the main responsibility for the video registry with information of all videos or DVDs that are sold or rented in Norway.

## **1.3 Rating Process**

### *1.3.1 Mandatory rating process for feature films*

Evaluations are made by the members of the Board. Decisions are made by a majority ruling, and at least two classifiers watch the film. In the case of a controversial film or of films where the classifiers disagree, all of the classifiers have to watch the film so as to reach a valid decision. If the distributor does not agree with the Board’ decision, he may choose to cut a film so as to get a lower age limit. In any case cuts are made by the distributor, not by the Board.

The Board is also empowered with the ability to ban a film, which in practice is very rare. Today, cuts are also rare (which was not the case only 4 years ago). Pornographic films used to be submitted to cuts, on the Board’s request. They are now generally being classified as “for people above 18”. Norwegian distributors still think that the regime applicable to pornographic films is less flexible in Norway than in Denmark and Sweden, and the topic is currently under discussion at the industry level.

Distributors (through the appeal court), as well as the general public (through the Children's Ombudsman) can complain about the decisions of the board of film classification. Complaints concerning incorrect case treatment may be brought to separate boards. Punishment, as stated in the Penal Code, may also include loss of business rights.

### *1.3.2 Video: Optional Rating Process for Video Classification*

It is not mandatory for video distributors selling or renting out videos in Norway to have the videos or DVDs controlled by the Board.

The distributor puts an advisory age limit on the videos on a voluntary basis. The limits are often in accordance with age limits from the cinematic classifications in Norway, Great Britain, or the U.S.

Norwegian distributors are held responsible if the video is in conflict with the Penal Code, and the Board has the right to withdraw videos that may be suspected of violating the acts. This is

why although classification is not mandatory, distributors may often order a penal code evaluation of the video with the Board, to obtain an age limit. The distributors when applying for registration, which is mandatory, almost always require classification.

Two requirements are made compulsory to video suppliers:

- Videos have to be registered in the video registry.
- Following the registration and prior to any video supply, the video must be marked so as to display: the registration number, the “genre”, and the age category (as granted by the Norwegian Board for Film Classification or by other national classification authorities). Once a video is registered (and the according tax paid), the video distributor gets access to an online website from which it is possible to download relevant stickers.

### *1.3.3 New Media: Guidelines and Information to the Public*

The new media are not regulated by law except when content includes extreme violence or pornography.

In the absence of appropriate law, the Board tries to keep the public informed through:

- Publishing books, booklets and reports on the subject matter
- Helping monitor their development
- Giving lectures for schools and other interested parties
- Taking part in initiatives at international level

## **2. Broadcasting**

### **2.1. Applicable Legislation<sup>33</sup>**

- Act n° 127 of 4 December 1992 (with subsequent amendments, most recently by Act n° 6 of January 14, 2000 and Law 2002-06-28-59 of 2002.07.01) relating to broadcasting
- Regulations of 27 February 1997 relating to broadcasting

The Broadcasting Act addresses the issue of the protection of minors. Under these provisions, the Mass Media Authority may prohibit programming which may seriously impair the physical, mental or moral development of minors; in particular programmes that involve pornography or gratuitous violence. The Mass Media Authority may prohibit such programmes when *“retransmission takes place at a time of day when children or young persons constitute a substantial proportion of the viewers”*.

Under Regulation of 28 February 1997, §2-6, the 9pm watershed is established, the only exception being constituted by programmes of news and current affairs

Additionally, when programmes that may harm children are broadcast in un-encoded form, the broadcasters must give a warning either by using a visual symbol throughout the programme or via an announcement prior to the broadcast.

Broadcasters are left with full responsibility so as to give gravity to these provisions.

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<sup>33</sup> Legislations available on [http://odin.dep.no/kkd/engelsk/acts\\_regulations/index-b-n-a.html](http://odin.dep.no/kkd/engelsk/acts_regulations/index-b-n-a.html)

In practice, the interpretation of what programmes should be broadcast after 9pm is based on the tradition of the different broadcasters. When the *Television Without Frontiers* Directive was transposed into Norwegian legislation, the Ministry of Cultural Affairs declared that Norwegian broadcasters had already implemented a system of watershed hours as required under the Directive provisions, and that the transposition of the EU Directive could be considered as a formalisation of the existing system.

Even if the law does not determine it, all Norwegian TV channels announce the age rating set by the Norwegian Board of Film Classification, if available. The age ratings are always present in the newspaper's programme schedules and in TV magazines. However, the implementation of acoustic or visual announcement varies on a case-by-case basis. The tradition is to give an acoustic warning prior to the broadcast of programmes which may harm children. When it comes to programmes or films not rated by the Norwegian Board of Film Classification, the age classification is a work of editorial consideration of the TV channel itself. This classification is not legally founded. The legal provisions only prohibit TV channels sending out programmes with content that may harm minors, earlier than 9pm. The public and private channels implement the same system of classification.

Both public and commercial channels are subjected to the same legal provisions. They also implement the same system of age classification when it comes to films rated by the Norwegian Board of Film Classification.

The same regulations apply to encrypted channels as to free TV channels. However, since their programmes are transmitted in coded form, they are not required to give a warning when transmitting programmes that may harm children. Although encrypted channels are considered under the existing legal provisions, it must be noticed that there are no encrypted TV channels today broadcasting from Norwegian territory.

No self-regulation scheme has so far been established through collaboration between the Norwegian TV channels. However, self-regulation can be detected in the "traditions" mentioned above.

## **2.2. Staten Medieforvalting Smf/ The Mass Media Authority**

The Mass Media Authority is an administrative body, placed under The Royal Ministry of Cultural and Church Affairs. It is organised into two divisions handling broadcasting and press issues respectively.

The Broadcasting division's responsibilities include processing applications for broadcasting licenses for local radio and television, satellite broadcasting, monitoring advertisements and sponsorship in broadcasts, and imposing sanctions. It acts as a watchdog regarding the implementation of rules concerning the control of broadcast content.

There is no television censorship in Norway, so the Authority can only act on programmes that have been broadcast. It can act on its own initiative or after complaints from organisations or from the public.

The sanctions the Authority can use are warnings. In severe cases the sanctions regulated in the Broadcasting act of December 4, 1992 chapter 10 (punishment, warnings and taking of cases to trial) will be used.



The use of fines is only applicable in cases of advertising and sponsorship.

## 2 Annexes

Classification of films in Norway 1988-2000

| Year | Number of titles |     | 5 years | 10 years | 15 years | 18 years | Forbidden | Number of copies |
|------|------------------|-----|---------|----------|----------|----------|-----------|------------------|
| 1988 | 231              |     | 34      | 64       | 105      | 23       | 5         | 1114             |
| 1989 | 209              |     | 24      | 82       | 83       | 17       | 3         | 1164             |
| 1990 | 180              |     | 25      | 57       | 75       | 19       | 4         | 1197             |
| 1991 | 200              |     | 28      | 88       | 69       | 11       | 4         | 1400             |
| 1992 | 190              |     | 21      | 62       | 88       | 16       | 3         | 1336             |
| 1993 | 188              |     | 28      | 64       | 85       | 10       | 1         | 1433             |
|      |                  | all | 7 years | 11years  | 15years  | 18 years | forbidden | Number of copies |
| 1994 | 178              | 13  | 28      | 51       | 71       | 14       | 1         | 1483             |
| 1995 | 205              | 19  | 28      | 54       | 88       | 16       | 0         | 1935             |
| 1996 | 208              | 34  | 30      | 45       | 81       | 18       | 0         | 1948             |
| 1997 | 218              | 29  | 48      | 51       | 84       | 6        | 0         | 2604             |
| 1998 | 233              | 24  | 55      | 51       | 91       | 12       | 0         | 2625             |
| 1999 | 240              | 45  | 34      | 59       | 87       | 14       | 1         | 2679             |
| 2000 | 214              | 29  | 40      | 57       | 85       | 3        | 0         | 3168             |

## PORTUGAL

In Portugal, two bodies are in charge of the classification of films and video:

- Comissão de Classificação dos Espectáculos
- Cinedoc

The Comissão de Classificação dos Espectáculos (CCE) is controlled by the General Inspectorate of Cultural Activities (*Inspecção Geral das Actividades Culturais, IGAC*) which is attached to the Cultural Ministry. The CCE has no budget or administrative staff. IGAC provides human resources and collects taxes on behalf of the CCE. The CCE is in charge of classifying all media and live shows (film, video, DVD, theatre play, opera, ballet, concerts, circus, sports, bull fighting, video games). Classification is mandatory. According to the law, all live shows are rated. Opera, concerts, ballet, circus and sports are rated 3. Bull fights are rated 6. For these shows, the CCE's opinion is not required, except for extraordinary cases which have never occurred (for instance a very violent or erotic opera). Censorship (and cuts) are prohibited by law since the revolution in 1974.

The Cinedoc cinema rating system constitutes an additional voluntary system, which expresses the opinion of the catholic community.

In the broadcasting field, the Alta Autoridade para a Comunicação Social (AACS) is competent for the respect of human dignity in TV broadcast programmes.

## **1. Film, Video and Video games: official classification**

### **1.1 Applicable Legislation**

Law Decree n°396/82 of 21 September 1982, as amended by Law Decree n°116/83 of 24 February 1983 and Law Decree n° 39/88 of 6 February 1988<sup>34</sup>.

- Sets up the Commission for film classification.
- Establishes a mandatory rating system applicable to films, videos, DVDs and video games:

Regarding age limits, five categories are explicitly provided by law:

| 1      | 2      | 3       | 4       | 5       |
|--------|--------|---------|---------|---------|
| Over 4 | Over 6 | Over 12 | Over 16 | Over 18 |

Following the indications of the CCE, which is responsible for the definition and development of the film classification criteria, each age category reflects a specific film content assessment. The correspondences are organised as follows:

| Over 4                                     | Over 6                        | Over 12                       | Over 16                            | Over 18                                |
|--|-------------------------------|-------------------------------|------------------------------------|--|
| Short and easy shows which do not frighten | Shows that on ground of their | Shows that on ground of their | Shows exploring in excessive terms | Pornographic shows and shows exploring |

<sup>34</sup> Portuguese legislation on film classification can be found on the following website: <http://www.igac.pt/areas/cinema/index.html>

|  |  |  |  |   |
|--|--|--|--|---|
| children nor conflict their fantasy and playful feelings | theme or length are not adapted to the criteria fixed for lower age categories | length or complexity could provoke excessive fatigue or psychical traumas to viewers of lower age categories | aspects linked to sexuality and physical or psychological violence | pathological forms of physical and psychical violence |
|--|--|--|--|---|

Other specific criteria are designated to pornographic works. A film is considered to be pornographic if:

It explores sexual situations and acts with the main purpose of exciting the public; and  
It has a low aesthetic quality

Among pornographic films, a further distinction is made between:

| <b>Hard-core works</b>   | <b>Soft-core works</b>   |
|--|--|
| Shows presenting an extensive and insisting description of sexual acts truly practised, with exhibition of genitalia | Shows presenting an extensive and insisting description of simulated sexual acts |

A special 'quality' rating may be assigned by the CCE to a film, video, DVD or theatre play following particularly outstanding artistic, thematic, technical or educational features of the work.

Enforcement: Comissão de Classificação de Espectáculos

The CCE is an agency of the Ministério da Cultura (Ministry of Culture). It is the deliberative body in charge of classifying shows, in the following terms:

- Classification for age categories and quality classification
- Classification of shows as pornographic or non-pornographic, and the respective degree

The CCE consists of 1 president, 1 vice-president and 43 members. The president and vice-president are appointed by the Government office in charge of culture. The members are appointed by the Government officer in charge of culture upon designation of the competent authority under the following scheme:

- 2 members indicated by the Government officer responsible for the field of social communication
- 2 members indicated by the Minister of Justice
- 4 members indicated by the Minister of Education
- 2 members indicated by the Government officer responsible for the field of health
- 2 members indicated by the Government officer responsible for the field of youth
- 15 members indicated by the Government officer responsible for the field of culture
- Other 15 members indicated by the Government officer responsible for the field of culture within a list of 30 people proposed by the president of the CCE, including representatives of the civil society or experts in the same area of expertise as the CCE.
- 1 representative of the DGEAT (Directorate General for the shows and the copyright)

The CCE works in plenary sessions once every three months, dealing with general questions (classification criteria, propositions and opinions on relevant legislation, internal regulation). For day-to-day work, the CCE is organised in three main sections:

- Section of age rating
- Section of quality rating
- Section of classification pornographic/non-pornographic films

An appeal sub-committee is established as well, which is responsible for receiving submitted appeals. This committee is composed of five different members taken out of the 43 ordinary members of the CCE. The following persons are entitled to make an appeal against decisions taken by the CCE:

- Film and video distributors
- A group of 100 citizens
- Producers of entertainment events
- Members of the CCE working panel not in agreement with decisions taken at majority vote

### The Rating Process

It is mandatory to get audiovisual works both classified and registered.

#### 1.3.1 Theatrical release

Distributors must present an application form obtained from the IGAC together with a copy of the film intended for screening, at least 10 days before its exhibition. In reality, the CCE is quite flexible and it receives applications coming beyond this time limit. Costs are as follows:

| Films classified as pornographic | Other films |
|----------------------------------|-------------|
| €299.28                          | €149.64     |

#### 1.3.2 Videos

For national production, the applicant must provide the following documents:

- Registration number and filled-in video submission form (Mod. 18 IGAC)
- Producer's authorisation
- Music/text authors and filmmaker's authorisation
- Copy of the video packaging
- Video copy to the CCE

For foreign production, the applicant must provide:

- Registration number and filled-in video submission form (Mod. 18 IGAC)
- Contract
- Original certificate
- Producer's authorisation
- Copy of the video packaging
- Subtitles in Portuguese
- Distributor's authorisation if it is a copy of a film having been released in movie theatres Less than a year before
- Copy of the video packaging
- Video copy

All imported videos in circulation have to be classified by the CCE. The required documents are the following:

Videos imported from EU member States:

- Record number and classification rating (Mod. 18 IGAC)
- Document which proves the authenticity
- Importation invoice
- Copy of the packing of the video
- The original version support

Videos imported from non EU countries:

- The same documents as for a foreign production see above, except for the original version

Note: it is often the case that imported DVDs are originally intended for the English and German markets and have been censored in accordance with the English and German regulation, whereas censorship is prohibited in Portugal. This constitutes a “moral” problem for the Portuguese censors.

Costs for registering and classifying :

1 stamp - approximately €0,18

For the new video classification: €37,41

If the cinematographic work is rated as “quality” work: no costs

|                               | Non-pornographic | Pornographic |
|-------------------------------|------------------|--------------|
| Video film already classified | 7,48 euros       | 299,28 euros |
| New video film released       | 37,41 euros      | 748,20 euros |

### • The Commission’s decision

When a film is presented to the Commission in order to be classified, the president selects a panel constituted of 5 members, who watch the film and express their opinion. If a consensus is not reached there is a simple majority vote. Panel members who are not satisfied with the vote results may appeal to appeal committee. It may take as little as 24 hours and up to 15 days (when the video distributor does not agree with the classification) to get an audiovisual work classified.

### • Marking and labelling for videos, DVDs and video games

The official classification certificate must include the following information:

- Title
- Registration number
- Copy number
- And the classification attributed by the CCE

The official stamp and record number have to be put on the bottom of the video packing. All stamps have the classification attributed by the CCE. Quality classification is mentioned on the stamp, as well as the age rate. Ex: M/12-Q. The same thing happens for pornographic classification. Ex: M/18-P.

The sole publisher is Nacional Casa da Moeda. The official stamp is as follows:

- Size 18mm x 110mm
- Blue printing with the mention “IGAC”

- Offset printing
- Hologram with the initials M/C (Cultural Ministry) and IGAC
- Black and offset subtitles
- Sticky label

Video for sale:

- Red printing with the mention IGAC and the mention Prohibited for renting in green.

Additionally, the law stipulates that the video packaging has to mention the following:

- The title in Portuguese
- The distributor
- Registration number
- Editor
- Film duration
- Film summary
- Artistic and technical information

In case of pornographic videos:

- Classification attributed by the CCE
- Record number
- Title and name
- Symbol
- Distributor brand

#### • Requirements put on theatre owners

In case there is any doubt about the viewer's age, and the age cannot be proved, the person in charge of cinema admittance should not let the viewer in unless accompanied by his or her parents.

The rating classification has to be mentioned on all advertising material (e.g. posters, newspaper) and near to the ticket office in the cinema's entrance.

## 2 Broadcasting

### 2.1 Applicable Legislation

#### **Law n° 31-A/98 of 14 July 1998 (Television Act) and law n°43/98 of 6 August 1998<sup>35</sup>**

Art. 21 of law n° 31-A/98 provides rules relating to the protection of the public from harmful TV content. It states that any programme endangering fundamental rights and liberties, threatening human dignity or inciting to crime, is forbidden. Programmes potentially harmful to the moral development of minors, or for some vulnerable public, namely on the grounds of shocking images, must be preceded by an acoustic warning and accompanied by a visual symbol throughout their duration. In any case, such programmes may not be broadcast before 10pm. The broadcasting of audiovisual works that have already been rated for age categories by the competent authority (the CCE) must be preceded by the indication of the assigned age classification. The previous provisions extend to any type of audiovisual content, including advertisements, trailers or programme announcements.

### 2.2 Enforcement

#### *2.2.1 Alta Autoridade para a Comunicação Social (AACS)*

The High Authority for the Mass Media (AACS) is a constitutional body and an independent authority. This authority was created by **law n° 15/90 of 30 June 1990** and is now regulated by **law n°43/98 the 6 August 1998<sup>36</sup>**.

It is composed of 11 members, appointed for a period of four years:

1 judge, appointed by the Superior Magistrate Council, acting as president

5 members elected by the Parliament

1 member appointed by the government

4 representatives of the public opinion, among whom 3 are appointed respectively by the National Council of Consumers, the professional association of journalists and the organisations of employers active in the field of communication, the fourth co-opted by the AACS members among a list of experts in the cultural and scientific area.

The AACS is responsible for assuring the basic rights of information through the mass media, including pluralism, the respect of human dignity and the right to response. It must also monitor the independence of communication organisations, ensure the compliance of radio and TV services with the relevant legislation and attribute broadcasting licenses to public and private companies.

Decisions are made by the AACS in the event of a plenary assembly, or by the vote of the simple majority of those present. AACS's deliberations have a binding character in the field of action upon which AACS's competences extend.

