



July 31, 2008

**JOINT SUBMISSION IN RESPONSE TO THE COMMISSION'S
PUBLIC CONSULTATION ON
AGE VERIFICATION, CROSS MEDIA RATING AND
CLASSIFICATION, ONLINE SOCIAL NETWORKING**

The International Federation of Film Producers Associations (FIAPF) is a trade organisation dedicated to the defence and promotion of the legal, economic and creative interests of film and audiovisual producers throughout the world. FIAPF members are 25 national producers' organisations from 23 countries across the globe.

IFTA is a non-profit, trade association whose mission is to provide the independent film and television industry with high-quality marketplace-oriented services and worldwide representation. As the spokesperson for the worldwide independent film and television industry, the Alliance actively lobbies the United States and European governments and the international organizations on measures that impact production and distribution. IFTA's Membership includes 180 companies from 22 countries worldwide, of which nearly half are headquartered in Europe, including Studio Canal, Handmade Pictures, Telepool, Svensk Filmindustri, AB, and Adrian Chiesa Enterprises SRL

The members of the International Video Federation (IVF) comprise companies, which are involved in all areas of the audiovisual industry (development, production, distribution, etc.) as well as entities dedicated to, and specialized in, the distribution of audiovisual content on physical carriers and/or over digital networks, including the Internet.

The Motion Picture Association (MPA) is a trade association that represents six major international producers and distributors of films, home entertainment and television programmes. The MPA's members comprise: Buena Vista International, Inc., Paramount Pictures Corporation, Sony Pictures Releasing International Corporation, Twentieth Century Fox International Corporation, Universal International Films, Inc., Warner Bros. Pictures International, a division of Warner Bros. Pictures Inc.

We welcome the opportunity to comment on a number of issues arising in connection with platform and media convergence and the public policy goals of protecting minors and human dignity.

Joint Submission - FIAPF/IFTA/IVF/MPA

PUBLIC CONSULTATION ON
AGE VERIFICATION, CROSS MEDIA RATING AND
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Questionnaire 1- Cross media rating and classification

Audiovisual content classification systems have indisputable benefits to consumers by providing information on and, in certain cases a warning of, the recommended age for the viewing of specific content. At the same time, such systems enable adults to view content and entertainment intended for adults only, independently of the potential vulnerability of a young audience.

Content classification systems are usually specific to individual countries reflecting each country's individual societal and cultural preoccupations. Certain elements (violence, language) are of concern to all nationalities whereas other elements (nudity, religion) draw quite different reactions depending on nationality. The age at which all content is permitted also differs substantially from 18 years in some countries to 15 years in others.

Therefore, to efficiently serve their purpose, content classification schemes must reflect the differing national, social and cultural preoccupations mentioned above - questions of suitability for different age groups are largely a matter of what is considered appropriate to a particular time, country and distribution mode. The social, cultural and legal treatment of these questions varies from country to country and evolves with the passage of time.

Some countries have chosen to regulate audiovisual content classification in all traditional distribution channels (theatrical, video, and TV), other countries have limited mandatory classification to selected distribution channels. Others again have left it up to the industry to adopt its own codes of conduct. In all countries, where members of FIAPF, IFTA, the IVF and the MPA are active, some system is in place either a mandatory one or a voluntary one developed by the industry. Our organizations have assisted several of our member associations in the introduction of self-regulatory, voluntary classification systems providing information to consumers, parents and the commercial sector. Our organizations and their members strive to reassure the public that classification systems can be trusted and that their terms and conditions are complied with by publishers, distributors and retailers.

