

DEREGULATION OF COMMUNITY FILM EXHIBITIONS

Committee	Licensing Committee
Officer Contact	Stephanie Waterford , Residents Services
Papers with report	Appendix 1 – DCMS Consultation Response
Ward(s) affected	All

SUMMARY

To inform the Committee of the forthcoming legislative changes to deregulate community film exhibitions.

RECOMMENDATION

That the committee note the information.

INFORMATION

On 4 July 2013, Department for Culture, Media & Sport (DCM) launched a consultation on deregulatory changes to entertainment licensing for community film exhibition. The consultation concluded on 28th August 2013.

On 19th December 2013, the Government published its response to the consultation. The response document is attached as Appendix 1.

The Government's intention in initiating the consultation was to consider whether unnecessary regulation could be removed from small scale film exhibition events. The intention was to bolster community entertainment activity and participation by freeing up organisers to put on films without having to fill in licensing paperwork and go through a costly process.

The consultation document asked for comments on whether a licensing exemption should apply where an exhibition of film is incidental to an activity that is not in itself regulated entertainment under the 2003 Act. As such, it would be identical to the current exemption for incidental live and recorded music (paragraph 7 of Schedule 1 to the 2003 Act).

The consultation document set out that option 2 would only remove the licensing requirement where the screening of a film is held in accordance with the age classification recommendation of the British Board of Film Classification (BBFC), or where different, the age rating set by the Licensing Authority in whose area the exhibition of the film takes place.

The deregulation is expected to be formalised before Summer 2014.

Background Documents

Nil.

Licensing Sub-Committee – 14 January 2014

Part 1 – Members, Public & Press



Department
for Culture
Media & Sport

Consultation on Community Film Exhibition: Government Response

December 2013

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Chapter 1: Background to the policy

Introduction

- 1.1 On 4 July 2013, DCMS launched a consultation on deregulatory changes to entertainment licensing for community film exhibition. This fulfilled a consultation commitment made in January 2013 when Government policy on deregulating entertainment licensing was announced.
- 1.2 The Government's intention in initiating the consultation was to consider whether unnecessary regulation could be removed from small scale film exhibition events. The intention was to bolster community entertainment activity and participation by freeing up organisers to put on films without having to fill in licensing paperwork and go through a costly process.

Entertainment Licensing

- 1.3 Subject to any conditions, definitions and exemptions that may apply, an exhibition of a film may be licensable under the Licensing Act 2003 ("2003 Act"). The 2003 Act may then require that a form of authorisation is obtained before film can lawfully be exhibited – typically either a premises licence/club premises certificate issued by, or a Temporary Event Notice (TEN) given to, the local licensing authority.
- 1.4 The 2003 Act has four underlying "licensing objectives": the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. Licensing authorities must exercise their functions and make their decisions with a view to promoting those objectives.

Previous consultation

- 1.5 In September 2011, the Government issued a policy consultation that sought views on a proposal to remove licensing requirements in England and Wales for regulated entertainment that includes an exhibition of a film. This consultation document can be found here:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/72904/consultation_deregulation-scheduleone_2011_vs2.pdf
- 1.6 Amongst other measures, the 2011 consultation proposed to remove "exhibition of a film" from the definition of "regulated entertainment" in Schedule 1 to the 2003 Act for events with audiences of fewer than 5,000 people, provided that an appropriate age classification system was retained.

- 1.7 The Department received around 1350 responses to the 2011 consultation. The responses provided the Government with evidence that there was support for a proportionate reform of the licensing regime that scaled back the central deregulation proposal in the consultation, with lower audience limits than proposed, plus performance cut-off times.

Deregulatory measures

- 1.8. After due consideration of the consultation responses, the Department announced a set of deregulatory measures to Parliament on 7 January 2013, and published a consultation response document that can be found here:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/105725/Con_entertainment_dereg_response.pdf
- 1.9 The Department is now engaged in implementing a set of deregulatory measures for regulated entertainment through changes to legislation in three waves.
- 1.10 The first wave, by secondary legislation under the 2003 Act, was the partial deregulation of plays, dance and indoor sporting events by the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 (“2013 Order”) that came into force on 27 June 2013. The 2013 Order and related explanatory material can be found here: <http://www.legislation.gov.uk/ukxi/2013/1578/contents/made>
- 1.11 A consultation on a second wave of deregulatory measures using a Legislative Reform Order (LRO) was published on 22 October 2013 and closed on 17 December 2013. The proposals include: creating licensing exemptions (including for film) for local authority premises, schools, hospitals, nurseries and circuses; relaxing existing controls for the playing of recorded music in certain premises; raising the audience threshold for performances of live music from 200 to 500 in appropriate premises; and removing the licensing requirement for Olympic wrestling disciplines. The consultation can be found here:
<https://www.gov.uk/government/consultations/legislative-reform-order-changes-to-entertainment-licensing>
- 1.12 The third wave is the additional consultation on community film exhibition that was a commitment made in the response to the 2011 consultation. The consultation can be found here:
<https://www.gov.uk/government/consultations/licensing-act-2003-community-film-exhibition-consultation>
This document is the Government’s response to the above consultation.