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<sup>35</sup> All relevant legislation affecting the field of communications is available on the website of the State Secretary for the Mass Media: <http://www.secs.pt/> and on the website of the National Authority for Communications: <http://www.icp.pt>

<sup>36</sup> Laws available on the AACS website: <http://www.aacs.pt/>

### 2.2.2 *Self-regulation*

The AACCS decided to promote an Agreement between the three operators RTP (Radio Televisão Portuguesa), TVI, and SIC concerning the representation of violence on the TV and applicable classification.

In this agreement, signed on 9 July 1997, the three TV broadcasters decided to take into account the following measures:

- Identifying a common symbol intended to mark programmes harmful for sensitive audiences, namely programmes depicting an excess of violence
- Displaying the above mentioned symbol through press releases as well as TV announcements advertising the programmes requiring such a symbol
- Creating two types of promotional trailers and spots for violent programmes, one destined for transmission before 10pm and deprived of all violent scenes, the other targeted at night viewers. In both cases, the symbol indicating violent content must be applied
- Promoting programmes particularly suitable for children and young people

TV broadcasters have in turn agreed to broadcast programmes considered as harmful to the sensitivities of the audience only after 10pm and to warn of their content through announcements, prior to their broadcast. Moreover, the symbol “0” has been adopted as an indicator of violent content. It appears on the screen for 15 seconds at the beginning of the programme and after each break.

Another agreement was signed by RTP, TVI and SIC on 18 September 2001 under the auspices of the AACCS. It concerns the safeguarding of human dignity in television programming and it covers any type of programme, fictional and non-fictional, including so-called “reality shows”.

### 2.2.3 *The Arbitral Committee*

TV operators declared in the protocol to the agreement approved on 18 September 2001 that they committed themselves to apply to an Arbitral Committee (*Comissão Arbitral*) if they needed to complete self-regulatory measures, or in the case of any infringements of the rules. The Arbitral Committee is composed of representatives from the three broadcasters adhering to the agreement and it depends on the presidency of the AACCS.

## **3. A second classification process by a catholic church: Cinedoc**

### **3.1 Status and power**

The Cinedoc is an agency of the *Secretariado das Comunicações Sociais* (Social Communication Secretary, the organisation representing the Portuguese branch of a catholic entity, the OCIC (International Catholic Organisation for Cinema). OCIC recently merged with another organisation, UNDA, to give birth to SIGNIS, the World Catholic Association for Communication.



The Social Communication Secretary delegates to the Cinedoc the responsibility of classifying films released in cinemas or on TV upon the request of TV broadcasters, or those distributed by video or DVD. In practice, the sole TVI channel, which started as being a private catholic channel, applies it. Classification is voluntary.

### 3.2 Classification by the OCIC-Portugal branch

OCIC-Portugal applies the following classification per age:

| CAT 1   | CAT2                        | CAT3       | CAT4  |
|---------|-----------------------------|------------|---|
| For all | For young people and adults | For adults | For adults with serious reservations<br>(extreme violence and sex scenes) |

## **SPAIN**

Audiovisual works, whatever their support, must be classified by the Commission for Film Classification, which is hosted by the Ministry of Culture. A system of five age categories is complemented, as in France, Portugal or Germany, by a specific category for pornographic and extremely violent films. Films classified under this category are subject to special legislation and rules and cannot be accessed in usual theatres.

The broadcasting sector has reached an agreement in which they have committed to enforcing a system of age categories and on-screen visual signals. Films previously classified by the Commission for Film Classification are broadcast according to the classification granted by the central authority.

The autonomous communities theoretically have statutory power on both the classification of films and the control of broadcasters. In practice, this power is only used by Catalunya. The relevant competent Catalan bodies do so in close coordination with the central Ministries of Culture and of Sciences and Technology.

### **1. Film and video**

#### **1.1 Applicable Legislation**

- Royal Decree 81/1997 of 24 January on the protection and support to the film sector, which redefines norms related to co-productions, exhibition, and classification of feature films
- Regulation 7/07/1997 of first August 1997 on the implementation of Royal
- Decree 81/1997 in the field of screening quotas, film distribution, film exhibition, the registration of film companies and the classification of film and other audiovisual works
- Law 15/2001 of 9 July on support to, and promotion of, cinematographic works in the audiovisual sector

#### **Royal Decree 81/1997**

- Provides that the Commission for Film Classification created under Law 1/1982 of 24 February shall constitute a collegial body under the authority of ICAA (Ministry for Culture) and have the exclusive authority of monitoring and classifying per age categories of all types of audiovisual works (films and videos). Classification is mandatory
- Requires the classification to be mentioned on the video's sleeve
- Foresees that if a film company is established in an Autonomous Community, which has been given authority for film classification, the functions assumed by the Commission for Film Classification may then be assumed by the relevant administration within the Autonomous Community. In practice such powers are only being exercised in Catalunya by the Institut Català de Industries Culturales (see below)

Note Administrative Spain is divided into 17 “autonomous communities” who were granted considerable powers as decentralisation went on. Each of them has set up its own rules in the area of culture and its own agency focusing on cultural and film matters.

## Regulation 7 July 1997

The Regulation defines the system of classification per age categories:

| FILM & VIDEO |                  |                   |                   |  |
|--------------|------------------|-------------------|-------------------|--|
| All ages     | 7 years and over | 13 years and over | 18 years and over | Pornographic films and extremely violent films (special procedure) |

The decision to classify under a given category will be reached by taking into consideration criteria that may impact on children’s moral, mental or physical health such as drugs, sex, violence and fear.

**Law 15/2001** relates to pornographic films and films that enhance violence, and defines sanctions relating to the classification of films and video.

Such audiovisual works will be classified as “films X” and be exclusively screened within special theatres qualified as “X theatres”. When exploited through other ways (i.e. sold or rent), their diffusion shall be limited to people over 18. This condition will be explicit on the sleeve of the audiovisual work, and their publicity will be made under the same conditions as other X products.

**Law 15/ 2001** further defines applicable sanctions.

## 1.2 Self-regulation for Video games - Entertainment and Interactive Leisure Software

There is no specific law governing EILS ratings, and as such a voluntary system applies. ADESE, the Spanish EILS association has adopted in December 2000 a voluntary Code of Conduct with regard to age classification. Under this code, publishers/distributors provide their product with an age rating on the basis of a standardised assessment form using ELSPA like criteria. The form is sent to ADESE and its monitoring committee, made-up of representatives of the industry, various social and governmental bodies, and of the film classification committee. In case of doubt as to the age rating selected by the publisher/distributor, the product is viewed by the monitoring committee, which may request modification as to the age rating, subject to expulsion from ADESE and other penalties in case of non-respect.

## 1.3 Enforcement bodies

### 1.3.1 *The Commission of Film Classification*

Under Law 81/1997, the Commission for Classification is established as a body which depends on the ICAA. The ICAA (the Cinematography and Audiovisual Arts Institute) is a public agency

specialised in the film sector attached to the Ministry of Culture and Education. It was set up in 1984 and is fully financed by the State.

The Commission for the Classification of Film must be composed of:

- A president (the director of ICAA)
- A vice-president (the Director of the ICAA's Protection Department)
- A minimum of 7 and maximum of 10 members appointed by the Minister of Education and Culture, on the proposal of the ICAA'S Director among persons which have a special relation to the social and industrial groups of the film industry
- A secretary originating in ICAA

It is entrusted with the authority to:

- Monitor and classify films and other audiovisual works on the basis of categories laid down in relevant legislations
- Investigate their effective implementation

Hence, ICAA's Department of Investigation is entrusted with the responsibility of inspecting video in circulation on the Spanish territory.

### *1.3.2 Autonomous Communities*

In Catalunya, the *Institut Català de Industrias Culturales* has the authority on classification of films (monitoring, classification, investigation, sanctions). It does so in close coordination with ICAA. Other Autonomous Communities have not put in place relevant structures yet.

## **1.4 In practice: ICAA Rating Process**

### *1.4.1 Application*

Under Law 81/1997, any feature film or other audiovisual work to be sold, broadcast or advertised on the Spanish territory, must have been previously submitted to ICAA (or to the relevant Autonomous Community) so as to be viewed, classified and rated according to age categories.

### *1.4.2 Classification Process and Decision*

The film is viewed by the Commission for the Classification of Films and evaluated on the basis of the criteria laid down in Regulation 7/07. The Director General of the ICAA takes the final decision. There is no possibility for refusal. In other terms, Spain neither implements full censorship, nor does it submit audiovisual works to partial censorship (cuts). The classification is then communicated to the applicant after a maximum of one month. After this period, the classification solicited by the applicant will be deemed acceptable.

If the Classification for the Classification of Film thinks the films should be classified as "X", the procedure to be followed is laid down under Law 1/1982 of 24 February. Classification certificates must be kept available to relevant investigation bodies.

Inside the theatre, spectators must have access to information on classification per age concerning the feature and shorts and the whole programming. It is mandatory to include this information in any advertisement, as well as previous to the first image of each copy.

Video certification must be displayed on the video sleeves. No specification is given as to the applicable colours, size, typography, etc, to be used. Any breach in respecting the above mentioned rules would be sanctioned.

Releasing, screening or broadcasting feature films or audiovisual works without their prior classification per age categories shall be considered as a “serious infraction” under Spanish law. Any breach in the above mentioned provision relating to X films shall be considered as a “very serious infraction” under Spanish law.

## **2. Broadcasting**

### **2.1 Applicable Legislation**

#### *2.1.1 National Legislation*

Since the break in the monopoly of public televisions in Spain (1 December 1989), Spain considers differently both public and private TV channels. Related legislation includes:

- Under article 149.1.27 of the Constitution, the State has exclusive power for setting up the applicable regime for television channels. The autonomous communities were given power to develop legislation for the implementation of basic State norms.
- Current regime for television was set up under Law 4/1980 of 10 January on the status of Radio and Television.
- Law 46/1983 of 26 December regulating “third channel” (which are local channels under State authority).
- Law 10/1988 of 3 May on Private television regulates the indirect running of the television public service through SA (in conformity to the principles laid down in Law 1980).
- Law 35/1992 of 22 December on Satellite Television.
- Law 37/1995 of 12 December on Satellite Communications.
- Law 25/1994 of 12 July amended by Law 22/1999 of 7 June.

Both laws translate Community Directives 89/552/CEE and 97/36/CE (*Television Without Frontier Directive*) into the Spanish Law. They define protection as a means to prevent abusive practices and give attention to the protection of minors. They apply to television, with or without cable, and encryption of TV programmes for the public

- Royal Decree of 17 September 1999 approved the Regulation, which regulated the rights of television’s users to be informed about the programming to be broadcast and expands on other articles of Law 25/1994 as amended by law 22/1999.

#### **Law 4/1980**

This law gives some general principles to be respected by any programming/operator such as: full respect of minorities, promotion of human dignity, and more specifically, the rights of

minors, gender equality, the ban of discrimination on the ground of race, ideology, religion or any other personal or social circumstances.

### **Law 25/1994 of 12 July amended by Law 22/1999 of 7 June**

This establishes the obligation for all broadcasters to classify their programmes. It includes one article on the protection of minors in TV advertising and telesales, as well as an article on the protection of minors as regards the content of programming. According to the latter:

- Programmes that are likely to corrupt the physical, mental or moral development of minors shall exclusively be broadcast between 8pm and 6am.
- Their content must be previously signalled through both acoustic and visual signals. Without such previous codification, the programme shall be broadcast with a visual symbol. The same rules apply to advertising, telesales and promotion of the programme. Before the programme starts, and following each advertising interruption, an acoustic and optic warning that includes the indicative rating, shall inform the audience on its relevance to different age categories.
- **Ratings applicable to feature films** shall be the same as the one received for theatre or video exploitation, in accordance with the specific regulations that have been laid down. TV operators may, however, complete this classification with more detailed information towards the parents.
- **Ratings applicable to the remaining TV programmes** should be decided upon by TV operators themselves and either on an individual basis or collectively.

Additionally, the law foresees that within the three months following its enactment, TV operators will have agreed on a uniform system to present this classification.

This was achieved in the 1999 Agreement (“Convenio”<sup>37</sup>) and parties to the Agreement are:

- Antena 3 de Televisión SA
- Canal Vacaciones, SL
- DTS Distribuidora de Televisión Digital SA (Via Digital)
- Ente Publico Rdio Televisión Espanola
- Ente Publico Radiotelevisión Madrid
- Euskam Telebista SA
- Gestevisión Telecinco SA
- Onda Digital SA
- Radio TelevisiónCanaria
- Radio Televisión Valenciana
- Radio y Televisión de Andalucía
- Sogecables SA.

Through this agreement all the broadcasting operators committed themselves to the respect of classification categories which were defined in accordance to the system implemented by ICAA to feature films:

| Age category                                     |                |                                      |                                       |                                     |                         |
|--|----------------|--------------------------------------|---------------------------------------|-------------------------------------|-------------------------|
| Specifically recommended for children (optional) | For all public | Not recommended for children under 7 | Not recommended for children under 13 | Not recommended for minors under 18 | Pornographic Programmes |

<sup>37</sup> Convenio por El que se Establece un Sistema Uniforme de Señalización de la Clasificación de los Programmeas de Televisión en función de su Grado de Idoneidad para los Menores

| Corresponding icon  |           |                                      |                                       |  |                                   |
|---|-----------|--------------------------------------|---------------------------------------|--|-----------------------------------|
| Green   | No symbol | Yellow symbol including the figure 7 | Yellow symbol including the figure 13 | Red symbol including the figure 18   | Red symbol including the letter X |
| The size and form of the symbols shall be decided by each TV Broadcaster  |           |                                      |                                       |  |                                   |
| The visual symbol shall be displayed during 5 seconds when the programme starts and be displayed after every interruption |           |                                      |                                       |  |                                   |
| Tonal warning   |           |                                      |                                       |  |                                   |
| No tonal warning requested  |           |                                      |                                       | A tonal warning, uniform for all broadcaster, which will last 1 second when the programme starts |                                   |

The criteria used in classifying TV programmes include two main categories:

- Social behaviours (with a sub-category “violence”)
- Conflict (with a sub-category” sex”)

Each variable is evaluated independently and the programme receives the highest qualification obtained in either of the two.

An additional provision foresees that in view of the protection of minors, and in so far as technological developments allow it, the Spanish Government may require TV sets to incorporate mechanisms for the automatic de-connection, and require TV services to insert into their programmes the relevant codes that will activate such mechanisms.

### 2.1.2 Local Legislation – The case of Catalunya

16 Autonomous Communities have their own channel(s) – called “third channels”. The audiovisual sector is regulated at local level by special local bodies (councils). They work in close coordination with the national authorities (Sub-Directorate for Contents in the Information Society cf. II.2.1).

Catalunya was a pioneer in setting up mechanisms of content information for the protection of minors. Law 8/1996 of 5 July (and the following Decree 265/1997 of 17 October) on the provision of audiovisual services by those having established such mechanisms states that:

*“when programmes may be harmful to minors, they must be broadcast outside the protected time and must be the object of optic and acoustic signals prior to the broadcast. When broadcast without this procedure, they must include a visual signal during the whole broadcasting time”.*

Prior to the broadcast and after each commercial interruption, the operator must insert an audiovisual warning including an audiovisual classification orientation. Broadcasters must set up a uniform system of classification.

## 2.2 Enforcement

### 2.2.1. State Level

Royal Decree 1451/2000 of 28 July set up new structures and transferred all responsibility related to the **control, investigation and sanction** of broadcast content to the Ministry of Sciences and Technology, Sub-Directorate for Contents in the Information Society (and to corresponding relevant local bodies in the case of local channels-“*terceros canales*”).

#### Simplified version:

|   |
|---|
| I. MINISTRY OF SCIENCES AND TECHNOLOGY                                  |
| 1. State Secretariat For Telecommunications and the Information Society |
| a- Sub-Directorate for Contents in the Information Society              |

Every user may address complaints related to the content of broadcast programmes either through the Consumer Associations, or directly to the Ministry’s Subdirection.

### 2.2.2. Local level – The Case of Catalunya

Law 8/1996 of 5 July created the Audiovisual Council of Catalunya, which was further reinforced by Law 2/2000 of 4 March. The Audiovisual Council is the authority responsible for the regulation of audiovisual communications services, an area of responsibility belonging to the Government of Catalunya (*Generalitat de Catalunya*). Law 2/2000 describes its functions. Regarding ratings of broadcast programmes, the Council:

- Must ensure the completion of the provisions laid down under Law 8/1995 of 27 July relating to the protections of children and teenagers
- Must adopt, under the powers it is granted by the present law, measures to offset the effects in the broadcasting of programmes or advertisements, of messages or contents, which affect human dignity, the equality principle. Particular attention should be given to such messages when they have been broadcast during “children” broadcasting time

Under national legislation 22/1999, autonomous communities exert the power of control and investigation and shall impose sanctions on TV services broadcast, whatever the means, which do not go beyond their territorial limits. They are also responsible for the services delivered from their territory.



## SWEDEN

### 1. Film and Video and Video games

#### 1.1 Applicable Legislation

- Law on the Examination and Control of Films and Videogram Ordinance (SFS 1990 :886), published on 8 November 1990
- Swedish Code of Statutes (SFS): SFS 1990:992, published on 20 November 1990
- Swedish Code of Statutes (SFS): SFS 1990:894, published on September 4, 1990, Chapter 16: on Crimes against Public Order

##### 1.1.1 *Films intended for theatrical release*

- As soon as a Film Censorship Board was established in Sweden, in 1911, the first legal provisions on film classification were issued, providing for the possible banning of films and establishing specific rules for films directed at children under '15'.
- Censorship could be implemented by examiners in case the movie's images were "*contrary to law or morality or otherwise liable to have a brutalising or agitating effect or to cast doubt on the concept of legality*". In particular, "*pictures depicting scenes of horror, suicide or serious crimes in such a manner and in such a context as to have such an effect*" would not be approved.
- Two new age limits were further introduced in addition to the 15-year limit: one of 11 years (1960) and one of 7 years (1978). Provisions making child pornography a criminal offence were also imposed and taken into account in the assessments of National Board of Film Classification.

Today, Law 1990:886 defines age restrictions to be applied by the relevant Board, the ***Statens Biografbyrå***.

| Cat1    | Cat2 | Cat3 | Cat4 |
|---------|------|------|------|
| For all | 7    | 11   | 15   |

All children will have access to films with the age limit of 7 if accompanied by a person of 18 or over. Children aged 7 and over will have access to films with the age limit 11 under the same circumstances.

