

BBFC response: United Nations Human Rights Concept note for a General Comment on children's rights in relation to the digital environment

**Introduction**

The British Board of Film Classification (BBFC) is an independent, non-governmental, not-for-profit, co-regulatory body. The BBFC classifies films on behalf of UK local authorities who license cinemas under the Licensing Act 2003, and video works distributed on physical media under the Video Recordings Act 1984. Video works which are distributed over the internet are rated by the BBFC under a voluntary, self-regulatory service which has been in operation since 2008. In 2013, the BBFC also became the independent regulator of internet content delivered by mobile networks in the UK. In this role, the BBFC sets standards which ensure that content which is age-inappropriate or potentially harmful to children is restricted by filters. In addition to the BBFC's classification functions it is designated as the Age-verification Regulator under Part 3 of the Digital Economy Act 2017. The BBFC's responsibilities under this Act include ensuring that online commercial pornography services carry age-verification controls to prevent children accessing harmful content. The Act also ensures that online pornographic services do not contain 'extreme pornography' as defined under UK law, which it is illegal in the UK to possess.

**How can children’s views and experiences be expressed and taken into account when formulating policies and practices which affect their access to, and use of, digital technologies?**

The BBFC has a multi-faceted approach to taking into account children's views in the development of policies. We invest in both independent research and in specialised education and outreach work direct with teenagers, parents, teachers and the public and close consultation with industry. Our outreach and education work incorporates frontline delivery with thousands of children and adults each year and means that we talk to children all year round, continue to listen and to feed the insights gained into our regulatory policy, research agenda and content regulation.

We undertake a wide scale public consultation with over 10,000 people every four to five years giving us detailed insight into behaviours, opinions and concerns around the use of digital technology in the UK. Our 2018 public consultation, that underpins the BBFC's 2019 Classification Guidelines involved running six focus groups with young people, aged 12 to 17. They were asked to view recent films classified for their ages and discuss whether they agreed with the BBFC's decisions. The research also used an online panel of 1044 teenagers across the UK, aged 13 to 17, to establish: how they consume media; their awareness and use of age ratings; their level of agreement with recent 12A and 15 classification decisions; and the classification issues of greatest concern to them.

We explored how our Classification Guidelines worked for those groups, and what changes, if any, might be needed to ensure that our age rating decisions for online and offline material reflected societal standards and norms alongside UK law.

The consultation confirmed findings of our education team that younger viewers feel a heightened sense of anxiety when it comes to depictions of 'real world' scenarios, for example, realistic contemporary scenarios showing terrorism, self-harm, suicide and discriminatory behaviour. Material which is potentially harmful and difficult to watch, such as depictions of sexual threat and sexual violence seen in cinema, at home and online, had moved on since the previous guidelines consultation in 2013-14. Such scenes were of greatest concern for all the audiences surveyed, with 61% of teenagers citing it as a ‘top issue’. In addition, parents in particular demonstrated generalised concern about the ‘innocence of childhood’ being under threat. The BBFC already classified sexual threat and sexual violence restrictively and, in the light of this research, adjusted our Guidelines to ensure that they were in line with the concerns of teenagers, their parents and teachers.

As part of its role as the Age-verification Regulator the BBFC is undertaking bench-marking research into children's exposure to online pornography. Understanding the experiences of children and how they access and interact with pornography online is fundamental to assessing the impact of the introduction of age-verification to better protect children.

Existing research demonstrates that children support the introduction of age verification on pornographic services for example Girlguiding found 75% of girls aged 13-21 agree that all pornography sites should have age verification.

The research commissioned by the BBFC will investigate through both focus groups of 16-18 year olds and quantitative research with children of 11 and up as well as parents, issues such as:

* Current culture around pornography among young people, and how pornography affects young people's attitudes towards sex and relationships
* The different routes by which young people access pornography, and identify any access strategies or 'workarounds' that they may use, pre-AV implementation
* Whether there are gaps in sexual education, and where pornography may be filling these in certain cases
* Whether there are differences between what people think others their age are doing/seeing regarding sex and pornography, and what they are doing themselves
* Young people's experiences of consent and how they feel pornography influences this

The BBFC will make public the findings of its research and it will inform our assessment of how well age-verification is working and whether there needs to be changes in approach, particularly to address technological developments and potentially overall Government strategy for example in relation to education.