Chapter 2: Consultation response

Overview

- 2.1 The consultation on community film exhibition offered two main deregulatory options:
- Option 1:** to keep things as they are now (the “*do nothing*” option); and
- Option 2:** to exempt from entertainment licensing “not-for-profit” film exhibition in community premises between 08:00-23:00, provided that the screening abides by age classification ratings (the “*preferred option*”).
- 2.2 In addition, the consultation asked for views on some variables to the preferred option 2 in respect of:
- (a) eligible premises;
 - (b) “not-for-profit” criterion; and
 - (c) the relevance of film classification ratings.
- 2.3 The consultation also set out other deregulatory options that had been examined and discarded since the previous consultation in 2011.
- 2.4 The consultation closed on 28 August 2013, and drew responses from community premises, film bodies, local government, trade associations, public bodies, businesses and individuals. In all, forty eight respondents sent in their views.

Which option

Question 1: Do you support the ‘do nothing’ proposal (Option 1) or the Government’s proposal (Option 2) to deregulate not-for-profit film exhibition in community premises. Please explain why.

Option 1: 10

Option 2: 33

Other views/did not respond directly to question: 5

- 2.5. Option 2 in the consultation proposed removing the requirement for a licence for film exhibition in community premises as this would reduce the need for time consuming licence administration for film societies, film clubs, and other local social groups that wish to put on 'film nights'. It was the Government's preferred deregulatory proposal for removing the licensing requirement for lower risk community-based film exhibition in suitable circumstances. Option 2 tended to be supported by community organisations, although many had views on how its scope might be broadened. Option 1 tended to be supported by film and cinema business organisations.
- 2.6 Some respondents that supported option 2 felt that the deregulation could go further by, for example, extending the definition of a community premises or allowing organisers to make a small profit from the activity (see relevant sections). Respondents that supported option 1, on the other hand, were concerned about a loss of protections afforded by the licensing regime.
- 2.7 Those supporting option 2 argued that the burden of proof should be on justifying why regulation had to be in place, rather than on justifying its removal. Some respondents noted that the removal of licensing for film exhibition had to be viewed in the context of the Government's overall set of deregulatory measures for regulated entertainment and that local film societies and film clubs should benefit from a level regulatory playing field with other art forms, such as community theatre that had been part of the first wave of deregulation. Rural respondents argued that village halls were trying to bring culture to communities and that reducing the cost of exhibiting a film would make it easier to do so.
- 2.8 Some respondents argued that either option was workable, but they had no evidence to suggest that the status quo represented by option 1 was causing a problem. Some respondents commented that the community film exemption would have limited impact as many community premises would still need to be licensed for the supply of alcohol. Other respondents went further suggesting that an evidence-based justification for moving to option 2 was lacking, with no demand for deregulation having been demonstrated. They argued that the regulation of film worked well and that the cost of a TEN (currently £21) had not been shown to be a barrier to community premises putting on films for local audiences, especially when compared with other fixed costs, such as the cost of film copyright fees. Those in favour of option 1 argued that option 2 risked creating an environment where currently strong child protection measures enshrined in the licensing regime could be weakened (see page 15). Those that favoured option 2 thought that it struck a more proportionate approach. There were also concerns that deregulation carried risks in terms of creating new avenues for film piracy and intellectual property theft.

- 2.9 Those respondents that supported option 2 argued that the removal of the licensing requirement would reduce the cost and administrative burden on film societies that operate on shoestring budgets, particularly where the community premises is not already covered by a premises licence. They argued that deregulation would make it easier for communities to host film screenings, particularly when trying out new venues to reach new audiences, and in turn this would increase the number of opportunities that people had to engage or re-engage in film culture. A number of respondents suggested that screening fees charged by film distributors were a greater barrier to showing more films in community premises than the costs and bureaucracy associated with the licensing regime.
- 2.10 A number of respondents said that it was vital that the activities of cinema operators were not undermined by option 2, and some suggested that there was a significant risk that existing businesses would be damaged by the preferred option. It was noted that a number of independent cinema operators worked to very tight margins. Concern was expressed that option 2 might have economic dis-benefits for cinema businesses and intellectual property rights holders that were not properly reflected in the Impact Assessment.