The Board focuses on violence and does not take into account the religious, political or moral attitude of films. Nor does it act as an arbiter of taste. Additionally, since in most cases films in Sweden are sub-titled and no dubbed the possibility for children to read the sub-titles is sometimes an issue.

The Board may require both bans and cuts. Recent examples of cuts include: *Batman Returns*, *Henry: Portrait of a Serial Killer*, *Hot Shots 2*, *Killing Zoe*.

#### **Note:**

Commercials are no longer examined, but trailers for films are still subject to compulsory examination.

### *1.1.2 Specific provisions applicable to video*

The system is based on the same age categories as for films intended for theatrical release and includes:

Voluntary advance examination of videos intended for sale or hire to the public. This option is used as a precaution against the risk of prosecution, since charges can be brought against films that have not been examined, on the grounds of "unlawful depictions of violence". Advance examination is compulsory only in the case of videos shown at public entertainments.

It is compulsory to register at the Board of distributors of videos for private use. Failure to do so is a criminal offence and can land the offender with a fine or imprisonment for no more than 6 months.

A regional supervisory organisation reports to the Board on compliance with these rules. It works on ensuring that unlawful depictions of violence disappear from the market. These inspectors have the right to require that video distributors provide them with all legal documents (certificate of registration and classification) and information, as required for the purpose of supervision. They also have the right to take videos for control purposes, normally for a period of 24 hours, but in special cases for up to five days. Inspectors have the explicit right to summon assistance from the police if that is necessary for them to perform their duties.

### *1.1.3 Entertainment and Interactive Leisure Software*

There is no specific law governing EILS ratings, nor any voluntary national system. A voluntary system based on the ELSPA system was in use for a few months in 1999-2000 and had to be abandoned due to logistical problems. As before, most imported products carry the ELSPA rating. The Swedish Government is in favour of self-regulation through the "Council on Media Violence" and is awaiting the results of the efforts currently developed at European level for setting up a harmonised system before any further move at national level.

## **1.2 Enforcement**

### *1.2.1 Staten Film Byrå –SFB- (National Board of Film Censors)*

The SFB consists of 11 employees, headed by a Director, and an Assistant Director, three other classifiers and technical and administrative staff.

It is in charge of:

- Evaluating the content of films aimed at theatrical release as well as videos
- Proceeding to their classification and to the delivery of licence cards
- Imposing sanctions

The National Board for Film Classification may exempt from classification cable and satellite broadcast as well as films that are being broadcast in trade fairs, exhibitions, sporting events as well as documentaries broadcast within museum and TV advertising.

### *1.2.2 Control of Video Supply*

Regional inspectors of the SFB have the right to require from video suppliers that they submit relevant documents and information as are required for the purpose of supervision. They also have the right to take videos for control purposes, normally for a period of 24 hours, but in special cases for up to five days. Inspectors have the explicit right to summon assistance from the police if that is necessary for them to perform their duties.

### *1.2.3 The Appeal Board*

The classification process enables the possibility of appealing the decisions made by the National Board for Film Classification. Under Section 23 of Law 1990:886, the Government shall, for terms not exceeding five years at a time, appoint no less than six nor more than ten persons, to act when called upon as special members of an administrative court of appeal in cases that fall within the scope of this Act. Half the number of persons so appointed shall have expert knowledge of film and the other half of the behavioural sciences. If still dissatisfied with the decision, the distributor can appeal it to the highest administrative appeal court in Sweden.

## **1.3 Rating Process**

### *1.3.1 Registration*

All films (whether aimed to theatrical exhibition of video supply for either private or public use) must have a designated publisher who is legally responsible. His name must be clearly displayed on a certificate placed on each copy of the feature film or video.

### *1.3.2 Eligibility to control of content*

- The Staten Filmbyrå, prior to any public or private screening, must examine the content of a feature film.
- The content of a video:
  - Must be examined by the *Staten Filmbyrå* if it is aimed at public exhibition (i.e. if its principal reason is to be publicly broadcast or if the event itself can be described as “public entertainment”)
  - Can be submitted to the *Staten Filmbyrå*, if it is aimed to sale or rental for private use.

In practice, videos are not being submitted to the Board. Yet, when they include audiovisual works that have been previously rated by the Board, the publisher will apply the same rating on a voluntary basis. If they include other audiovisual works, it is up to the publisher to decide on the age category mentioned on the sleeve.

There is no specific rule on the way video sleeves must be marked.

### *1.3.3 Required documents for application*

The classification process requires the submission of the following information:

- The title and length of the film or video
- The name of the distributors
- Particulars of whether the applicant wishes the film or video to be passed for showing to children under the age of 7, eleven or fifteen years.
- An account of the content of the film or video
- In the case of a film, a complete list of the texts which are intended to accompany the showing of the films
- The classification activities are financed by the fees paid by distributors, and by the license cards that are required prior to the showing of a film at any public gathering or entertainment events (the license card certifies that the film was previously checked by the board for film classification). Fees are proportional to the length of the film:  
license card: 1500 SKR (€161,8), basic fee to be paid by the distributor 21,6 (200 SKR) + € 4,8 (45 SKR) per minute and for documentaries a special rate is applied, € 22, whatever the length.

### 1.3.4 Offences-Sanctions

The penalty for offences committed deliberately or through negligence in the following cases shall be a fine or imprisonment for not more than six months:

The showing of a film or video that is subject to compulsory examination, but has not been approved for showing, at a public gathering or entertainment which is not exempt from classification.

Failure to comply with the provisions relating to age limits for admission;

Failure to comply with the provisions relating to licence card. Additionally, the provisions of the previous Video Violence Act have now been incorporated in Chapter 16, Section 10, of the Penal Code. They read:

*“It is a criminal offence to depict sexual violence or coercion, or explicit or protracted severe violence to people or animals in photographs or in films, video games, television programmes or other moving pictures, with the intention of distributing such pictures or such depictions, unless this is justified in view of the particular circumstances.”*

Anyone who sells or rents out videos containing unlawful depictions of violence risks severe penalties: company fines of between €1,101.69 and €330,507 or imprisonment for up to two years. It is also a criminal offence to sell or rent to children under the age of 15 videos containing realistic depictions of violence.

When charges are brought against a distributor or retailer, the National Board of Film Censors must notify the Office of the Chancellor of Justice of its assessment in the case. Charges cannot be brought in the case of films that have been previously approved by the National Board of Film Censors.

## 2. Broadcasting

The broadcasting community in Sweden includes: Public Television Sveriges Television (two national channels + local channels), commercial station TV4 (one national channel and local channels), Z-TV, TV3, Kanal 5, TV8. The companies supervising TV3, Kanal 5 and TV8 are established in the UK.

## 2.1 Legislation

### 2.1.1 *The Radio and Television Act*

Between 1986 and 1996, Swedish legislation was amended to accommodate satellite and commercial private television in addition to public broadcasting.

The New Radio and Television Act (1996) regulates terrestrial, cable and satellite broadcasting. Chapter 6 paragraph 2 reads:

*“Programmes with protracted and realistic depiction of violence or with pornographic pictures may not be broadcast on television at such a time or in such a manner that entails a significant risk that children will see the programmes unless this is justified in view of particular circumstances”.*

It follows that the TV companies that have been granted a permit by the government shall take into account the specific influence through subjects and type of programmes in broadcasts, as well as in determining the times of broadcast. This refers *inter alia* to the need for caution in the production of programmes containing violence, sex, drugs, and other subject-matter which appear discriminatory against people of a certain gender, or ethnic background.

The regulation of the Radio and Television Law also applies to television companies based in and broadcasting to Sweden from satellite. However it does not apply to TV3, Kanal 5 and TV8.

## 2.2 In practice

Television companies and cable network make their own decisions as to the programmes they broadcast and the broadcasting times. They do so on the basis of:

- The Radio and Television Act, as described above
- The regulations laid down under TV channels' license terms (where applicable), which are particularly careful about the representation of violence, of sex and drugs as well as about any content that may be perceived to discriminate against people on the basis of gender or ethnical background

Additionally, TV channels must be cautious with the form of presentation and scheduling of programmes. It follows that they are requested to schedule programmes after 9pm, if content might frighten or agitate children. A tonal signal or warning by the speaker may also be given directly before the programme is broadcast. In certain cases broadcasters base their classification on the age categories used by the National Board for Film Classification, and they follow the Board's opinion for films that have already been classified previous to their theatrical release in Sweden.

## 2.3 Control, Sanctions and Complaints

### • Public Television

A Charter was set up between public broadcaster SVT and the Swedish State. It was recently renewed, the new period starting on January 1, 2002 and lasting up until 2005. In particular it states that:

*“SVT shall submit any information to the Broadcasting Commission as the Commission requires in order to determine whether transmitted programmes are in keeping with the terms applying to the company’s right to transmit”, which includes requirements as to the broadcast content.*

• **The Swedish Broadcasting Commission (Granskningsnamnden)**

The Broadcasting Commission is a State authority, which examines radio and television programmes. The Commission shall, on a strictly ex-post basis, supervise the compliance of programme content with the provisions of the laws which regulate broadcasting services and the licenses granted by the government. The reviews the Commission undertakes are generally initiated by complaints from the general public or by an initiative on the part of the Director of the Commission. A complaint about the programme must normally be filed with the Commission within six months of the transmission, and the Commission tries to have all the cases concluded six months after the receipt of the complaint.

The Commission issues its decisions in writing. There are three kinds:

- Exoneration: the broadcaster is not found to have violated any provisions of pertinent law or license
- Criticism: the programmes or the broadcaster’s action is found lacking in one or another respect but the faults are not such that they constitute a violation of pertinent rules
- Censure: the broadcasters violated one or more pertinent rules set out in law or the license

SVT, SR, UR (the three public channels), as well as TV 4 (commercial channel) are required to publicise censoring decisions. Satellite broadcasters have a limited obligation to publicise decisions of the commission whereas other broadcasters have no such obligations. The Swedish Broadcasting Commission has no jurisdiction over TV3, Kanal 5 and TV8. Yet, it has the task to follow their activity and examine whether these channels respect the Television Without Frontier Directive. Complaints concerning these channels can be sent to the UK ITC or Broadcasting Standards Commission.

## UNITED KINGDOM

In the UK, ratings of audio-visual works are currently being addressed under two different systems:

1. Film, video (including DVD) and digital media.

A pre-classification of works is completed by an independent body, the British Board of Film Classifications, on the basis of general legal principles as well as specific guidelines drawn up by the British Board of Film Classification (BBFC). Statutory powers rely on either local jurisdictions for films, or the BBFC itself for video and DVDs. The scope of its power has recently been extended to other digital media as well as video games.

2. Broadcasting.

The Broadcasting Standards Commission was established under the 1996 Broadcasting Act. It is entrusted with the task of setting standards for television broadcasts, controlling broadcasters' activity, and handling complaints from viewers. The Independent Television Commission (ITC) completes its work and specifically deals with commercial television channels. It incorporates the BSC standards into its own "Programme Codes" and has the power to sanction any commercial television, which would not respect them.

The Communications Bill was introduced to House of Commons on November 19, 2002 and laid out plans for a new overarching regulatory body, OFCOM. It is expected to become the sole body in charge of TV and Internet ratings.

### **1. Film, video**

#### **1.1 Applicable legislation and regulation**

##### *1.1.1 Cinema*

- Cinematographic Film (Animals) Act, 1937
- The Protection of Children Act, 1978
- The Obscene Publications Acts, 1959 and 1964
- Cinema Act, 1985

Under the legal provision laid down under these acts, it is prohibited:

To exhibit or supply of a film:

- If animals are harmed in the film making process per cruel infliction of pain or terror
- If the film contains the cruel goading of any animal to fury<sup>38</sup>
- To show indecent photographs of a child (under the age of 16)<sup>39</sup>.
- To show a work which is obscene (i.e. if it has a tendency to deprave and corrupt a significant proportion of those likely to see it)<sup>40</sup>

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<sup>38</sup> The Cinematographic Films (Animals) Act of 1937

<sup>39</sup> The Protection of Children Act, 1978

<sup>40</sup> The Obscene Publication Act of 1959

### 1.1.2 *Video*

#### **The Video Recording Act of 1984 (VRA)**

VRA singles out additional elements as being potentially harmful and which must be taken into account when classifying videos:

- Criminal behaviour
- Use of illegal drugs
- Violent behaviours or incidents
- Horrific behaviours or incidents
- Human sexual activity

It further defines areas exempted from classification requirements: works which taken as a whole are designated to inform, educate or instruct; works which taken as a whole are concerned with sport, religion or music. It is up to the distributor to decide on whether the work falls into one of these categories.

All the above listed principles, which derive from the Cinematographic Act and the VRA are “translated” into classification categories under the Guidelines established by the British Board of Film Classification. (refer to paragraph 2 ‘enforcement’ for a description of these guidelines and paragraph 3 the ‘classification process’).

#### **The case of video games**

Under the VRA, video games are automatically exempt from classification if they do not include the elements referred to above.

The British Board of Film Classification (see paragraph 2) has started to classify video games, although this activity remains marginal: 26 video games have been classified each year so far. Yet, in general, video games are subject to self-regulation.

The European Leisure Software Publishers Association (ELSPA) and the Video Standards Council (VSC) have set up a common voluntary ratings scheme<sup>41</sup>.

Under this system of self-regulation, software publishers classify a game according to criteria laid down by VSC into one of four ratings categories:

- 3 to 10 years
- 11-14
- 15-17
- 18 and over

The rating is indicated by means of generic ELSPA tick boxes on the package. In practice, all 15 and 18 rated games are referred to the VSC, which then decides whether the case should be referred to the BBFC.

#### **The Video Labelling Regulations**

New statutory labelling regulation came into force on 1 November 1995, in accordance with the amendments to the VRA approved by Parliament. It is a statutory instrument placed on the back of the Video Recording Act.

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<sup>41</sup> The ELSPA is a trade body responsible for good practice and promotion of the industry relating to video games and interactive videos.

The VSC is a non-profit making body set up to develop and oversee Codes of Practice and Rules designed to promote high standards within the video industry. In 1994 these codes were extended to the leisure software industry



According to it, all videos must carry on the “unique title” of the video as featured on the recording. “Unique Title” means: the title as classified by the BBFC, plus the BBFC Registration Number (which is granted once the work has been classified).

Since many companies need to print their labels as early as possible (and can not wait until final delivery of the classification certificate) the BBFC Board has been supplying this unique number on the interim clearance form as well. However it is illegal to publish the video on the basis of this label. If it is found that companies are supplying video to shops before receiving a classification certificate, the Home Office agrees that the Board should withdraw the company’s right to be given a number on the interim clearance form. This also applies to imports.

Additionally, the Labelling Act lists other conditions concerning trailers, advertisements, and what titles should figure on the recording in case it contains several works.

### **Video Packaging: Self Regulation**

The Video Packaging Review Committee (VPRC)<sup>42</sup> is a voluntary scheme of self-regulation by the industry. It regulates the manufacturing of sleeves for videocassettes. It ensures that packaging does not contain any material, which might be judged to encourage illegal activity, such as drug abuse, incitement to racial hatred and so on. The packaging must also conform to all the censorship principles laid down in the VRA. If an applicant for a BBFC classification certificate asks for being submitted to this procedure the VPRC’s views are taken into account by the BBFC Board before the final classification certificate is issued.

When a video goes through this process, the finished sleeve is required to incorporate a small “button” logo in black, one centimetre height, on the back cover, either above or beside the box, containing the BBFC classification symbol and explanatory statement.

## **1.2 Enforcement**

### *1.2.1 The British Board of Film Classification*

The BBFC finds its origin in the British Board of Censors, which was established in 1912 by the film industry when local authorities started to impose their widely varying censorship standards on films. It was aimed at bringing a degree of uniformity to these standards and making judgements that would be acceptable nationwide.

The BBFC was established by the VRA of 1984 as an independent, non-governmental body funded through the fees it charges for classifying films, videos, DVDs and some digital games.

BBFC employs 60 staff of which 20 are examiners, including three senior examiners.

- BBFC is responsible for film, video and digital media
- BBFC does not itself have a statutory duty in relation to classification of films and the ultimate power lies in the hands of local authorities.

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<sup>42</sup> The Video Packaging Review Committee is composed of:

- Three members of the video industry
- Two members of the BBC
- Chair – Deputy director of BBFC

Observers – representative from the Advertising Standards Authority, Video Standards Council and the British Videogram Association

Hence, *Crash* (D. Cronenberg) was rated 18 (i.e. not to be viewed under 18) but became banned from exhibition in certain jurisdictions, notably Westminster. On the other hand, film distributors can always ask a local authority to overrule a certificate granted by BBFC.

However in practice the BBFC acts on behalf of the local authorities which license cinemas under the Cinemas Act 1985.

- Under the Video Recordings Act of 1984, the BBFC has a statutory responsibility to classify videos and some digital media. In other terms if a video is not classified, it can not be sold, whereas if a film is not classified, it may receive an authorisation from a local authority.

Additionally, on the basis of the BBFC video classification, Trading Standard Offices were given in 1988 the power to seize illegal videos, and, more recently, DVDs. They check at the BBFC (which does not charge for this service) the classification status of video/DVD and then take the appropriate action against a given importer distributor who would have put illegal videos in circulation.

- The BBFC works by applying the law (censorship principles laid down under the Cinema Act of 1985 and VRA of 1984 – see above part 1).

On the basis of these general legal provisions, it draws up more precise Guidelines for the classification of films and videos and in particular age categories:

| U                           | PG  | 12                               | 12 A  | 15                               | 18                               | R18   |
|-----------------------------|---|----------------------------------|---|----------------------------------|----------------------------------|---|
| Universal, suitable for all | All ages admitted, out parental guidance is recommended | No use (sale or rental) under 12 | Children over 12<br>Children under 12 may be admitted if accompanied by parents | No use (sale or rental) under 15 | No use (sale or rental) under 18 | To be applied only in licensed sex-shop to adults |

The latest guidelines were issued in 2000 after a comprehensive exercise of consultation.

The category 12A was introduced by the BBFC on 30 August 2002, following consultation of the public in September 2000 about changing to an advisory rating.

### 1.2.2 *The case of foreign videos and DVDs sale*

Foreign videos are illegal unless their content has been classified by the BBFC. They must be labelled in accordance with the Video Recording Labelling Regulations of 1985 and 1998 (including the unique registration number). Even when importing a video for personal use, one should be aware that the video may be seized and subject to forfeiture by Customs and Excise (under the Custom Consolidated Act).