**How can discrimination (originating offline or online) be effectively addressed, to ensure all children have their rights realised in a digital world?**

Discrimination is a key issue for children in their viewing content and they express spontaneous concern about language, attitudes, storylines and stereotypes which perpetuate discriminatory views or encourage or endorse discriminatory behaviours. We know this from our close work with young people, children and parents discussing what they view. However, they have also demonstrated a lack of knowledge around the legality of behaviours on and offline. We work with educators and researchers to provide resources tailored to addressing this issue.

The BBFC's Classification Guidelines address discrimination specifically and it is an important factor in the BBFC's work online. Websites accessible via the mobile networks that the BBFC regulates, that could encourage discriminatory attitudes and behaviour, have been placed behind adult filters to ensure they cannot be accessed by children.

**How should the General Comment treat the role of parents and other caregivers?**

The purpose of age ratings and content advice attached to long form film, TV and video online is to protect children and empower parents and other caregivers to make informed and safe viewing decisions. The BBFC is committed to helping families choose well, wherever, whenever and however they view content.

There is a strong public policy case for consistency of age ratings for film and video content regardless of how it is consumed by the UK public. This belief is supported by our most recent independent research that demonstrates that 85% of UK parents want to see the same consistent age ratings used in cinemas, on DVD and online.

Our research showed increased media literacy amongst parents, and also some desire to talk about issues raised by even strong or complicated material viewed online. The prevalence of what parents describe as 'inappropriate' content, such as online pornography and strong content on sites such YouTube, has contributed to the feeling that children are simply growing up too soon, and generalised worries about how media and online behaviour impacts on young people’s mental health. Support for parents in making decisions with clear regulation, age labelling for content where relevant, clear, safe and understandable, age verification barriers in place to protect children are all needed.

**How should the practices of businesses operating in the digital environment support the realisation of children's rights?**

The BBFC supports the UK government's objective to establish a new statutory duty of care to make companies take more responsibility for the safety of their users and tackle harm caused by content or activity on their services. In particular, children should be protected from content and behaviour which infringes their rights to protection from sexual exploitation and other harms in the online environment.

Regulation can help businesses achieve consumer protection. The BBFC supports the principle of working with industry to achieve voluntary self-regulation to make the internet safer where possible, in line with the self-regulatory initiatives the BBFC has already instituted.

In recognition of the fact that user generated content (UGC) is an increasingly significant source of content online, the BBFC and the Dutch regulator, NICAM, have developed You Rate It (YouRI), originally at the request of the EU Commission's CEO Coalition to make the Internet a better place for kids.   YouRI is a tool that provides age ratings for UGC available via online video-sharing platform services. The tool is a simple questionnaire, designed to be completed by those uploading videos onto a platform, or by the crowd, or both. Those who use it are asked a small number of questions about the content to be rated. Algorithms then automatically and immediately generate nationally sensitive age ratings and content advice. The tool, and the methodology behind it, is scalable to a global basis. The questionnaire itself would be the same in each country or territory but it produces bespoke, national ratings and content advice that take into account cultural and societal differences. It is a low cost means of capturing the enormous, and rapidly expanding, amount of UGC content that is not currently being rated, and is not susceptible to being rated under other models operated by ratings bodies around the world. The tool can also be linked to parental controls. It also has a 'report abuse' facility to bring abusive content to the attention of platforms.

The BBFC and NICAM have completed a successful pilot project with the Italian media company Mediaset, and now need new industry partners to develop and test the questionnaire more extensively.

Under the Digital Economy Act 2017 online commercial pornography services must carry controls which mean it is not normally possible for those under 18 to access pornographic content. The purpose of the Act is to prevent children accessing or stumbling across pornography online. It has set an international precedent and already other countries are considering adopting similar measures to protect children online.

The UK Government has been assessing the potential application of age-verification for other online services in the interests of child protection, including social media which is not in scope of the Digital Economy Act. The BBFC supports the Government’s consideration of the extension of age-verification in the interests of child protection.

But this does not come without challenges. A blanket ban on anyone under the age of 18 accessing a social media platform is unlikely to be viewed as a satisfactory solution to the problem, either by social media platforms or by the general public more broadly. There are, however, a number of other options that the Government could consider to address pornography on social media and potentially other 18 rated content and access at 13. These range from voluntary measures to direct statutory intervention.

It is no longer impossible to regulate the internet and businesses can do more to put controls in place. Age-verification for children is difficult, but the technology exists.