Government response

- 2.11 Subject to any conditions, definitions and exemptions that may apply, an exhibition of film requires a licence under the 2003 Act. The Government intends to amend the 2003 Act to introduce a further, but limited, licensing exemption for film exhibition in community premises that will benefit film societies, film clubs, and other local social groups for whom licensing costs and the associated bureaucracy is a barrier to exhibitions of film within their community. In effect this is option 2.
- 2.12 The Government considers that this narrowly defined red tape challenge measure strikes a fair balance between those people who welcome the deregulation, those people who do not, and those who think deregulation should go further, as explained in later sections. In bringing in this measure, the Government will make clear the distinction between the de-regulation of entertainment licensing and the continuing need to have a licence to show copyrighted material. In communicating this deregulation, the Government will make clear that film content must be appropriately licensed from the copyright holders or distributors to ensure that the creators can secure their economic and moral rights to their work.
- 2.13 Post-consultation, the Impact Assessment has been validated by the Regulatory Policy Committee <https://www.gov.uk/government/organisations/regulatory-policy-committee>

Eligible Premises

Question 2: If you generally support Option 2, do you agree with the Government's suggested definition of community premises? If not, please explain why.

Yes: 22

No: 12

Other views/did not respond directly to question: 14

- 2.14 A number of respondents commented on the definition of “community premises” under the 2003 Act. They noted that guidance under Section 182 of the Act might allow a licensing Authority to determine whether a community premises came within the definition. Some respondents welcomed the leeway this might give licensing authorities to indicate that other community buildings in rural areas that are used by community groups could fall within the definition and hence the community film exemption could apply. Other respondents felt the consultation was unclear on whether persons could self-declare a venue to be a community premises, or whether they had to have their own interpretation endorsed by the relevant licensing authority. They argued that to satisfy the licensing objectives (and to enforce them), a licensing authority needed to have oversight of community premises and this could not be achieved outside of a licensing regime. Some respondents also felt there was not sufficient clarity on the definition of community premises in view of the ambiguity of “other similar building” within the definition.
- 2.15 A number of respondents considered that setting the audience limit at 500 was too high, as this did not reflect the capacity of community premises, nor the likely audience size for community film screenings. A number of alternative audience capacity figures were suggested.
- 2.16 An exemption for schools was raised by a number of respondents. Film exhibition for the purposes of education, information or instruction is already exempt from licensing under Part 2 of Schedule 1 to the 2003 Act that benefits school and college teaching and museums and galleries. Some respondents, while noting the January 2013 announcement of a licensing exemption for schools, considered that it should be extended so that schools could be exempt where they permit the ‘hiring out’ of their own premises by any party.
- 2.17 The desirability of an exemption for film exhibition in cultural buildings (such as libraries) was raised and it is likely that many such premises fall within the proposed definition of local authority premises in the LRO consultation.

- 2.18 There were suggestions that pubs and clubs should be included in the exemption, as a room in a pub could host the exhibition of a film and a pub was as much a community venue as a village hall. Others commented that pubs and clubs, through possessing a licence to serve alcohol, were invariably licensed for regulated entertainment, including an exhibition of a film. There were also suggestions that cafes, empty shops, barns and 'pop-up' venues should benefit from the exemption. It was noted that the exhibition of a film at a place of public religious worship was already exempt by virtue of Part 2 of Schedule 1 to the 2003 Act.
- 2.19 Concerns were expressed about the appropriateness of an exemption for community premises, as it was argued that a 'management committee' for such premises tended to put the onus squarely on the hirer to comply with any licensing or other obligations. Some respondents sought clarity on whether the premises owner, premises hirer, or just the exhibitor, would be responsible for ensuring that any film screening abided by the terms of the exemption. It was felt that, without clarity, subsequent enforcement action might be compromised were age inappropriate films shown to children.

Government response

- 2.20 The Government considers that film exhibition on community premises is a lower risk activity with respect to the licensing objectives and that the option 2 exemption will encourage the screening of films in community premises, so creating positive social value, particularly in rural areas where there may be under-provision.
- 2.21 The Government considers that it is appropriate to remove the requirement for a licence for community premises, where a person responsible for the exhibition of a film has obtained prior written consent for that screening to take place from: (1) the management committee of those community premises, or (2) for community premises with no management committee, from a person with responsibility for those community premises. If in doubt on whether a particular venue qualifies as 'other similar building' within the legal definition of 'community premises', a person responsible for exhibiting a film (and the management committee (or other person) responsible for the premises) may wish to check on interpretation with their licensing authority before a booking is confirmed. Whether, or not, premises are 'community premises' will be a question of fact in each case.