## 1.3 The classification process

The step-by-step process for acquiring a classification certificate is as follows:

1. The producer or distributor calls the BBFC to book the short or feature in for viewing. It submits a form with details about the film. The paperwork includes details such as whether the

work has previously been classified (it will consequently be submitted for a reduced fee).

2. Fees are calculated according to published tariffs (cf. Annex).

3. The viewing date will usually be within the fortnight of the reception of the form and completion of pre-payment. The film print (not a VHS Copy) must be delivered to the BBFC offices the day before the viewing appointment. Specific quality requirements must be met.

4a. Films and video are viewed by 2 examiners from the BBFC Board, and examined according to the published Guidelines. Amendments to the Video Recording Act in 1994 laid down certain formal tests which the Board must apply, namely to assess the harm which may be caused to potential viewers or the impact to society because of the manner in which the video deals with: criminal behaviours, illegal drugs, violence, horror or sex. The BBFC Board's guidelines have always covered all these issues but the fact that it has become a statutory requirement means that the Board must be able to demonstrate that it has taken these principles into account on every case.

4b. After the viewing, the 2 examiners complete a Report, which is then available to senior staff to approve. The examiners may propose **cuts** at this stage.

5a. The formal authority for approval of works is the president of the BBFC. This authority is delegated to the senior staff of the BBFC, the director, their deputy and the senior examiners.

5b. The work can then be classified.

5c. The film's certificate will be granted 48 hours after viewing. The classification certificate is delivered and the Black Card is made available. The black card includes the title and the BBFC registration number. It must appear either at the front of the film or in the foyer of the cinema.

5d. Sometimes the work may have to be cut. In the most extreme cases the BBFC may have no option but to refuse classification.

6a. In the case of film classification, the procedure for opposing the certificate granted is conducted with the BBFC on a case-by-case basis.

6b. As video may not be legally sold in the UK until its classification approval by the BBFC, it was deemed necessary to set up a procedure for appeal of the BBFC's decisions. This was done with the Video Appeal Committee rules (there are 42 days in which to lodge an appeal).

7a. VRA provides that some categories of video be exempted from classification requirements. It is up to the distributor to decide on whether the video distributed belongs to one of these categories.

7b. Yet as the VRA is enforced by local Trading Standards Officers whose role is to visit stores and inspect the stock as well as check that no unclassified works are being sold or rented, they are entitled to take an exempt work, inspect it, and prosecute the distributor if necessary.

## **1.4 Difference of treatment between films and videos**

Although it is based on the same Guidelines, classification may be stricter for videos than for films. This is because of the increased possibility of under-age viewing recognised by the VRA and of works being replayed or viewed out of their context or without a parental presence.

The VRA requires that all the elements present on a DVD or video be classified, which not only include the main feature but also trailers, deleted scenes and other peculiar features. If a film has

been classified as video release, then there is no need for the film itself to be re-submitted for DVD classification, provided the DVD version is identical to the released video.

## 2. Broadcasting

The Broadcasting Standards Commission (BSC) sets standards on broadcasting ratings, which must be reflected in other regulatory and broadcasting authorities' Guidelines and practice:

- the Independent Television Commission is the regulatory authority in charge of regulating and controlling the activity of commercial television channels. It reflects the BSC's standards in its programme Codes and has the power to sanction commercial channels when they do not respect these codes
- BBC reflects these standards under a system of self-regulation

Additionally, the BSC handles these complaints from viewers for all TV channels.

In the UK, there is no system of logos, which would signal to which category a given broadcast programme belongs. Instead, the information is given orally to the audience, before the broadcast. As general rule, films rated 15 and +18 are not broadcast before 9pm. This practice contradicts the rules laid down in the Community *Television Without Frontier* Directive (97/36/CE), which foresees that programmes, which might be harmful to minors must, where they are not encrypted, *be preceded by an acoustic warning or made clearly identifiable throughout their duration by means of a visual symbol*. Broadcasts must not contain any incitement to hatred on grounds of race, sex, religion or nationality. The BBC (public television channel) has recently been warned by the European Commission due to its incompliance with community rules.

### 2.1 Applicable Legislation

The Broadcasting Act of 1990 as amended in 1996<sup>43</sup> foresees the establishment of the Broadcasting Standards Commission, its status, powers and activities. The Act also draws up the relevant powers of the BBC.

### 2.2 Enforcement

#### 2.2.1 The BSC

- The Broadcasting Standards Commission is funded half by Government and half by broadcasters. It has replaced the Broadcasting Complaints Commission and the Standards Council.
- BSC is composed of no more than 15 members including:
  - Chairman appointed by the Secretary of State
  - Deputy chairman (or 2)

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<sup>43</sup> (published by the Stationery Office Limited - ISBN 010 5455962 available on: <http://www.hms.o.gov.uk/acts/acts1996/1996055.htm>)

- Other appointed members
    - It exercises its influence across the UK broadcasting landscape to cover all television and radio stations both terrestrial and satellite (this includes cable, and digital services).
    - Its three main tasks, as provided for under the 1996 Broadcasting Act are:
      - to produce Codes of Conduct relating to standards and fairness and to provide guidance to broadcasters. Broadcasting bodies and regulatory authorities (namely BBC, ITC and the Radio Authority) must reflect the BSC Codes in their own Codes. The Codes of Guidance Fairness & Privacy and Standards were published in June 1998<sup>44</sup>.
      - to consider and adjudicate complaints- The BSC adjudicates on viewers' complaints concerning unjust or unfair treatment or unwarranted invasion of privacy in the making or content of programmes. It publishes findings on complaints about the portrayal of violence or sexual conduct or alleged failures to attain standards of taste and decency.
- Any viewer may submit a complaint to the BSC within 8 weeks of a TV broadcast. The broadcaster then receives a copy of the complaint and is required to supply a recording of the broadcast, which is then viewed by a BSC Commission. The Commission may require the broadcaster to provide a written statement. The Commission decides on whether the complaint will or will not be upheld. The Final Decision is published on the BSC Bulletin.
- to monitor research and report on standards and fairness in broadcasting.

### 2.2.2 *The Independent Television Commission*

The ITC (Independent Television Commission) was established via the Broadcasting Act of 1990.

Its scope of action is limited to commercial TV channels only. The ITC:

- Licenses and regulates commercial TV in the UK
- Sets and maintains standards for programmes, advertising and technical quality.

In particular, under the Broadcasting Act of 1990, the ITC (as well as the BBC, Radio Authority and S4C) is required to draw up Codes giving guidance in the rules to be observed in ensuring that their licensed broadcasting services do not include anything which is without taste, indecent, or is offensive to public feeling. The ITC Code uses the BBFC classification as the basis of its guidance on scheduling films, and the BBFC-classified version must therefore be shown. Current ITC Programme Code was published in April 2001.<sup>45</sup>

Despite the relevance of the Programme Code for all licensees, there are certain differences in the application of the Code to cable and satellite services, notably with reference to the scheduling of films. Film channels for which a specific subscription is

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<sup>44</sup> ISBN 1-87251-31-2

<sup>45</sup> available on <http://www.itc.org.uk>

required may show '15' rated films at 8pm rather than 9pm, and Pay-Per-View services may show films at any time provided that access is protected by a mandatory Personal Identification Number. Up until July 2001, '18' films could only be shown after 8pm but in the light of research evidence, this restriction was waived for an experimental period of one year.

- Monitors broadcasters' performances against the requirements of ITC's published licenses
- Investigates complaints, publishes findings and may take disciplinary sanctions against broadcasters. ITC has a wide range of powers to enforce licence and codes requirements:

- \* Where a genuine mistake has been made in interpreting the Programme Code, or where the Code breach is not of a very serious nature, ITC will contact the television company concerned, offering guidance and making it clear that the offence should not be repeated.

- \* In a more serious matter, ITC may issue a formal warning, require on-screen corrections or apologies, prevent a repeat or impose a fine.

- \* In the most extreme cases it can shorten the term of a licence or even withdraw it altogether.

Regulatory action and decisions are published, usually monthly, in the [Programme Complaints and Interventions Report](#).

It should be noted that the Secretary of State has the power, under S177 of the Broadcasting Act 1990, to make an order proscribing a foreign satellite service which contains "*matter which offends against good taste or decency or is likely... to be offensive to public feeling*" provided, principally, that the proscription complies with the UK's international obligations, notably that the service "*manifestly, seriously and gravely*" infringes Article 22(1), i.e. it "*might seriously impair the physical, mental or moral development of minors*".

### 2.2.3 OFCOM

In an effort to rationalise the existing structures in charge of regulation in the field of communications, and in an attempt to adapt to technological convergence, the British Government published a consultation document on the communications industry at the end of 2000, the White Paper outlined plans for a new body called OFCOM, to take the role of the following bodies:

- ITC
- BSC
- The Radio Authority
- The Radio Communication Agency
- OFTEL (The Office of Telecommunications)

On November 19 2002, the Communication Bill was introduced to the House of Commons. Under the new structure, only the BBC would be allowed to maintain its self-regulatory status although OFCOM would act as an ombudsman for viewers. OFCOM would have oversight on films shown on TV and Internet, while BBFC would continue to review same films for cinemas, video and DVD. Currently, a Regulatory Steering Group has been set up to elaborate a transition

plan with a view to set up OFCOM by end 2003. The Towers Perrin Report of 12 October 2001 lays first foundations of the forthcoming institution.

Comprehensive information is available via: [www.communicationsbill.gov.uk](http://www.communicationsbill.gov.uk) and [www.itc.org.uk.co/ofcom/index.asp](http://www.itc.org.uk.co/ofcom/index.asp)

## Annex

### 1- Tariff Fees for the Delivery of Classification Certificates from the BBFC

#### Cinema Act 1985 - Tariff of Fees - From 1 July 1999

| Type of Work   | Fee  |
|--|--|
| <b>Standard rate fee for:</b>  | <b>Standard rate fee:</b>  |
| a) features in which the spoken language is predominantly English      | €15.95 per minute for the 1st hour   |
| b) features predominantly without spoken language                      | €11.73 per minute for the 2nd hour   |
| c) trailers in all languages for one film only                         | €8.75 per minute thereafter<br>Minimum charge for up to 10 minutes: €159.54  |
| <b>Concession rate fee for:</b>  | <b>Concession rate fee:</b>  |
| i) subtitled/foreign language features                                 | €10.70 per minute for the 1st hour   |
| ii) features already certificated as videos                            | €8.36 per minute for the 2nd hour<br>€6.25 per minute thereafter<br>Minimum charge for up to 10 minutes: €107.10                                     |
| <b>Charity / 16mm rate</b>   | <b>Charity / 16mm rate:</b>  |
| The charity rate is at the Board's discretion, see note 2 for criteria | €5.32 per minute for the 1st hour<br>€3.20 per minute for the 2nd hour<br>€2.11 per minute thereafter<br>Minimum charge for up to 10 minutes: €53.19 |
| <b>Outside screening fee</b>   | <b>Outside screening fee:</b>  |
| Where outside screening requested by or agreed with the distributor    | 15% above the normal tariff charge for the   |
| <b>Advertisements for cinema release</b>                               | <b>Advertisements fee</b>  |
|  | €235.50 for up to ten minutes. Any additional minutes billed at the standard rate  |

### 2- Video Recordings Act - Video Fees - From 1 July 1999 (from the end of 2002 the rates for film and video are the same)

| Type of Work  | Fee  |
|---|--|
| <b>Standard rate fee for:</b>                                     | <b>Standard rate fee:</b>  |
| a) works in which the spoken language is predominantly English    | €18.28 per minute for the first hour   |
| b) works predominantly without spoken language                    | €12.12 per minute for the 2nd hour   |
| c) trailers / advertisements in all languages (for one film only) | €10.14 per minute for the 3rd & 4th hours<br><br>€8.06 per minute thereafter<br><br>Minimum charge for up to ten minutes €182.70 |

**Concession rate fee for:**

a) untranslated and / or subtitled works in a spoken language predominantly other than English: See note 4 for criteria

b) video works:

c) already certificated as films

d) British television programmes on video, see note 1 for criteria

**Concession rate fee:**

€12.20 per minute for the 1st hour  
€8.10 per minute for the 2nd hour

€6.79 per minute for the 3rd & 4th hours

€5.43 per minute thereafter

Minimum charge for up to ten minutes €122.03

**Concession rate fee for:**

c) foreign language films that have not been translated and without subtitles made before 1970: See note 4 for criteria

**Concession rate fee:**

€8.10 per minute for the 1st hour  
€5.43 per minute for the 2nd hour

€4.47 per minute for the 3rd & 4th hours

€3.60 per minute thereafter

Minimum charge for up to ten minutes €81.35

**Charity rate (at the Board's discretion)**

See note 2 for criteria

**Charity rate fee:**

€5.32 per minute for the 1st hour

€3.20 per minute for the 2nd hour  
€2.11 per minute thereafter

Minimum charge for up to ten minutes €53.19

**Secondary Classification Fees (from 01/08/2000)**

Where the work submitted for secondary classification would have attracted a standard rate fee if it had been viewed it will be charged the standard rate secondary classification fee of €12.20 per minute subject to a minimum charge of €234.58.

Where the work submitted for secondary classification would have attracted a concessionary rate fee if it had been viewed, it will be charged the concessionary rate secondary classification fee of €8.10 per minute subject to a minimum charge of €234.58.

If in either case the Board determines that the work requires a full viewing then the normal viewing fees will apply.

**Video Recordings Act - Digital Media Fees - From 1 July 1999****Digital Media Works (non-linear)**

The Board will assess the amount of time it will take to examine the work submitted and will charge a fee in accordance with the tariff scale shown opposite. The Board's assessment and its decision as to the appropriate tariff for the work shall be final.

**Digital Media Works (non-linear) fee:**

|                                |           |
|--------------------------------|-----------|
| Up to 30 minutes               | €504.36   |
| 31 minutes - 1 hour            | €1,008.59 |
| Over 1 hour and up to 2 hours  | €1,679.59 |
| Over 2 hours and up to 3 hours | €2,239.50 |
| Over 3 hours and up to 4 hours | €2,799.57 |



Packaging Fees – From 1 July 1999

|                        |        |
|------------------------|--------|
| Packaging for:         |        |
| Standard rated works   | €56.15 |
| Concession rated works | €28.07 |
| Resubmission           | €28.07 |

Miscellaneous Fees - From 1 July 1999

| Type of Work  | Fee Per Item   |
|---|--|
| Abortive viewing due to poor tape quality   | ¼ of relevant Video Recordings Act tariff for the work |
| Black Category Card (new)   | €43.00   |
| or other duplicate paperwork  |  |
| BBFC Annual Report  | €15.64 per copy  |
| <b>Cinema film:</b>   |  |
| Cancellation of booked viewing  | €156.42  |
| Postponement of booked viewing  | €156.42  |
| <b>Technical Comparison / Distributor change: re-registration</b>                     |  |
| Cinema Film   | ½ of relevant Cinema Act tariff for the work           |
| Video   | €234.64  |
| Trailer / advertisement   | €117.32  |
| <b>Reactivate title withdrawn by Board due to non-response to packaging mail shot</b> | €234.64  |

## Agencies and institutions: contact details

### **AUSTRIA**

- Austrian Board of Media Classification (ABMC)  
Bundesministerium für Bildung, Wissenschaft und Kultur  
1014 Wien, Minoritenplatz 5  
Abteilung Präs. 11 (V/D/14)  
Tel: +43 1 53 120 48 50  
E-mail: [herbert.schwanda@bmbwk.gv.at](mailto:herbert.schwanda@bmbwk.gv.at)

- KommAustria  
Rundfunk und Telekom Regulierungs-GmbH  
A-1060 Wien, Mariahilferstrasse 77-79  
Tel +43-1/580 58-0  
Fax: +43-1/580 58-9191  
E-Mail: [rtr@rtr.at](mailto:rtr@rtr.at)  
<http://www.rtr.at/web.nsf>

### **BELGIUM**

- Commission Intercommunautaire de Contrôle des Films  
Flemish Community  
Rue du Marquis 1  
1000 Bruxelles  
Tel: +32 2 553 34 24  
Fax: +32 2553 34 26  
E-mail: [georgette.landsman@wvc.vlaanderen.be](mailto:georgette.landsman@wvc.vlaanderen.be)

- CSA  
35 rue Jean Chapelié  
1050 Bruxelles  
Tel: + 32 2 349 58 80  
Fax: + 32 2 349 58 97  
<http://www.csa.cfwb.be>

- Vlaamse Kijk- en Luisterraad voor Radio en Televisie  
North Plaza B  
Koning Albert II-laan 7 - 3<sup>de</sup> verdieping  
1020 BRUSSEL  
Tel: + 32 2 553.46.50  
Fax: + 32 2 553.46.72  
E-mail: [kijkenluisterraad@vlaanderen.be](mailto:kijkenluisterraad@vlaanderen.be)

### **DENMARK**

- Media Council for Children and the Youth  
Mederaadet  
Gothersgade 55  
1123 Kobenhavn K

## **DENMARK continued**

+ 45 33 74 34 75  
[info@medieraadet.dk](mailto:info@medieraadet.dk)  
[www.medieraadet.dk](http://www.medieraadet.dk)

- Radio and TV Board  
Ministry of Culture  
Nybrogade 10  
1203 Copenhagen  
Tel: + 45 33 92 30 40

## **FINLAND**

- Finnish Board of Film Classification (Valtion elokuvatarkastamo)  
Jaakonkatu 5 B  
FIN-00100 Helsinki  
Finland  
Telephone: +358 9 2285 4462  
Telefax: +358 9 2285 4470  
E-mail: (office)[Tuula.Roos@vet.fi](mailto:Tuula.Roos@vet.fi)  
or (director)[Matti.Paloheimo@vet.fi](mailto:Matti.Paloheimo@vet.fi)

- Mass Media Unit of the Ministry of Transport and Communication  
Etelaesplanadi 16-18  
BP 31  
Fin 00023 Government  
Tel + 358 9 160 02  
[Kirjaamo@mintc.fi](mailto:Kirjaamo@mintc.fi)

## **FRANCE**

- Commission de Classification des Films  
CNC, Centre National de la Cinématographie  
11, Rue Galilée  
75116 Paris  
Tel : +33 (0)1 44 34 37 22  
Fax : +33 (0)1 44 34 38 40  
<http://www.cnc.fr>

- Conseil Supérieur de l'Audiovisuel  
Tour Mirabeau  
39-43, quai André-Citroën  
75739 Paris cedex 15  
Tél.: (33)01 40 58 38 00  
Fax: (33)01 45 79 00 06  
<http://www.csa.fr>