**How can States better realise their obligations to children's rights in relation to the digital environment?**

The BBFC welcomes the UK Government's Online Harms White Paper and supports policies to better regulate the internet, focussing on those platforms accessible to children and where children are most commonly exposed to age-inappropriate and harmful content. This includes, but is not isolated to, social media in particular.

In providing support to regulatory structures and controls States play a vital leadership role in facilitating and encouraging, or indeed demanding, that businesses protect children's rights in the digital environment.

In March 2019, the Minister for Digital and the Creative Industries, Margot James MP responded to a Government drive to encourage consistent age labelling across all platforms and cooperative work being undertaken by the BBFC with Netflix to ensure wide coverage of age labelling on the Netflix platform, saying:

*"Our ambition is for the UK to be the safest place to be online, which means having age ratings parents know and trust applied to all online films and video games. I welcome the innovative collaboration announced today by Netflix and the BBFC, but more needs to be done.  
  
It is important that more of the industry takes this opportunity for voluntary action, and I encourage all video on demand and games platforms to adopt the new best practice standards set out by the BBFC and Video Standards Council."*

Our most recent consultation in 2018 showed online viewing is now the main mode of film consumption - particularly among teenagers - and that parents and teachers have general strong concerns about online consumption. The survey showed that young people and parents want to see an increase in classification guidance, particularly around online content, as well as more consistency across all platforms. 91% of people surveyed (and 95% of teenagers) want consistent age ratings that they recognise from the cinema and DVD to apply to content accessed through streaming services. This underpins our work with VOD platforms to increase the visibility and use of our age ratings and ratings information referenced earlier.

State provision of education in schools is also important for protection of children from online harms and resilience.

Teachers provide knowledgeable feedback on the impact of age inappropriate content viewing for the large number of children they interact with daily. In our latest consultation, 92% of teachers were concerned about the material that their students viewed online, evidenced by the resulting inappropriate behaviour and language that teachers claimed to witness among students.

Educative content and resources focused on digital resilience, can enable stakeholders such as teachers, parents and caregivers, and young children, to model positive behaviours, think about their own experiences and:

* Recognise risk and make thoughtful and informed decisions
* Find appropriate information and think about their own wider networks and where they can get help and support
* Think about the social aspect of decision making and encourage self-reflective thinking
* Consider how and why regulations, rules and other interventions may be in place to protect them from inappropriate material
* Assess their own tolerance and positive and negative choices in the past

This is why the BBFC provides free resources and lesson plans, for use across the school spectrum, and in collaboration with education expert partners. Recent resources for KS3 pupils for example, address online harm concerns noted in the statutory guidance for RSE and Health Education.

**Is the realisation of children’s rights in the digital environment necessary to realise children’s rights in other environments?**

The Video Recordings Act 1984 recognises the potential for harm not only to those who view content, but the potential for harm to society through a viewer's behaviour. This potential for harm is not diminished by time and not isolated to particular platforms, but exists whether content or behaviour is experienced offline or online.

It is no longer reasonable to consider the online environment as separate from offline. Children are exposed to and view content online, socialise online and learn online. Children's rights cannot be said to be realised if they are not realised online as much as in other environments. It is not only about protection from harm, but protecting the positives that exposure to the online world brings.

Age-verification online not only helps realise the rights of children to protection from sometimes grossly inappropriate material, but it can be used to ring fence environments allowing more effective moderation and creating safer spaces for children to benefit from the best of the online world.

**Conclusion**

The BBFC supports initiatives by businesses, the State and regulators to make the internet a safer place. The BBFC’s experience is that parents and other caregivers expect and prefer protections offline to be replicated online so that the rights of children in particular are respected. Our research and outreach has also evidenced that children themselves want protections in place online from inappropriate content.

The BBFC believes children's rights are best served by trusted systems for age labelling of content which reflect national sensitivities and can be linked to filters and parental controls. The BBFC is also working with Government and industry to ensure consistency of age labelling regardless of the platform via which content is delivered. The BBFC believes that YouRI could be an ideal tool to provide crowd sourced ratings information for children and to better inform parents and other caregivers.

The new regime of age-verification for commercial pornographic services under the Digital Economy Act directly addresses core concerns about children accessing pornography and will substantially reduce the risk of them doing so. In relation to this new age-verification regime, the UK is leading the way and will set an international precedent in child protection. The BBFC believes that age-verification has wider application online in the interests of protecting children's rights by safeguarding them from harmful content. Businesses should be challenged to adopt age-verification in order to better meet their responsibilities to child consumers.

**BBFC, May 2019**