As regards audiovisual media services, the Audiovisual Media Services Directive 2007/65/EC foresees in Article 22(3) that programmes which may be harmful to minors should be preceded by an acoustic warning or identified by the presence of a visual symbol throughout their duration. This was already transposed into national law by all EU Member States by 2001 (as part of the implementation of Directive 97/36/EC). Although harmonised classification of content in pan-regional or multi-country television broadcasting is impracticable for the reasons explained above for other distribution channels, it is worth recalling that Member States may provisionally derogate from their obligation to ensure freedom of reception of services if a television broadcast originating from another Member State manifestly, seriously and gravely infringes Article 22(1) or (2) and/or Article 3(b) of Directive 2007/65/EC.

As regards online distribution of audiovisual content, we recommend that all content aggregators and distribution platforms provide information to consumers about the content offered on their services thus enabling consumers to make an informed choice about the content they access/purchase. Most content aggregators and distribution platforms do provide such information. There are also examples of dedicated online classification systems such as the British Board of Film Classification (<http://www.bbfc.co.uk/bbfcOnline/bbfcOnline.php>).

The need for classification and rating systems will in part depend on the nature of the platform on which the content is made available, and consumers' attitudes to this. There should be an industry-led approach depending on consumers' own attitude and understanding of the platform that they are using.

As regards copyright audiovisual content illegally distributed over the Internet, we are concerned that such content is usually not labelled in any way, nor is any information usually available to the end user, and in particular minors, about the type of content contained in the illegal files. Apart from the indisputable detrimental effect on the copyright based audiovisual industries, piracy and unauthorized sharing of copyright audiovisual content over the Internet poses a real and present threat to the protection of minors and human dignity given the lack of information provided to users about the content hosted on illegal sites. Protection of minors and human dignity is guaranteed by European legislation with regard to legally distributed content.

We believe that industry “self-regulation” is the most appropriate way to meet the public policy goals of protecting minors and human dignity. This is in line with the Council of Ministers’ Recommendation on Protection of Minors of 1998 as updated in 2006, which also endorsed the promotion of self-regulation as the most appropriate way to address the different national, social and cultural preoccupations, which undeniably continue to exist at Member State level. Furthermore, the 2003 Empirical Study on the Practice of the Rating of Films Distributed in Cinemas Television DVD and Videocassettes in the EU and EEA Member States prepared by consultants on behalf of the European Commission reached the conclusion that there was no, or negligible, demand for harmonization of rating systems by the industry concerned and by consumers.

Questionnaire 2- Age Verification

Protecting minors from age inappropriate content is an issue of utmost importance for the development of legal distribution of content online. However, as is the case with content rating and classification, the issue concerns primarily the last interface in the distribution chain, i.e. the content aggregators and media services providers and the consumer.

As set out in the Audiovisual Media Services Directive 2007/65/EC, Member States shall ensure that companies offering audiovisual media services do so in a way which does not seriously impair the physical, mental or moral development of minors. In addition, services offered may not contain any incitement to hatred based on race, sex, religion or nationality.

Under Article 3h, this requirement also applies to on-demand services, where service providers shall ensure that if content is provided which is considered as inappropriate for minors in a Member State, such content shall be made available in “*such a way that ensures that minors will not normally hear or see the service*”. Effectively, this means that it is the duty of the media service provider to implement systems restricting access to the content considered inappropriate by the relevant authorities. The provision of information about content, media literacy, education, parental responsibility are all very important factors to be encouraged, and are the options preferred by the members of our organizations over the introduction of age-verification technology. We are of the opinion that age verification for online content is a disproportionate approach given that in some EU Member States, the watershed exists simply as a guide to parents as to what is appropriate for children to watch, but there is no system which restricts access to inappropriate content after this time.

In this context, rules and regulations on e-privacy will undoubtedly play a role as media service providers may in fact be prevented by data protection rules to take the necessary measures to ensure that access to content is limited to users in the appropriate age group. Technical and data limitations also create challenges for the development of effective age verification mechanisms.

Questionnaire 3 – Online Social Networking

To the extent that members of FIAPF, IFTA, the IVF and the MPA are engaged in online social networking sites and/or services, they may choose to respond to the Commission’s consultation by way of individual company submissions.

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