## **GERMANY**

- FSK

Freiwillige Selbstkontrolle der Filmwirtschaft GmbH (FSK)  
Kreuzberger Ring 56  
65205 Wiesbaden  
Tel: +49 611 - 77891 - 0 (Zentrale)  
Fax: + 49 611 - 7789 - 139  
E-Mail: [fsk@spio-fsk.de](mailto:fsk@spio-fsk.de)

- BPjS

Postfach 26 01 21  
53153 Bonn  
Tel: + 49 228 37 66 31/32  
Fax: + 49 228 37 90 14  
E-Mail: [bpjs.bonn@t-online.de](mailto:bpjs.bonn@t-online.de)

- FSF

Freiwillige Selbstkontrolle Fernsehen (FSF) e.V.  
Lützowstraße 33  
D-10785 Berlin (Tiergarten)  
Tel: + 49 30 23 08 36-0  
Fax: + 49 30 23 08 36-70  
E-Mail: [info@fsf.de](mailto:info@fsf.de)  
<http://www.fsf.de>

- USK

Gubener Str. 47, 10243 Berlin  
Tel. +49 30 279 62 11  
Fax. +49 30 279 63 01  
E-Mail: [info@usk.de](mailto:info@usk.de)  
<http://www.usk.de>

## **GREECE**

Greek Film Center  
[www.gfc.gr](http://www.gfc.gr)  
10, Panepistimiou Str.  
106 71 Athens  
Fax: 3614336  
Tel Administrative secretariat: + 301 3631733 / 3618924  
[info@gfc.gr](mailto:info@gfc.gr)

## **ICELAND**

- RUV – Ríkisútvarpið

Icelandic National Broadcasting Service  
Efstaleiti 1  
IS – 150 Reykjavík  
Tel: +354 515 30 00  
Fax: +354 515 30 10

## **ICELAND continued**

E-mail: [helgar@ruv.is](mailto:helgar@ruv.is)  
<http://www.ruv.is>

## **IRELAND**

- Irish Film Censors Office  
16 Hartcourt Terrace  
Dublin 2  
Ireland  
Tel + 353 1 676 1985  
Email: [ifco@iol.ie](mailto:ifco@iol.ie)

- Broadcasting Commission of Ireland  
Marien House, Clanwilliam Place  
Dublin 2  
Tel + 353 1 676 09 66  
Fax + 353 1 676 00 946  
Email: [info@bci.ie](mailto:info@bci.ie)

## **ITALY**

- Direzione Generale per il Cinema  
Via della Ferratella in Laterano 51  
00184 Roma  
Ufficio V Ripartizione C  
Tel +39 06 77 32 677  
Fax +39 06 77 32 674  
E-mail: [revcin@spettacolo.beniculturali.it](mailto:revcin@spettacolo.beniculturali.it)  
<http://www.spettacolo.beniculturali.it/cinema/cinema.htm>

- Autorità per le Garanzie nelle Comunicazioni (AGCOM)  
Centro Direzionale, Isola B5, Torre Francesco  
80143 Napoli  
Tel: +39 081 7507111  
Fax: +39 081 7507616  
E-mail: [info@agcom.it](mailto:info@agcom.it)  
<http://www.agcom.it>

- FRT (Association of private TV broadcasters)  
FRT Federazione Radio Televisioni  
Viale Regina Margherita, 286  
00186 Roma  
Tel: +39 06 4402104  
Fax: +39 06 4402723  
E-mail: [ftr@ftr.it](mailto:ftr@ftr.it)  
<http://www.ftr.it>

## **LUXEMBOURG**

- Conseil National des Programmes  
2, Circuit de la Foire Internationale  
L – 1347 Luxembourg  
Tel: +352 478 20 66  
Fax: +352 478 20 73  
E-mail: [carole.kickert@cnp.etat.lu](mailto:carole.kickert@cnp.etat.lu)

## **THE NETHERLANDS**

- Netherlands Institute for the Classification of Audiovisual Media (NICAM)  
P.O. Box 322  
1200 AH Hilversum  
Tél: 0031 356 460 860  
Fax: 0031 356460868  
[www.kijkwijzer.nl](http://www.kijkwijzer.nl)
- Commissariaat voor de Media  
Hoge Naarderweg 78  
P.O Box 1426  
NL-1200 BK Hilversum  
The Netherlands  
Tel. + 31 35 773770  
Fax. : + 31 35 7737799  
[www.cvdn.nl](http://www.cvdn.nl)

## **NORWAY**

- Norwegian Board of Film Classification (Filmtilsynet)  
Postboks 371 Sentrum  
0102 OSLO  
Tel : + ?? 22 47 50 00  
<http://www.filmtilsynet.no/>
- Staten Medieforvalting (Smf)/ The Mass Media Authority  
Storgata 15  
Postboks 444  
1601 Fredrikstad  
Tel.: 69 31 90 30  
Faks: 69 31 92 80  
Org. nr.: 974 760 711  
E-post: [postmottak@smf.no](mailto:postmottak@smf.no)

## **PORTUGAL**

- IGAC  
Serviço de Atendimento de Público  
Palácio Foz  
Praça dos Restauradores

## **PORTUGAL continued**

1116 – 802 Lisboa  
Tel. + 351 21 321 25 00  
<http://www.igac.pt>

- Alta Autoridade para a Comunicação Social (AACS)  
Av. D. Carlos I, 130 - 6º  
1200 Lisboa  
Tel: +351 1 392 91 30  
Fax: +351 1 395 14 49  
E-mail: [info@aacps.pt](mailto:info@aacps.pt)  
<http://www.aacs.pt>

## **SPAIN**

- Commission of Film Classification  
Instituto para la Cultura y los Artes Audiovisuales  
Plaza del Rey, 1  
28071-MDRID  
Centralita: 91 701-70-00  
Tel. directos: 91 701-71-56 /  
-57 / -59  
[informa.admini@sgt.mcu.es](mailto:informa.admini@sgt.mcu.es)
- Ministry of Sciences and Technology  
Sub-Directorate for Contents in the Information Society  
Plaza de Cibeles, 1  
28071 Madrid  
tel: +34 91 346 25 13  
Fax: +34 91 346 29 17  
E-mail: [info@mcyt.es](mailto:info@mcyt.es)  
<http://www.mcyt.es>

## **SWEDEN**

- National Board of Film Censors (Statensbiografbyrå)  
Regeringsgatan 65,  
uppgång C plan 5  
103 95 Stockholm  
Tel.: 08 - 24 34 25  
Fax: 08 - 21 01 78  
E-post: [Registrator](mailto:Registrator@statensbiografbyra.se)  
[registrator@statensbiografbyra.se](mailto:registrator@statensbiografbyra.se)
- Swedish Broadcasting Commission (Granskningsnämnden),  
PO Box 244  
SE 136 23 Haninge  
Tel: +46 8606 79 70  
Email: [grn@grn.se](mailto:grn@grn.se)  
[www.grn.se](http://www.grn.se)

## UNITED KINGDOM

- British Board of Film Classification

[www.bbfc.co.uk](http://www.bbfc.co.uk)

3 Soho Square

London W1D3HD

Tel: +44 207 440 15 70

- Broadcasting Standard Commission

BSC

7 The Sanctuary

London SW1P 3JS

Tel: +44 207 78 08 1000

Fax: +44 207 72 33 0397

[www.bsc.org.uk](http://www.bsc.org.uk)

- Independent Television Commission

ITC

33, Folley Street

London, W1P 7 LB

[www.itc.org.uk](http://www.itc.org.uk)



## Appendix 2      120 Individual Film Sheets

The Consultants used the following standard ISO country codes in order to label the country categories on the individual 120 film sheets:

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

Please refer to the two attached PDF files (A2 Global Sample – individual data sheets and A2 European Sample – individual data sheets) containing in each 60 individual feature film sheets from the Global and European Samples.

## Appendix 3      Global and European Film Samples

### A3.1    Global Film Sample

A search was performed on IMDB Pro<sup>46</sup> (described in Section A1.3) for films that were released between January 1999 and June 2001 in France, Germany, the Netherlands, Sweden, and the United Kingdom. These five countries were selected as they are a representative proxy for the broader European market as a whole, and include the largest markets. It was considered that if films were not released in these countries then they would not be widely released throughout Europe as a whole. A narrow date range was selected in order to minimise changes in the ratings systems. Of the films that the search produced, only those produced between 1998 and 2000 were examined. Films that were produced between 1998 and 2000 should have obtained a broad release by June 2001.

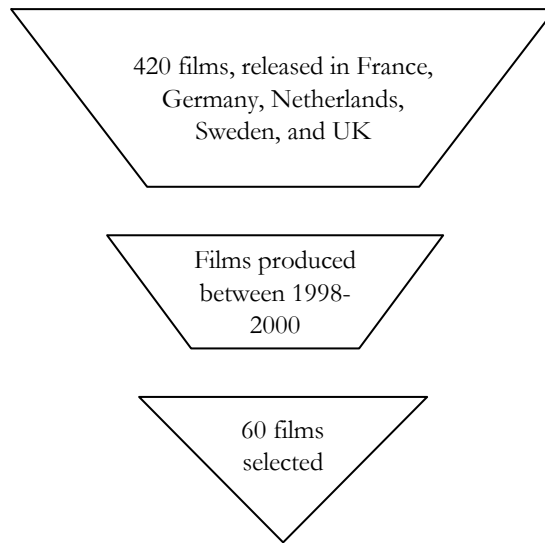
Once the search results were generated, an examination of theatrical release information was conducted, both on IMDB Pro as well as the LUMIERE database<sup>47</sup> of films released in Europe. Whilst there was considerable overlap between the two sources, there were also frequent instances where one database had release data that another lacked: for instance, LUMIERE had much better data on releases in Austria and Luxembourg, whereas Norwegian releases were found more easily in IMDB Pro. However, neither database is complete, which is why, according to the sample, no film has been released in all 18 territories. However, this should be seen more as a lack of data than of release (for instance, there is no data whatsoever for Liechtenstein and so has subsequently been omitted).

The search detailed above yielded a universe of 420 films. From this universe, films that were produced between 1998 and 2000, and had a high probability of Europe-wide release, were then selected, with a diversity of genres. Although a major US studio produced the vast majority of films in the sample, an attempt was also made to include films that were not produced in the US. Certain European films that would have qualified for the European sample were included instead in the Global to make it more representative and less heavily biased toward major US studio films. This was to satisfy the requirement for representation. Sixty films were selected, of which 50 formed the final sample. These extra films were selected in case problems with certain films were identified, in which case replacements would be available. These problems were only fully visible after the data gathering process was completed.

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<sup>46</sup> Internet Movie Database – [www.imdb.com](http://www.imdb.com)

<sup>47</sup> LUMIERE – the European Audiovisual Observatory – <http://lumiere.obs.coe.int/web/EN/search.php>. LUMIERE is maintained by the European Audiovisual Observatory, and contains data on admissions by country for films released in Europe. IMDB Pro is a subscription-based service based on IMDB aimed at industry professionals. In contrast to LUMIERE, IMDB Pro offers a powerful and flexible search feature, which was used to obtain the initial lists of films that could then be searched for on LUMIERE for additional release data. Genre information was also obtained from IMDB Pro. It is interesting to note, should any doubts arise as to the reliability of the IMDB Pro data, that LUMIERE has links to IMDB Pro on the individual data sheets for each film, and that LUMIERE regards IMDB as being indispensable in its creation.



The distributor information was obtained from IMDB Pro in the case of non-European films, and from the MEDIA Salles database<sup>48</sup> for European films.

The sample includes films from a wide range of genres, including drama (27), comedy (17), action (15), romance (4), thriller (4), family (3), sci-fi (2), horror (1), and adventure (1). (Some movies span more than one genre). Major-grossing movies, such as *American Pie*, *Charlie's Angels*, *Gladiator*, *The Matrix*, *Mission Impossible: II*, *Saving Private Ryan*, and *Star Wars Episode I: The Phantom Menace*, are included. There is no overlap between the two samples.

### A3.2 The European Sample

The European sample consists of films where the production companies come from EU and EEA Member States. Eight of the films also have co-production partners, from Yugoslavia, Romania, Argentina, Japan, and four from Switzerland. However, in all cases, the lead production company is from an EU or EEA Member State. The country information was derived from IMDB Pro, which assigns nationality to a film defined on where the production company is based. For a co-produced film, if there is a clear predominance of one country that allows IMDB Pro to list the co-producing countries in order of importance it will do so; otherwise, it lists them alphabetically.

There were instances where the three databases had different data on a film's country. *Bread and Roses*, for example, was listed by IMDB Pro as coming from Great Britain, France, Italy, Spain, Germany, and Switzerland; MEDIA Salles only gave Great Britain as the country of origin; whilst the LUMIERE database listed Great Britain, France, Spain, and Germany. However, in view of the fact that IMDB Pro is considered to be a reliable source of information as well as being the only database that lists all of the films in the samples, and is thus the only source for film country origin that can be consistently applied across all of the films, we have used the data provided by IMDB Pro to determine the country of origin of the films in the sample.

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<sup>48</sup> <http://www.mediasalles.it>. MEDIA Salles is an initiative of the EC's MEDIA programme and is supported by the Italian government. It aims to increase the flow of information about the European film industry, and to that end provides distribution information about European films.

The methodology differed slightly from that used for the global sample. The dates (both of release and production) remain the same, but the search criteria are different. Owing to the narrower release patterns that European films tend to have when compared to major US films, a search covering five European territories would have excluded too many films that may have had more unusual or locally concentrated release patterns. Moreover, since the Brief called for films released in the *majority* of EU and EEA states, it was not necessary to include films that had a Europe-wide release (although the sample does include some examples of this).

Searches were performed on IMDB Pro for films released in both France and Germany for films produced by each EU and EEA Member State other than France and Germany. For example, a search was done for films produced in Ireland and released in France and Germany.

For films produced in France, releases in both Germany and Italy were searched for; and for German films, releases in both France and Italy were sought. France and Germany, selected as the main countries for release, constitute the largest markets for European films in Europe; Italy was selected as a third country as it is a major territory. This methodology ensured that no country was ignored as a source of films. This process generated the universe of films from which individual films could be selected for inclusion in the proposed sample.

Every film that appeared in the search results and fell within the selected dates of production was then examined for suitability for inclusion. This examination consisted of viewing the release data listed in both IMDB Pro and LUMIERE. Only those that had data indicating that they were released in at least 9 countries (out of the 18 EU and EEA Member States) were included; only 3 films were released in only 9 countries, with all the other films being released in 10 or more territories. This led to a final list of only 70 films, of which 50 were selected for inclusion in the final sample, and of which ten were included in the Global sample to increase representation of European films. This low number strikingly illustrates the difficulty that European films have in obtaining distribution outside of their home markets, which is a widely acknowledged structural defect in the European film distribution industry. The relatively high number of UK films that obtained wide European distribution can be attributed to the number of UK films that were produced in partnership with a major US distributor that had pan-European reach. Distribution data was obtained from the MEDIA Salles database.

### **A3.3 Notes on the Databases**

Unfortunately, no database is complete (or claims to be), which accounts for the presence of release data on one database that is not present on another. It also accounts for the paucity or non-existence of data for certain territories, most notably Austria, Greece, Ireland, Liechtenstein, and Luxembourg. This is complicated by the fact that for certain territories and certain releases, data from one territory may be incorporated into another territory's figures (in particular, Ireland into the UK and Austria into Germany). This inconsistency makes it difficult to apply any governing rule to deal with this to the data.

## Appendix 4 Consultee List

| International Federations or Trade Associations                |   |
|--|---|
| ISFE (Brussels)  | Isabelle Roudard  |
| EPRA (Dusseldorf)  | Emmanuelle Machet   |
| International Video Federation (Luxembourg)                    | Charlotte Lund Thomsen  |
| UER, Brussels  | Mr Jacques Briquemont, responsible public affairs                         |
| UER, Geneva  | Mrs Anne-Catherine Berg, lawyer   |
| International Organisations                                    |   |
| Council of Europe, Media Division, Directorate of Human Rights | Ramon Prieto Suarez   |
| European Children's Film Association                           | Felix Vanginderhuysen, Secretary General                                  |
| Euro Kids Network  | Elisabetta Brunella, Secretary General (Media Salles)                     |
| European Platform of Regulatory Authorities                    | Greger Lindberg, Chairperson  |
| Internet Content Ratings Association                           | Stephen Balkam, CEO   |
| European Leisure Software Publishers Association               | Michael Rawlinson   |
| Media Awareness Network  | Bill Allen, Director of Corporate Communications                          |
| Austria  |   |
| Rating Agency  | Herbert Schwanda  |
| KommAustria  | Hans Peter Lehofer, managing director                                     |
| Fachverband der Audiovisions                                   | Dr. Elmar A. Peterlunger  |
| CAN  | Joe Hoffman   |
| Belgium  |   |
| Commission Inter-communautaire de Contrôle des Films           | Georgette Landsman  |
| Secrétariat général du Ministère de la Communauté française    | Michel Jocquet, adviser   |
| CSA in the French community of Belgium                         | Mr Eric Frankesen<br>Ms Evelyne Lentzen, President                        |
| Test-Achats (consumers association)                            | Mr Serge Maucq  |
| Brussels Avenue  | Ms. Marie-Do de la Patelliere, Sales Director                             |
| Motion Picture Association                                     | Chris Marsitch, Senior VP and Managing Director                           |
| Denmark  |   |
| Danish Film Institute  | Suzanne Bro (Children Regulation)   |
| Ministry of Culture / TV                                       | Petersen Vibeke   |
| Ministry of Culture  | Mr. Erik Nordhal Svendsen, Director of the Radio and TV Board Secretariat |