- 2.22 The proposed audience limit of 500 reflects the wider outcome of the 2011 consultation. In response to the 2011 consultation, the Government concluded that there was a point of general consensus from that consultation that events should not be deregulated where the audience exceeded 500 people (or 1,000 for indoor sport) as this struck the right balance between quantifying the risk (accepting that an event cannot involve zero risk) and appreciating the burden that a regulatory regime imposes on businesses and community groups who wish to provide lower risk entertainment. By setting the limit at 500 people, there was also a read-across to the 499 audience upper limit for an event authorised by a TEN, which has generally been regarded as an appropriate audience ceiling figure for the light touch process of authorising temporary activities. So by deciding to deregulate for audiences of not more than 500 people, the Department was conscious that it would be removing many temporary activities from the TENs regime. The Government sees no reason why a different audience limit should apply to the activity of exhibiting a film, compared to the performance of a play. The latter has already been deregulated for audiences up to 500 people by the 2013 Order.
- 2.23 The Government accepts that community premises are unlikely to have the building capacity to host film events for anything close to 500 people and this audience limit should not be read as implying that safe building capacity limits should be ignored. However the Government sees no reason why, in terms of the licensing objectives, a different audience limit should apply to an exhibition of a film on community premises compared to plays and dance on any premises.
- 2.24 A broader exemption for schools and other trusted providers was included in the January 2013 deregulation policy announcement. The consultation document on the second wave (see chapter 1) proposes a LRO to exempt from entertainment licensing between 08:00-23:00 with no audience limitations or further conditions:
- an exhibition of film held by, or on behalf of, local authorities on their own premises
 - an exhibition of film held by, or on behalf of hospitals and schools on their own premises
 - an exhibition of film that is part of nursery provision on non-domestic premises
- 2.25 The Government considers that there are already a number of licensing exemptions that relate to film exhibition, or specific premises, and if enacted, the LRO would add further exemptions (in particular circumstances) for film exhibition in local authority, hospital, school and nursery premises. Given the concerns that have been raised by some respondents that deregulation must not undermine the commercial cinema sector that would remain subject to licensing, the Government does not intend to broaden the premises scope beyond the statutory definition of community premises in the 2003 Act.

Not-for-profit criterion

Question 3: If you support option 2, do you agree with the Government's proposals that the exemption should only extend to "not for profit" activities? If not, please explain why.

Yes: 19

No: 11

Other views/did not respond directly to question: 16

Undecided: 2

- 2.26 Option 2 proposed the removal of the requirement for a licence in community premises, but only where a film was exhibited on a 'not-for-profit' basis. So under option 2, the exhibition of a film in community premises would be licensable where any charge for doing so is intended to recoup more than the costs of exhibiting the film.
- 2.27 This issue received a mixed set of responses. A number of respondents, while agreeing with the Government's 'not-for-profit' proposal considered that it would be necessary to fully define the scope of what constituted a 'not-for-profit' exhibition of a film to ensure that the exemption was appropriately targeted at intended recipients (film societies, film clubs, and other local social groups etc.). They sought clarity on what were legitimate costs in putting on a 'not-for-profit' exhibition of a film, such as the purchase of experience enhancing equipment, or building management costs, or whether a social event linked to a screening could qualify as part of exhibiting the film. Some respondents commented on the financial plight of community premises and how small amounts of fund-raising through film exhibition could help keep such premises viable. There was also a view that the 'not-for-profit' criterion should be assessed against a programme of films rather than each individual screening, to enable more popular titles to cross-subsidise those that were less so, expanding audience tastes in the process.
- 2.28 Some respondents favoured a broader exemption that would remove the licensing requirement for exhibitions of films for charitable purposes, similar to the current exemption for garden fetes in Schedule 1 to the 2003 Act, or an exemption for all, or only smaller, non-profit making organisations. It was also suggested that a clearer definition of community premises would help ensure that the exemption was appropriately targeted on small non-commercial organisations without the need for a 'not-for-profit' criterion. Other respondents had concerns about fairness, as certain non-profit-making cinema organisations (because they put any surplus made back into the running and upkeep of their cinema) might remain subject to licensing, whereas screening films for charitable purposes could be exempt under such a broader deregulatory option.