|   |   |
|---|---|
| Ministry of Culture   | Mr. Lars M. Banke, Head of Division Radio and Television Office |
| Zentropa  | Mr Kaare Schmidt  |
| <b>Denmark continued</b>                                    |   |
| Trust Film Sales  | Anna Karin  |
| <b>Finland</b>  |   |
| Finnish Board of Film Censors (VET)                         | Mrs Tulla Roos  |
| Finnish Board of Film Censors (VET)                         | Mr Matti Paloheimo, director                                    |
| <b>France</b>   |   |
| ARTE Video  | Mme Mailliau  |
| Arte Programmement  | Mr Victor Rocaries, responsible programming                     |
| Moviesystem   | Mr Maxime Japy  |
| Producer (pan-Européenne)                                   | Mr Philippe Godeau  |
| Canal Plus  | Mrs Sophie Barluet, Head of European Affairs                    |
| SEV   | Mr Jean-Yves Mirsky   |
| CNC   | Mr Pierre Chaintreuil   |
| CSA   | Ms Michèle Saint-Hilaire  |
| OR.GE.CO (consumers association)                            | Mr Claude Courty  |
| <b>Germany</b>  |   |
| Board for Film Classification (FSK)                         | Folker Hoenge   |
| VPRT (association representing German private broadcasters) | Mrs Julia Maier, General Secretary                              |
| Stiftung Warentest (consumers association)                  | Mr Heinz Willnat  |
| <b>Greece</b>   |   |
| Prooptiki   | Kelly Vichou  |
| <b>Iceland</b>  |   |
| Icelandic Board of Film Classification                      | Mr Sigurður Snæberg Jónsson, chairman                           |
| Icelandic National Broadcasting Service                     | Mrs Helga Reinhardsdottir, Head of International Relations      |
| Haskolabio  | Einar Logi Vignisson  |
| <b>Ireland</b>  |   |
| Office of the Film Censor                                   | Ms Audrey Colon, Deputy Censor                                  |
| Broadcasting Commission of Ireland                          | Mr Ciarán Kissane, Manager (Broadcasting)                       |
| <b>Italy</b>  |   |
| Mediaset  | Mrs Carolina Lorenzon, Head of International Media Policy       |
| AGCOM   | Ms Lisa Di Felicianantonio                                      |
| Film Revision Commission                                    | Mr Maurizio Grillini, responsible for the secretariat           |
| <b>Luxembourg</b>   |   |
| Prime Minister Office                                       | Mr Goerens  |
| Conseil National des Programmes                             | Ms Carole Kickert, secretary general                            |

|  |  |
|--|--|
| Commission de Surveillance   | Ms Viviane Thill, responsible for the secretariat                                      |
| RTL, European Regulatory Affairs, Manager                                    | Mrs Marie-Laure Lullé  |
| <b>The Netherlands</b>   |  |
| NICAM  | Mr Bekkers, director   |
| RCV Entertainment BV (distributor)   | Mr Ludolph Wentholt, legal and business affairs  |
| <b>Norway</b>  |  |
| SF Norge   | Mr Sveinung Vilcesa  |
| The Mass Media Authority   | Mr. Ove Watne<br>Higher Executive Officer  |
| Norwegian Board of Film Classification                                       | Jorgen Stensland   |
| <b>Portugal</b>  |  |
| Comissão de Classificação de Espectáculos, attached to the Cultural Ministry | António Xavier, President  |
| Alta Autoridade para a Comunicação Social                                    | Luis Ferro, international public relations advisor                                     |
| Cinedoc  | Francisco Perestrello, President   |
| <b>Spain</b>   |  |
| Ministry of Culture ICAA   | Beatriz de Armas,<br>Sub-Secretaria de Fomento   |
| Ministry for Sciences and Technology   | Isabel Hernandez, Sub-Dirección General del Contenido de La Sociedad de la Información |
| Ministry for Sciences and Technology   | Augustí Martín, Sub Dirección General del Contenido de la Sociedad de la Información   |
| <b>Sweden</b>  |  |
| Svenskfilmindustri, Video  | Mr Robert Enmark   |
| Mass Media Authority   | Mrs Sabina Martelleur  |
| Swedish Board of Film Classification   | Gunnel Arrbäck   |
| Swedish Board of Film Classification   | Hack Kampmann, Public relations  |
| <b>United Kingdom</b>  |  |
| BSkyB  | Sheilla Cassel   |
| Universal Video  | Peter Smith  |
| British Board of Film Classification   | Mr Craig Lapper  |
| British Board of Film Classification   | Mr Robin Duval   |
| British Board of Film Classification   | Andreas Whittam-Smith, President (former)  |
| Broadcasting Standard Commission   | Andrea Millwood-Hargrave, Head of Audience Research                                    |
| Voice of the Listener and Viewer   | Jocelyn Hay, Chair   |

|  |   |
|--|---|
| Voice of the Listener and Viewer                           | Vincent Porter  |
| <b>United Kingdom contained</b>                            |   |
| National Society for the Prevention of Cruelty to Children | Eileen Hayes, Advisor on Parenting Issues               |
| Independent Television Commission                          | Jonathan Simon  |
| Independent Television Commission                          | Robin Blake, Director of Programmemeing and Advertising |
| British Video Association                                  | Lavinia Carey   |
| Columbia Tri-Star Home Entertainment                       | Marek Antoniak  |
| Columbia Tri-Star Home Films                               | Richard Napper  |
| Columbia Tri-Star Home Video                               | Steve Brown, Operations Director                        |
| Video Standards Council Consultative Committee             | Barry Wiles, Chairman                                   |
| Video Standards Council Consultative Committee             | Iain Muir, Operations Manager                           |
| Cinema Exhibitor's Association                             | John Wilkinson, Head                                    |
| Society of Film Distributors                               | Frank Pierce, Head                                      |
| Society of Film Distributors                               | Mark Beatty, Chief Executive                            |
| Momentum Pictures  | Alex Hamilton, Director of Sales                        |
| Artificial Eye   | Robert Besson   |
| <b>USA</b>   |   |
| American Film Market Association                           | Laurence Safir  |



#### A4.1 List of the Persons who Verified the Country Profiles

We proceeded to a double-check of our country profiles by sending them to the relevant persons in the different national agencies and institutions, and by asking them to correct, amend and comment on them.

The following table lists the persons who answered us (and whose commentaries were taken into account in our country profiles)

| <b>FILM AND VIDEO &amp; BROADCASTING</b> |   |
|--|---|
| <b>Austria</b>                           | KommAustria<br>Mr Hans Peter Lehofer  |
| <b>Belgium</b>                           | Commission Intercommunautaire de Contrôle des Films<br>Mrs. Georgette Landsman<br><br>CSA<br>Mrs. Evelyne Lentzen                           |
| <b>Denmark</b>                           | Media Council for Children and the Young People<br>Mrs Suzanne BOE<br><br>Ministry of Culture – Radio and TV Board<br>Erik Nordahl Svendsen |
| <b>Finland</b>                           | Finnish Board of Film Classification<br>Mr. Matti Paloheimo   |
| <b>France</b>                            | Commission de Classification de Films<br>CNC, Centre National de la Cinématographie<br>Mr Pierre Chaintreuil                                |
| <b>Ireland</b>                           | Irish Film Censors Office<br>Mrs Audrey Colon<br><br>Broadcasting Commission of Ireland<br>Mr Ciarán Kissane                                |
| <b>Luxembourg</b>                        | Conseil National des Programmes<br>Ms Carole Kickert  |
| <b>The Netherlands</b>                   | Netherlands Institute for the Classification of Audiovisual Media (NICAM)<br>Mr Bekkers   |
|  |   |

|  |  |
|--|--|
| <b>Norway</b>                                      | Staten Medieforvalting (Smf)/ The Mass Media Authority<br>Mr Ove Watne   |
| <b>FILM AND VIDEO &amp; BROADCASTING continued</b> |  |
| <b>Portugal</b>                                    | IGAC<br>Mr Antonio Xavier<br><br>Alta Audoridade para a Comunicação Social (AACS)<br>Mr Luis Ferro   |
| <b>Sweden</b>                                      | National Board of Film Censors (Statensbiografbyrå)<br>Gunnel Arrback<br><br>Swedish Broadcasting Commission (Granskningsnamnden),<br>Ms Sabine Martelleur |
| <b>UK</b>  | British Board of Film Classification<br>Mr. <i>Craig Lapper</i><br><br>Broadcasting Standard Commission<br>Mr Robin Hull                                   |

## Appendix 5      Contacts

|   |   |
|---|---|
| <b>International organizations</b>  |   |
| International Centre of Films for Children and Young People                   | Joanne Blouin, Executive Director                   |
| Europa Films  | Eric Saelen   |
| Ster Kinekor (Scandinavia)  | Ludwig Wagner                                       |
| Media Awareness Network   | Bill Allen, Director of Corporate Communications    |
| Media Awareness Network   | Cathy Wing  |
| Defence for Children International  | Poo Lin Stefano, Juvenile Justice Programme Officer |
| <b>Austria</b>  |   |
| Kinder und Jugendanwaltschaft Salzburg, Ombudsoffice for Children and Youth   | Paul Arzt   |
| Austrian Film Commission  | Martin Schweighofer                                 |
| Audiovisual Film Industry Austria   |   |
| <b>Belgium</b>  |   |
| Progres Films   | (also Luxembourg)                                   |
| Les Films de L'Elysees  | Eric Brawerman (Benelux)                            |
| Belgium Film Board Commission   | Georges Reniers                                     |
| <b>Brazil</b>   |   |
| Estacao Cinema E Cultura  |   |
| <b>France</b>   |   |
| MK2   | Arianne Hugon                                       |
| Films du Losange  | Lisa Zipci  |
| UGC   | Celine Beck   |
| Secretariat de la Commission de Classification des Oeuvres Cinematographiques | Pierre Chaintreuil                                  |
| Conservateur du Registre Public   | Francois Pierrugues                                 |
| Artedis   | Pierre Richard Muller                               |
| Festival International de Cinema de Jeune Public de Laon                      | Monique Mayon, President                            |
| <b>Germany</b>  |   |
| Bundesverband Audiovisuelle Medien  | Ingrid Lange  |
| Freiwillige Selbstkontrolle der Filmwirtschaft                                |   |
| Prokino   | (also Austria and Lichtenstein)                     |
| Spitzenorganisation fer Filmwirtschaft  | Christin von Wahlert                                |
| Kinowelt  | Daniel Guckau                                       |
| <b>Greece</b>   |   |
| Rosebud Films   | George Skouras                                      |
| Prooptiki Films   | Soli Beraha   |
| AMA Films   | Stephanie Pantzi                                    |
| Institute of Child Health   | Helen Agathanos                                     |
| <b>Hungary</b>  |   |
| Budapest Film   |   |
| <b>Iceland</b>  |   |
| Kvikmynd  | Siguraur S. Jonsson                                 |

|   |                               |
|---|-------------------------------|
| <b>Ireland</b>  |                               |
| Irish Film Censor Office                              | Ann Fitzpatrick               |
| <b>Italy</b>  |                               |
| Bim Distribuzione                                     |                               |
| Key Films   |                               |
| Agis  | Stephania Squeglia            |
| Cinetel   | Roberto Chicchiero            |
| ANICA   | Sabina Massetti               |
| Mikado Films  | Emilia Bandel                 |
| <b>Lichtenstein</b>                                   |                               |
| Les Films du Chamois                                  | (based in France)             |
| <b>Norway</b>   |                               |
| Filmens Hus, Department of Information & Distribution | Mia Lindrup                   |
| <b>Netherlands</b>                                    |                               |
| EURONET – European Children’s Network                 | Mieke Schuurman, Co-ordinator |
| Fortissimo  | Zoe Bakker                    |
| NICAM/Kijkwijzer                                      | Katinka Moonen                |
| <b>Portugal</b>                                       |                               |
| Atalanta Films  |                               |
| IGAC  | Paula Andrade                 |
| Lusomundo Audiovisuais                                | Luis Bordallo Silva           |
| <b>Spain</b>  |                               |
| Alta Films  | Enrique Gonzales              |
| Rioja Films   |                               |
| Vertigo   | Cesar Clemente                |
| Wanda   | Jose Maria Morales            |
| <b>Switzerland</b>                                    |                               |
| Film Co-operative Zurich                              |                               |
| Frenetic Films  | Monika Weibel                 |
| <b>United Kingdom</b>                                 |                               |
| Sony (Columbia Tri-Star)                              | Mimi Burri                    |
| Lola Films  | Raquel Gomez                  |
| Graphite Films  | Stephen Taylor                |
| The National Film Trustee Company Ltd.                | Ben Waller                    |
| The Works   | Rachel Kitten                 |
| Hanway Films  | Simon Gosling                 |
| Buena Vista International                             | Ciara Oshea                   |
| Downtown  | Alan Latham                   |
| Technicolour Film and Imaging Services                | John Woods                    |
| <b>USA</b>  |                               |
| Universal Studios                                     | Joanna Martin                 |
| New Line International Releasing                      | Rob Remley                    |
| New Line  | Stephanie Yang                |
| Sony Pictures USA                                     | Dylan Leiner                  |
| Red Sky   | Dave Forget                   |

## Appendix 6      Bibliography

### A6.1    Primary Materials

#### Studies & Legislation

##### European Commission

European Commission, Council Recommendation 98/560/EC, 24 September 1998 (published on the Official Journal L 270 of 7 October 1998).

European Commission, *Green Paper on the protection of minors and human dignity*, 1996.

European Commission, *Green Paper on the protection of minors and human dignity*, (amended) 30 June 1997.

European Commission, *TV Without Frontiers*, Council Directive 89/552/EEC, 3 October 1989.

European Commission, *TV Without Frontiers*, Council Directive 97/36/EC, (amended) 30 June 1997.

A European Commission staff working paper “*on certain legal aspects relating to cinematographic and other audiovisual works*”, issued on 11 April 2001.

A European Commission staff working paper “*on certain legal aspects relating to cinematographic and other audiovisual works*”, issued on 11 April 2001

##### European Parliament

Decision no. 276/1999/EC of the European Parliament and of the Council of 25 January 1999 adopting a Multiannual Community Action Plan on promoting safer use of the Internet by combating illegal and harmful content on global networks

European Parliament and Council directive 97/36/EC amending directive 89/552/EEC

The Safer Internet Action Plan – January 1999 to December 2002

#### Territory's Legislation

##### Denmark

Denmark, Video Packaging, Chapter 4 Order n°30 of 13.01.1998

##### Finland

Finland, video packaging, Act 775/2000

##### France

French Financial Law of 30 December 1995, Articles 11 and 12 of Finance Law n°75 – 1278 of 30 December 1975.

##### Ireland

Video recording Act of 1989

### **Spanish**

Spanish Law, Royal Decree 81/1997 of 24 January 1997.

### **UK**

Video Labelling Act 1995

## **A6.2 Internet Websites**

International Movie Database

[www.imdb.com](http://www.imdb.com)

International Video Federation

[www.ivf.com](http://www.ivf.com)

LUMIERE

<http://lumiere.obs.coe.int/web/EN/search.php>

Media Salles

<http://www.mediasalles.it>

Denmark

<http://www.medieraadet.dk/html/gb/gb.htm> English

<http://www.medieraadet.dk/html/default.html>

Finland

<http://www.vet.fi/english/statistics/statistics.html>

France

<http://www.cnc.fr/>

Netherlands Kijkwijzer NICAM system (English)

<http://www.kijkwijzer.nl/engels/ekijkwijzer.html>

The Netherlands' rating authority website <http://www.kijkwijzer.nl/engels/ekijkwijzer.html>  
(NICAM "Kijkwijzer")

Norway

<http://www.filmtilsynet.no/Film/>

Sweden

<http://www.statensbiografbyra.se/hemsida.htm>

UK

<http://www.bbfc.org.uk>

## A6.3 Secondary Materials

### Studies & Legislation

#### Austria

Broadcasting Act, *Bundesgesetz über den Österreichischen Rundfunk*, ORF-G, No. 379/1984.

Broadcasting Act, *Bundesgesetz, mit dem Bestimmungen für Privates Fernsehen erlassen werden*, PrTV-G, No. 84/2001.

#### Denmark

Film Act n° 186 of 12.03.1997.

Order n°30 of 16 January 1998 on the Media Council for Children and the Youth.

#### Finland

New Act on Classification of Audiovisual Programs ([775/2000](#)) which came into force January 1, 2001.

Television and Radio Operations 15.1.1999/14.

Act on the State Television and Radio Fund 9.10.1998/745.

Act on Television and Radio Operations 778/2000 given on 25 August 2000.

Act on the Finnish Broadcasting Company Ltd 22.12.1993/1380.

#### France

Ordonnance n°45-1464 of 3 July 1945 on the delivery of “certificates for exploitation” to film exhibition and exports in France.

Decree n°2001-618 of 12 July 2001 amending Decree n° 90-174 of 23 February 1990 , on the classification of cinematographic works.

Decree n°92-445 of 15 May 1992 on the access of minors to cinema theatres.

Law 86-1067 of 30<sup>th</sup> September 1986 on the freedom of communication.

#### Germany

Law on the protection of the youth in public places (JöSchG) of 25 February 1985.

Law on the diffusion of writings and media content endangering the youth (GjSM), 12 July 1985.

Federal broadcasting act (*Rundfunkstaatsvertrag*) of 31 August 1991.

#### Greece

Law 1597/86 on the protection and development of cinematographic art, support of Greek cinema and other provisions.

Law 1597/86.

The same legislation and enforcement boards apply as for films intended for theatrical release.

Law 2328/95 covering analogue private radio and television stations.

Law 2644/98 on digital television and pay-TV services.

#### Iceland

Act No. 47/1995 on the inspection of films and prohibiting of films of violence.

Act No. 47/1995 on the inspection of films and prohibiting of films of violence.

Act No. 53/2000, “Broadcasting act”.

#### Ireland

Censorship of Film Act, 1923 n°23 of 16<sup>th</sup> July 1923.

Video Recording Act of 1989.

*Ireland continued*

Radio and Television Act, 1988.

Broadcasting Act, 2001.

**Italy**

Law 161/62 on the revision of films and theatre works.

D.P.R. (Presidential Decree) No. 2029/63.

Law 203/95.

D.L. (Legislative Decree) No. 3 of 8 January 1998.

Law 223/90 on the regulation of public and private broadcasting system.

Law 203/95.

Law 249/97 on the appointment of AGCOM.

**Luxembourg**

Law of 13 June 1922.

Grand-Ducal order of 16 June 1922.

Ministerial regulation of 28 November 1977.

Law of 27 July 1991 on electronic media.

**The Netherlands**

Media Act 2000

**Norway**

Law on pornography (paragraph 204).

Law on violent images (paragraph 382).

Law n° 21 of 15 May 1987, amended on 1<sup>st</sup> January 2000.

Act n° 127 of 4 December 1992 (with subsequent amendments, most recently by Act N°6 of January 14, 2000) relating to broadcasting.

Regulations of 27 February 1997 relating to broadcasting.

**Portugal**

Law decree 396/82 of 21 September 1982, as amended by law decree 116/83 of 24 February 1983 and law decree 39/88 of 6 February 1988.

Law decree 396/82.

Law 43/98 of 6 August 1998.

**Spain**

Regulation 7/07/1997, on the implementation of Royal Decree 81/1997 in the field of screening quotas, film distribution, film exhibition, the registration of film companies and the classification of film and other audiovisual works..

Law 15/2001 of 9<sup>th</sup> July on support to and promotion of cinematographic works in the audiovisual sector.

Article 149.1.27 of the Constitution, (the State has exclusive power for setting up the applicable regime for television channels. The autonomous communities are given power to develop legislation for the implementation of basic State norms).

Law 4/1980 of 10 January on the Status of Radio and Television.

Law 46/1983 of 26 December regulating “third channel”.

Law 10/1988 of 3 May on Private television.

Law 35/1992 of 22 December on Satellite Television.



Law 37/1995 of 12 December on Satellite Communications.

**Spain continued**

Law 25/1994 of 12 July amended by Law 22/1999 of 7 June.

Royal Decree of 17 September 1999.

**Sweden**

Law on the Examination and Control of Films and Videogram Ordinance (SFS 1990 :886), published on 8 November 1990.

Swedish Code of Statutes (SFS): SFS 1990:992, published on 20 November 1990.

Swedish Code of Statutes (SFS): SFS 1990:894, published on September 4, 1990 - Chapter 16: on Crimes against Public Order.

The New Radio and Television Act (1997).

**United Kingdom**

Cinema Act 27 March 1985.

Cinema Act of 27 March 1985.

The Video Labelling Act of 1 November 1995.

Broadcasting Act of 1990, as amended in 1996.

Department of Culture Media and Sport – Communications White Paper.

<http://www.communicationswhitepaper.gov.uk>

University of Oxford, *Parental Control of Television Broadcasting*, Oxford, PCMCP

UK, Video Recording Act, 1984.

Draft Communication Bill (ISBN 010 153872 3) presented to Parliament by the Secretary of State for Trade and Industry and the Secretary of State for Culture, Media and Sport in May 2002.

## Appendix 7      Classification of Audiovisual Content

### A7.1    Criteria defining the different categories forming a rating system

Classification categories are based on age divisions and, sometimes, on specific issues or situations that are considered to be potentially harmful and worth being “categorised” and brought to the attention of the audience (“sex”, “violence”, “pornography”, “drugs”, etc).

There are two methodological approaches to set-up systems of classification:

- The evaluative approach provides a classification, but does not inform the public as to why the audiovisual work has been classified into a given age category.
- The descriptive approach gives the above information, citing the different situations that arise in the audiovisual work and deemed potentially harmful (such as violence, sex, drug, pornography, fear, etc.).

An in-depth and comprehensive description of how age categories are defined by these two approaches can be found in the study completed by the University of Oxford PCMLP for the European Commission and entitled “*Parental Control of Television Broadcasting*”. It has consequently not been addressed in the present study, which focuses on the implementation of the different rating systems and the practical consequences the different systems may have on the free circulation of audiovisual goods and services in the EEA countries

#### Number of categories in a classification system

- The oldest national rating systems only distinguish two age categories. These categories are in relation to theatrical release, and can still be found in Belgium, Luxembourg, or, until very recently (October 2001), in Finland. In Belgium and Luxembourg the current legislation dates back to the 1920s, when cinema made its first public appearance. These laws are uniquely restrictive, and are a product of the fact that public exhibitions (including films) were initially prohibited to young people, regardless of the content.

- Rating systems have been complemented by the addition of new age categories. Currently, they average 5 to 6 age categories.

As further developed below, some systems have included additional specific categories in relation to films:

- Those, which include pornographic scenes or extreme violence, are only tolerated under specific conditions for exhibition, rental and sales.
- Those that are banned by the authority in charge of classification.

Appendix 7 presents a state-of-play of censorship rules applicable in the countries surveyed, and describes what the implications would be for an audiovisual work to be classified under specific categories.

- Apart from isolating pornographic and violent films, three reasons may inform the decision to incorporate more age categories into a classification system:

- The more age categories, the more precise the guidance for parents.
- Viewing film as an educational tool, it can be argued that children must be given access to more “difficult” films and not only to Walt Disney-like cartoons. The “image” is considered as a vector for getting the youth more aware of sensitive societal issues. Hence, there is a need to have different categories and not reduce classification systems to the opposition “under 18” / “over 18”, a dichotomy which prevents teenagers from watching a large number of films.
- The greater the number of age categories, the less harm a classification is to the film’s distributors/exhibitors/producers revenues. A greater number of age categories limits a smaller portion of the potential audience from accessing the film.

## **A7.2 The Implementation of Age Categories**

Traditionally, once the authorities have classified an audiovisual work, the supplier is informed of the specific ways in which to indicate the granted classification. Film and video distributors, theatre owners, video-shop keepers and retailers, video game distributors, and broadcasters must consequently conform to their respective national rules and legislations.

- Theatre owners- Theatre owners are legally responsible for the audience members they admit. This may have implications on how they advertise the film. They must take into account the obligation to warn the audience of age categories, and how this is commonly done (e.g. adverts at the box-office, specific timing schedules). Theatre owners may be sanctioned if they do not respect limitations provided by national laws. Each country provides a system of fines and/or other measures including imprisonment for theatre managers admitting people aged below the indicated limit.
- Film and Video distributors may be required to “mark” the audiovisual works itself (i.e. cassette, disc), as well as the different packages and material attached to the audiovisual work (i.e. posters, trailers, video boxes). These requirements vary greatly from one Member State to another, and may constitute barriers to the free circulation of audiovisual works across the EEA area. Film and video distributors are also legally responsible for any infringements of law regarding the provision to minors of forbidden material. It is of note that, so far, there is no legal obligation upon video-on-demand providers (except in Finland).
- Film and video retailers may be required to only sell videos that conform to their regional legislation, for example, by displaying the appropriate classification as defined under legal provisions, wherever applicable. If not, they may be held legally responsible and will be subject to fines and/or imprisonment. They may be required to register their activities, and possess specific licenses if they sell pornographic and/or extremely violent films. Control of their activities may be in the hands of inspectors and police officials, who may be entitled to enter their shop and seize videos. In the case of selling pornographic videos, national legislations often force retailers to install a separate room whose access is forbidden to minors.
- Broadcasters, different technical means are being used by broadcasters to signal their classification to the audience, including the use of a watershed hour, visual or tonal signals, or announcements. The different formulae vary from one broadcaster to another.

Although EU rules rely on the principles of the country of establishment, thus halting further debate on whether the different systems constitute a barrier to the free provision of broadcasting services, the co-existence of different systems may confuse consumers.

- With the transposition of the *Television Without Frontiers* directive into national legislations, all the EU countries have set up legal provisions, which give a framework to the rating of films broadcast on traditional free-to-air television. However, digital cable and satellite channels have not been consistently dealt with at national level so far.
- Internet broadcasting (streaming) has neither been dealt with under European national legislations, nor at the pan-EU level.

New technologies challenge a nation's conformity to rules governing the classification of content, and the way in which it is signified. Internet streaming, video-on-demand, and interactive television are steadily blurring boundaries between audiovisual content and telecommunications. The process of "convergence" includes, for instance, GPRS (and forthcoming UMTS) mobile phones, palm size PCs, or broadband set-top boxes allowing streaming and interactive televisions.

These new services also make it difficult to draw a clear-cut boundary between the exhibition of content to a general "audience", and the private consumption of a service by an individual, for example in the cases of interactive television and pay-per-view. If the audiovisual content included in these services was to be rated, there is some question as to which set of rating systems and standards would be applied.

The situation is made more complex because rating is traditionally linked to a central control, which is very difficult, if not impossible for these services.

At the same time, however, new technologies provide for new ways to rate content and control its accessibility.

Technological convergence allows the development of classification systems based on "meta-information" (i.e. information about information). This consists of the transmission of content descriptions linked to a certain programme. Meta-information can easily be read by a machine thus leading to effective filtering software.

The major study conducted by the Programme in Comparative Media Law and Policy ("PCMLP") at Oxford University for the European Commission shows that the spreading of digital TV across Europe, accompanied by convergence of other media on the same technological standards, offers far greater means of protecting minors from harmful content than traditional analogue devices.

This can be viewed in practice in the US and Canada, who have adopted V-chip technology. However, the study concludes that V-chip technology would not be practical in Europe, both because of technical factors, and because of the fragmented broadcasting landscape.

On the contrary, digital technology also allows the development of platform-neutral horizontal systems of content descriptors. This is embodied by the so-called Electronic Programme Guide, or in common data descriptors adaptable to a converged media, that are expected from current developments in the Multimedia Home Platform. The preconditions of such a change lies in the creation of a clear rating terminology, which could then be filtered by an appropriate technical device.

An implementation of such systems requires a clear shift from a centralised authority in charge of examining all the content supplied by different media, to a multi-level framework where responsibility to develop, implement and control rating practices is shared across interested parties. These include public authorities, the industry, content producers and distributors, users and consumers associations, third party rating agencies.

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

### **A7.3 Enforcement of Rating Processes – Authorities in Charge of Classification**

#### **Nature of the relevant authorities**

The authorities responsible for classification are either State authority or the industry:

- The State is frequently responsible either through a particular ministry or department, or a public agency placed under the *aegis* of a Ministry. This is the most common approach in the area of films and videos. These officials often work in close cooperation with “third party groups”. Third party groups are representatives from different sectors of civil society associated with the rating process, which may include doctors, psychologists, experts in children and the youth, family associations, consumers associations, as well as representatives from the film sector. The inclusion of representatives from civil society presents a set of advantages as follows:
  - Education of the public: there continues to be a steady increase in the flow of accessible content, and a multiplication of channels. It is therefore becoming more difficult to fully control and rate content, and there is a need to raise awareness of civil society and empower users and viewers with relevant knowledge and tools.
  - Better enforcement: When third party groups are involved in the rating of films it will be more difficult for a local authority, (in countries where they have a statutory power on the classification of films), to overrule the classification. Local authorities would have to demonstrate that the audiovisual works would generate “troubles to public order” they would not be able to stop.
- The industry is notably responsible for video self-regulation schemes or in the broadcasting sector where individual codes of conducts and forms of self-regulation apply. A similar system is to be shortly established for video games.

#### **Powers**

The responsibility of authorities in charge of ratings varies greatly, and may include all or part of the following:

- Classification of audiovisual content
- Investigation and control of the actual enforcement of classification
- The possibility of imposing sanction
- The possibility of acting as an appeal court when the classification granted is being challenged by the content supplier
- The receiving and handling of complaints from the users/viewers.

### **Scope of responsibility**

The scope of responsibility refers to the range of audiovisual products and services the authority is entitled to classify. Some authorities have the power to rule across all the audiovisual products and services; others are limited to theatrical releases, video, or the broadcasting sector.

The following table gives an overview of the different national authorities in charge of the classification of audiovisual content:

**Fig. A7i An overview of the authorities in charge of the classification of audiovisual content**

| Country                   | Authorities   |  |
|---------------------------|---|--|
|                           | AUDIOVISUAL (EXCEPT BROADCASTING)   | BROADCASTING SECTOR  |
| Austria                   | Austrian Board of Media Classification<br><u>Responsible for:</u><br>FILM (theoretically responsible for VIDEO, but not in practice)  | KommAustria (for private TV channels)                      |
| Belgium French Community  | Commission Intercommunautaire<br>De Classification des Films:<br><u>Responsible for:</u> FILMS  | Conseil Supérieur de l'Audiovisuel                         |
| Belgium Flemish Community | Commission Inter-Communautaire de Classaification des Films:<br><u>Responsible for:</u> FILMS   | <i>Vlaamse Kijk- en Luisteraad voor Radio en Televisie</i> |
| Denmark                   | Medieraadet (Media Council for Children and the Youth):<br><u>Responsible for:</u> FILM, VIDEO, DVD, VIDEO GAMES                      | Radio and TV Board   |
| Finland                   | VET (Finnish Board of Film Classification)<br><u>Responsible for:</u> FILM, VIDEO, DVD, VIDEO GAMES,<br>VIDEO-ON-DEMAND, VIDEO GAMES  | Mass Media Authority                                       |
| France                    | Commission for Film Classification<br><u>Responsible for:</u> FILM, VIDEO (for films previously classified for<br>theatrical release) | Conseil Supérieur de l'Audiovisuel                         |
| Germany                   | FSK<br><u>Responsible for:</u> FILM, VIDEO, DVD<br>USK<br><u>Responsible for:</u> VIDEO GAMES   | FSF<br>Regional Media Authorities                          |
| Greece                    | Youth Committee<br><u>Responsible for:</u> FILMS, VIDEO, DVD  | National Radio-Television Council (ESR)                    |

| Country         | Authorities  |  |
|-----------------|--|--|
|                 | AUDIOVISUAL (EXCEPT BROADCASTING)  | BROADCASTING SECTOR  |
| Iceland         | Film inspection<br><u>Responsible for:</u> FILMS, VIDEO, DVD   | N.A  |
| Ireland         | Irish Film Censor<br><u>Responsible for:</u> FILM, VIDEO   | Broadcasting Commission of Ireland   |
| Italy           | Film Classification Commission<br><u>Responsible for:</u> FILM, VIDEO, DVD   | Autorità per le Garanzie nelle Comunicazioni (AGCOM)   |
| Luxembourg      | Commission de Surveillance<br><u>Responsible for:</u> FILMS  | National Programming Council   |
| The Netherlands | NICAM<br><u>Responsible for:</u> TV, VIDEO, DVD, FILM, VIDEO GAMES, INTERNET (currently studying the possibility to linking up with international self-regulatory initiatives) | NICAM + Commissariat voor de Media   |
| Norway          | Filmtilsynet (Commission for Film Classification)<br><u>Responsible for:</u> FILM, VIDEO, VIDEO GAMES, INTERNET  | The Mass Media Authority   |
| Portugal        | Comissão de Classificação de Espectáculos<br><u>Responsible for:</u> FILM, VIDEO, DVD, VIDEO GAMES   | Alta Autoridade para a Comunicação Social  |
| Spain           | Commission for Film Classification<br><u>Responsible for:</u> FILM, VIDEO, DVD   | Ministry for Transports and Telecommunications<br>Sub-Directorate for Content in the Information Society |
| Sweden          | Statensfilmbiografbyrå (Board for Film Classification)<br><u>Responsible for:</u> FILM, VIDEO  | Swedish Broadcasting Commission  |
| United Kingdom  | British Board of Film Classification<br><u>Responsible for:</u> FILM, VIDEO, DVD, VIDEO GAMES (not systematically)   | Broadcasting Standards Commission<br>Independent Television Commission<br>To be replaced by:<br>OFCOM    |



Two trends can be noticed here:

- I. A first trend is towards the setting-up of “umbrella authorities”, in charge of the rating of films across the entire audiovisual sector. It derives from an attempt to rationalise complex systems that have developed a set of different institutions, procedures and classifications, and the resulting lack of consistency, which confuses consumers and create discriminations amongst different media. For example:

In **Denmark**, the Media Council for Children and the Youth (MCCY) was created in 1997. It examines films to be theatrically released or aimed at video (as well as DVDs and video games) supplying/rental.

It also works in close cooperation with TV channels for them to apply the same classification to films they broadcast.

In the **Netherlands**, in view of setting up self-regulatory measures aimed at the protection of young audience and suitable across all media supports, NICAM (*Nederlands Instituut voor de Classificatie van Audiovisuele Media*) was created in 1999. NICAM replaced all former Dutch bodies entrusted with the task of classifying audiovisual works (such as the former NFK, or Commission for Film Classification).

In **Finland**, the new Act on Classification of Audiovisual Programs ([775/2000](#)) came into force 1 January 2001, monitoring:

- Public exhibition of audiovisual programs (cinema)
- Distribution of audiovisual programs for private use (videos, DVD)
- Video-on-demand
- Exhibition and distribution of interactive audiovisual programmes or games

It applies neither to television broadcasts, nor Internet online distribution (downloads). It differs from integrated authorities that are being set up as a result of “convergence” (see next paragraph) and which aim at integrating audiovisual and telecommunication respective authorities and applicable rules.

In **Portugal**, the Comissão de Classificação de Espectáculos is responsible for classifying not only any kind of audiovisual product (film, video, DVD, CD-ROM, video games) but also live shows including opera, ballet, concerts, sports and even bullfights.

In **Germany**, the new law on the protection of the youth (2002), not yet in force, aims at covering all the media transmitting potentially harmful audiovisual content (except for TV and Internet which have separate laws). Therefore, films intended for theatrical release, videos, DVDs, and video games (both for private use and for public spheres) will have to be classified before being put on the market. The actual rating practice is delegated to self-regulatory boards, under the supervision of public authorities.

The other European countries have not gone this far in integrating, for legislation by a single authority, the rating processes applicable to a wide range of audiovisual products.

- II. A second trend is directed towards integration, under a single authority, of the structures in charge of controlling the broadcasting sector on the one hand and the telecommunication sector on the other hand. Convergence triggers the unification, under a centralised authority of different sectors, which used to be clearly distinguished.

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

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

In other words, the bodies responsible for regulating telecommunications and the media have only been integrated insofar as they have been given the same structure. Their tasks remain separate and the supervision of the regulators themselves, and of the respective channels of appeal, is also different.

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

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

The proposed joint regulatory framework<sup>49</sup> will be responsible for regulating electronic communications networks and services including telecommunications systems and for broadcasting services.

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<sup>49</sup> The structure was established under the draft Communication Bill (ISBN 010 153872 3), which was presented to Parliament by the Secretary of State for Trade and Industry and the Secretary of State for Culture, Media and Sport in May 2002.

## Appendix 8      The State of Censorship in the EU/EEA Member States

4.3.1.1.1.1.1 Fig. A8.1 The State of Censorship in the EU & EEA Member States: Legislations

| Country        | Upper age category | Additional specific +18 category for films of particular violence and/or pornography   | Possibility for banning a film   |
|----------------|--------------------|--|--|
| <b>Austria</b> | + 16               | No   | No   |
| <b>Belgium</b> | + 16               | Yes, for pornography   | No   |
| <b>Denmark</b> | +15                | No   | No   |
| <b>Finland</b> | + 18               | No   |  |
| <b>France</b>  | + 18               | <p>Yes</p> <p>Pornographic films are subject to specific legal provisions that are laid down under the Financial Law of 30 December 1975 (article 11 and 12 of Law n°75-1278)</p> <ul style="list-style-type: none"> <li>- Films to be listed under a specific ministerial order (Ministry of Culture)</li> <li>- Access forbidden under 18 years</li> <li>- Exhibition in specific theatres only</li> <li>- The special tax which is generally perceived when a classified work is exhibited, can not generate any support to producers, distributors and exhibitors</li> <li>- Such productions and theatres shall not be eligible to any public support</li> <li>- Additional taxes are imposed on the production and diffusion of such audiovisual works: increased VAT rate on right assignment, as well as on box-office entrance; special 33% tax on profits; specific flat tax on the import of audiovisual works produced by companies that are not established in France, and that were classified as</li> </ul> | <p>Yes</p> <p>Films including child pornography or sexual relations between humans and animals</p> |

|            |                    | pornographic films prior to their release on the French market   |  |
|------------|--------------------|--|--|
| Country    | Upper age category | Additional specific +18 category for films of particular violence and/or pornography   | Possibility for banning a film   |
| Germany    | + 18               | Under the “Law on the diffusion of writings and media content endangering the youth” (GjSM) of 12 July 1985, films and other publications, which could endanger the moral development of children and young people has to be put on an “index”. Indexed products undergo limitations to their freedom of circulation, i.e. they may not be accessible to minors and they may not be advertised. Reasons for indexing publications include representation of sexual deviation, pornography, inciting violence, crime or racial hatred, glorifying of war. A new law has recently been approved which strengthens the limitations for harmful publications: in future restrictions to circulation will be applied automatically, even if the publication has not been indexed. | No   |
| Greece     | + 18               | No   | No   |
| Iceland    | + 16               | Yes, for pornography   | Yes  |
| Ireland    | + 18               | No   | Yes<br>Ban or prohibition of films for theatrical release if the Film Censor thinks the film includes elements that are “ <i>indecent, blasphemous, or because the exhibition would tend to inculcate principles contrary to public morality or would be otherwise subversive for public morality</i> ”.<br>Similar provisions under the VRA are applicable to videos. |
| Italy      | + 18               | No   | Yes  |
| Luxembourg | + 17               | Yes, for pornography   | Yes, on grounds of public morality   |
| The        |                    |  |  |

|             |     |    |                              |
|-------------|-----|----|------------------------------|
| Netherlands | +16 | No | No (except for broadcasting) |
| Norway      | +18 | No | Yes                          |

| Country  | Upper age category | Additional specific +18 category for films of particular violence and/or pornography   | Possibility for banning a film   |
|----------|--------------------|--|--|
| Portugal | + 18               | <p>A specific category of “pornographic film” exists. A work is considered to be pornographic if:</p> <ul style="list-style-type: none"> <li>- it explores sexual situations and acts with the main purpose of exciting the public</li> <li>- it has a low aesthetic quality</li> </ul> <p>Among pornographic films, a further distinction is made between <i>hardcore works</i> (shows presenting an extensive and insisting description of sexual acts truly practised, with exhibition of genitalia) and <i>softcore works</i> (shows presenting an extensive and insisting description of simulated sexual acts)</p> | No   |
| Spain    | + 18               | <p>Yes</p> <p>Under Royal Decree 81/1997, the commission for film classification may rule on a film and qualify it as “to be released in “X theatres”. The applicable provisions are laid down under Law 1/1982 of 24 February and include:</p> <ul style="list-style-type: none"> <li>- films to be included into a specific list under a Resolution from the Ministry of Culture</li> <li>- exhibition in specific theatres only</li> <li>- no access to minors</li> </ul>   | No   |
| Sweden   | + 15               | No   | <p>Yes</p> <p>Under the <b>Examination and Control of Films and Videograms Act</b>, issued on June 14, 1990, for audiences over the age of 15, the only scenes that may be banned are such where: <i>"the events are depicted in such a manner and in such a context as to have a brutalizing effect. The assessment</i></p> |

|                     |  |  |   |
|---------------------|--|--|---|
| Sweden<br>continued |  |  | <i>shall take particular account of whether the film contains explicit or protracted scenes of severe violence to people or animals or depicts sexual violence or coercion or presents children in pornographic situations."</i>  |
| UK                  |  | Yes<br>The "R18" category required by the Video Recording Act is primarily for explicit videos of consenting sex between adults. "R18" videos may be supplied only in licensed sex shops, which no one under 18 can enter. | Yes<br>The BBFC has a strict policy on rape and violence. Where the portrayal eroticises or endorses sexual assault, the Board is likely to require cuts at any classification level. This is more likely with video than films, because video scenes can be replayed repeatedly. Any association of sex with non-consensual restraint, pain or humiliation may be cut. |

The table contains all data that was available to the Consultants

## The State of Censorship in European Countries: selected figures

**Fig A8.2 Ireland**

| <b>Term</b>                         | <b>Cuts</b>   | <b>Ban</b>   |
|-------------------------------------|---|--|
| October 1978<br>– September<br>1986 | 221   | 14   |
| October 1986<br>– to date           | 12<br>About Last Night 1986<br>Howard the Duck 1986<br>Bliss 1987<br>Palybirds 1987<br>Prince, a sign of times 1988<br>Big 1988<br>Krays 1990<br>Die hard 2 1990<br>Look who's talking to 1991<br>Zandalee 1991<br>Last action hero 1993<br>Highlander 3 1995 | 9<br>Working girls 1987<br>Whore 1991<br>The Bad Lieutenant 1993<br>UFO 1994<br>Natural Born Killers 1994 (the video version<br>was granted "over18" certificate in May 2001<br>Showgirls 1996<br>From dust till dawn 1996<br>Preaching the perverted 1997 |

**Fig. A8.3 Norway**

(<http://www.filmtilsynet.no/Film/Historikk.>)

| <b>Year</b> | <b>Number of titles</b> | <b>Ban</b> |
|-------------|-------------------------|------------|
| 1985        | 272                     | 6          |
| 1986        | 303                     | 11         |
| 1987        | 261                     | 6          |
| 1988        | 231                     | 5          |
| 1989        | 209                     | 3          |
| 1990        | 180                     | 4          |
| 1991        | 200                     | 4          |
| 1992        | 190                     | 3          |
| 1993        | 188                     | 1          |
| 1994        | 178                     | 1          |
| 1995        | 205                     | 0          |
| 1996        | 208                     | 0          |
| 1997        | 218                     | 0          |
| 1998        | 233                     | 0          |
| 1999        | 240                     | 1          |
| 2000        | 214                     | 0          |



**Fig. A8.4 Germany****Video games / Break-out of rating certificates:**

|                                   |       |                                      |      |
|-----------------------------------|-------|--------------------------------------|------|
| Suitable for all                  | 37.9% | Suitable for people older than 18    | 4.1% |
| Suitable for people older than 6  | 15.6% | Certificate denied after examination | 0.3% |
| Suitable for people older than 12 | 21.6% | No uniform opinion of the committee  | 0.1% |
| Suitable for people older than 16 | 19.2% | Application rejected                 | 1.2% |

**Broadcasting (FSF)**

FSF examines transmissions previous to their broadcasting. It may recommend cuts, later transmission, or both. Since its creation, the FSF examined 4,190 transmissions (figures updated on 30 April 2002):

*4.3.1.1.1.1.2 Fig. A8.5*

|                              |       |
|------------------------------|-------|
| Total assessed transmissions | 4,190 |
| Requests of exception        | 838   |
| Information reports          | 3     |
| Erotic films                 | 740   |
| Films put on the BPjS index  | 617   |
| No specific mark             | 80    |
| Reality                      | 17    |
| Series                       | 1,626 |
| TV-Movies                    | 269   |

*4.3.1.1.1.1.3 Fig. A8.6*

Number of rejections / acceptance:

|   |       |
|---|-------|
| Total assessed transmissions                                    | 4,190 |
| Decision consistent with request                                | 2,603 |
| Decision not consistent with request                            | 1,587 |
|   |       |
| Rejected requests   | 1,587 |
| Proposed broadcasting time and cuts suggestions / other editing | 678   |
| Later broadcasting time   | 689   |
| Later broadcasting time and cuts suggestions / other editing    | 108   |
| Suggestion not to broadcast programme                           | 112   |

## Iceland

Statistics on all the films examined by the Film Classification Board are available on the Film Classification website: <http://www.mmedia.is/~kvikmynd>

## Fig a8.7 UK

([www.bbfc.co.uk/website/statistics.nsf/\\$\\$ViewTemplate%20for%20TypeYearly](http://www.bbfc.co.uk/website/statistics.nsf/$$ViewTemplate%20for%20TypeYearly))

| Year | Total number of works | Number cut | Percentage cut |
|------|-----------------------|------------|----------------|
| 1985 | 399                   | 72         | 18%            |
| 1986 | 387                   | 44         | 11.4%          |
| 1987 | 344                   | 36         | 10.5%          |
| 1988 | 369                   | 54         | 14.6%          |
| 1989 | 406                   | 59         | 14.5%          |
| 1990 | 424                   | 45         | 10.6%          |
| 1991 | 379                   | 47         | 12.4%          |
| 1992 | 371                   | 28         | 7.5%           |
| 1993 | 380                   | 37         | 9.7%           |
| 1994 | 401                   | 21         | 5.2%           |
| 1995 | 410                   | 27         | 6.6%           |
| 1996 | 446                   | 21         | 4.7%           |
| 1997 | 437                   | 16         | 3.7%           |
| 1998 | 448                   | 14         | 3.1%           |
| 1999 | 532                   | 19         | 3.6%           |
| 2000 | 525                   | 12         | 2.3%           |
| 2001 | 505                   | 14         | 2.8%           |

## **Classification of films and videos in European Countries – Appeal Procedures**

### *4.3.1.1.1.1.4 Fig. A8.8*

| Country | Appeal procedures   |
|---------|---|
| Austria | The Austrian Board of Media Classification (ABMC) includes an appeal committee, which is composed of the chairpersons of the examination committees and is chaired by the managing director of the ABMC. The maximum number of members is seven. It may be summoned upon request of the managing director, of one of the examination committees' chairperson, of a film distributor or a broadcaster. It can only rate those films that have been previously classified by an examination committee. Decisions are taken at the simple majority; the vote of the chairperson decides in case of equality. |
| Belgium | Any decisions taken by one of the first committees of the <b>Commission Intercommunautaire de Contrôle des Films</b> may be reviewed by the appeal committee whose verdict has an immediate consequence.  |

| Country | Appeal procedures  |
|---------|--|
| Denmark | N.A  |
| Finland | Decisions of the Finnish Board of Film Classification can be appealed against to the <b>Appeal Board</b> . The appeal process is open only to distributors or producers. The Appeal Board consists of six members (with personal deputies), appointed by the government for a term of three years. If the distributor or the producer is not satisfied with the decision of the Appeal Board, he can be appealed to the Supreme Administrative Court.  |
| France  | Theatrical release or video supply: the Commission for the Classification of Films cannot suggest any cut in the audiovisual content that has been submitted to it. The commission makes proposals on the suitable category and leaves the producer or distributor free to make cuts or bring the changes he deems necessary. In case these changes are made, the producer or distributor may re-submit the work to the commission, which may change its initial ruling.   |
| Germany | The submitter or the outvoted working committee minority may appeal against the decisions taken by the <b>FSK</b> . The new committee is composed of nine persons that have not taken part to the first instance decision. The two additional members are representatives of the film industry and of public authority.<br>Another possibility of appeal is open for each one of the Länder and the <b>SPIO</b> . In this case an appeal committee is appointed, whose members consist of a jurist, two experts in the field of youth protection and four representatives of the Supreme Youth Authorities of the Länder. The decisions taken by this committee are valid throughout the national territory.   |
| Greece  | N.A  |
| Iceland | Assessments given by the Film Inspection have to be considered as final. However, the Film Inspection can evaluate once more a film whose rating is contested by the submitters if it finds that there are special reasons for doing that.   |
| Ireland | A person aggrieved by the Film Censor's decision in relation to either a film or a video may appeal the decision to the <b>Censorship of Films Appeal Board</b> .<br><br>The 1923 Act provides for the establishment of a nine person Appeal Board appointed by the Ministry for Justice, Equality and Law Reform for a period of 5 years. The Board is empowered to hear appeal in relation to the refusal to grant certificates and appeals for changes in classification for both films and video works. The Film Censor if requested by the Appeal Board provides a written statement underlining the reasons for his decision. On payment of the prescribed fee any person can obtain a copy of that statement from the Film Censor's Office. The decision of the Appeal Board is final. However the film may be re-submitted to the Film Censor after 7 years. |

| Country         | Appeal procedures  |
|-----------------|--|
| Italy           | <p>If the demander is not satisfied with the rating expressed by the film commission, he/she can appeal to the second degree commission within 20 days from the certificate notification. The commission must express its opinion within a delay of 20 days afterwards the same procedure described above applies. If the demander estimates that even the second degree commission's decision is unsatisfactory, he/she can appeal to an administrative court (<i>Consiglio di Stato</i>). In this case, the maximum delay is fixed in 30 days from the receipt of the file. The court decision is definitive and valid as certificate.</p> <p>The possibility of appeal is open by law (art. 7, law 161/62) to films which have been denied a certificate or which have been rated as unsuitable for minors. Indeed, D.P.R. 2029/63 states that "works not having obtained a certificate may be resubmitted to a new examination, provided that they have been modified as regards title, scenes or dialogues" (art. 11 D.P.R. 2029/63). This prescription has led to a situation where film producers and distributors can submit new versions of their work in order to obtain more favourable certificates. Therefore, cut and uncut versions of the same film co-exist and circulate in the country. Only films rated "suitable for all" or prohibited to people younger than 14 can be broadcast by television. The existence of different versions of the same film can thus be seen as a tool allowing a better circulation of audiovisual works.</p> |
| Luxembourg      | No appeal procedure is provided by law as regards the <b>Commission de Surveillance</b> .  |
| The Netherlands | An appeal Committee was set up and is made up of three independent members with no connections at all in the audiovisual world. Appeals must be submitted within 4 weeks of the ruling of the Complaints committee.  |
| Norway          | <p>Distributors (through the <b>appeal court</b>) as well as general public (through the <b>Children's Ombudsman</b>) can complain on the decisions of the board of film classification.</p> <p>Complaints concerning incorrect case treatment may be brought to separate boards. Punishment as stated in the Penal Code, may also include loss of business rights.</p>  |
| Portugal        | <p>Within the <b>Comissão de Classificação de Espectaculos (CCE)</b>, a appeal sub-committee is established, which is responsible for receiving submitted appeals. This committee is composed of five different members taken out of the 43 ordinary members of the CCE. The following persons are entitled to make an appeal against decisions taken by the CCE:</p> <ul style="list-style-type: none"> <li>- film and video distributors</li> <li>- a group of 100 citizens</li> <li>- producers of entertainment events</li> <li>- members of the CCE working panel not in agreement with decisions taken at majority vote</li> </ul>   |
| Spain           | N.A  |

| Country | Appeal procedures  |
|---------|--|
| Sweden  | <p>Appeals against decisions on matters relating to the examination of films and videograms taken by the National Board of Film Censors pursuant to this Act may be lodged with an administrative court of appeal. In other cases, the Board's decisions shall be final.</p> <p>The administrative court of appeal shall consist of three members with legal training and two special members. One of these special members shall have expert knowledge of film and the other of the behavioural sciences.</p> |
| UK      | <p>Any films or video company, which disagrees with a classification decision may appeal against it <b>directly to the board</b>. Additionally in the case of films, the company (or any member of the public), may address itself to the local authority, which licenses cinemas in particular areas. In the case of video, a company may appeal to the <b>Video Appeal Committee</b>, which is independent from the Board.</p>   |

## Appendix 9      Conversions use to Calculate Rating Costs

### A9.1    The Calculation of the costs reported in Section 5 (5.1.1)

1 foot equals 0.3048 metres<sup>50</sup>

One spool equals 1700 ft<sup>51</sup>

One minute of 35mm film equals 90 metres<sup>52</sup>

One GBP equals 1.58153 Euros<sup>53</sup>

One thousand ISK equals 11.6141 Euros<sup>54</sup>

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<sup>50</sup> From by <http://www.onlineconversions.com>

<sup>51</sup> This approximate data (it varies per film) was provided by Technicolour Film and Imaging Services

<sup>52</sup> From <http://www.intervalometers.com/resource/index.stm>

<sup>53</sup> From <http://www.xe.com/ucc>

<sup>54</sup> From <http://www.xe.com/ucc>

## Appendix 10 Standard Deviation Figures – Consistent Sample

Fig A10.1 Consistent Global Sample

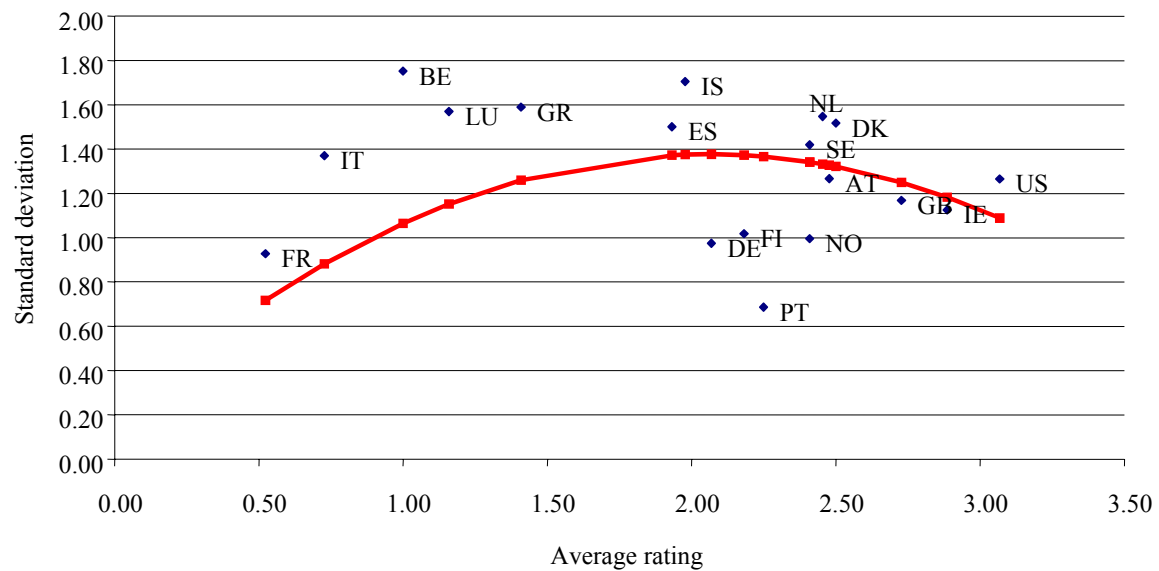


Fig. A10.2 Consistent European Sample