- 2.29 Some respondents commented that they could not see a difference, in terms of a risk to public safety, between a film being shown on a 'not-for-profit' basis as a social experience and a film being shown for fundraising purposes; nor could some understand why organisers wishing to make a profit should not also benefit from a licensing exemption. There was a widespread rejection of the assertion that 'not-for-profit' film events might be intrinsically of lower risk because there would be no revenue generating motive behind admission and hence overcrowding was unlikely. Respondents argued that profit-motive, or the absence of it, was a 'red herring' in terms of assessing the risk to public safety, and some argued that, relatively speaking, overcrowding in relation to means of escape was more of an issue for non-bespoke community premises than cinemas. Those generally in favour of deregulation stressed that a risk of overcrowding was already adequately addressed in law (e.g. through duties set out in health and safety and fire precautions legislation).
- 2.30 There were also concerns about the enforceability of such a criterion as, in the case of an unscrupulous operator, it could prove difficult to determine retrospectively on what basis the event had been organised. There was some consensus that any such exemption must not be open to abuse for purely commercial motives, such as a film screening being used as a draw to encourage customer spend on another activity within the same premises.

Government response

- 2.31 In the light of consultation responses the Government has concluded that the concept of 'not-for-profit' for the activity of exhibiting the film should be retained as a key criterion of option 2 as, in combination with the restriction on eligible premises, it offers an appropriate basis on which to design the licensing exemption in line with the policy objective of removing regulation for small scale film exhibition events. The Government considers that 'not-for-profit' (i.e. the entertainment is not provided with a view to profit) is a technically sound concept being the inverse of 'with a view to profit' in paragraph 1(2) (c) of Schedule 1 to the 2003 Act. The Government will work with interested parties to provide guidance on what constitutes a 'not-for-profit' film screening event.
- 2.32 The Government sees the commercial cinema sector as vital to both audiences and the film industry, and has concluded that a precautionary approach should be adopted to removing the licensing requirement, to ensure that the important cultural and economic aspects of commercial cinema are not impacted by this limited exemption for community film exhibition. For this reason, the Government has concluded that a broader-based film exemption around charitable activities, or for not-for-profit organisations, is not in the wider public interest as it risks creating loopholes and unintended consequences (and hence enforcement costs) that might be exploited by those seeking to set up 'for profit' screenings without need for a premises licence in competition to art-house and smaller cinema sites.

Incidental Film

Question 4: Do you agree that exhibition of film that is incidental to other entertainment activities that are not regulated under the 2003 Act should be exempt?

Yes: 23

No: 5

Other views/did not respond directly to question: 18

Undecided: 2

- 2.33 The consultation document asked for comments on whether a licensing exemption should apply where an exhibition of film is incidental to an activity that is not in itself regulated entertainment under the 2003 Act. As such, it would be identical to the current exemption for incidental live and recorded music (paragraph 7 of Schedule 1 to the 2003 Act).
- 2.34 Most respondents agreed that an incidental showing of a film as part of another activity that is not regulated entertainment should not require a licence. One respondent noted that showing a live television programme was not subject to regulation. Others made reference to activities that might technically require a licence, such as pre-recorded music videos that form part of a karaoke performance. However, a minority of respondents were against an incidental exemption, on the basis that age classification and BBFC certification were paramount and should apply to any exhibition of moving pictures.

Government response

- 2.35 The Government has concluded that an exemption for incidental film should be included in the LRO when the Minister lays proposals to make changes to entertainment licensing before Parliament to implement the second wave of deregulatory changes. If enacted, the guidance for licensing authorities under section 182 of the 2003 Act will include advice on relevant factors that help determine whether or not film is “incidental” to another activity.
- 2.36 The Government has already made clear that deregulation will not extend to adult entertainment, to the extent that the 2003 Act plays a part in the current controls process. The background and policy position on adult entertainment was set out in Chapter 11 of the 2011 consultation, and there was a strong consensus in the consultation responses that existing restrictions on sexual entertainment should be maintained.

Clause in draft Deregulation Bill

Question 5: Do you agree that the Government's draft clause will achieve the deregulation outlined in Option 2?
Yes: 25
No: 1
Other views/ did not respond directly to question: 21
Undecided: 1

- 2.37 A high percentage of respondents agreed that draft clause 34 in the Deregulation Bill would achieve preferred option 2, although a number of respondents wanted to see changes that reflected their suggestions. It was suggested that there could be an issue around whether 'not for profit' in the clause was fully understood.

Government response

- 2.38 A Joint Committee of both Houses of Parliament is conducting pre-legislative scrutiny of the draft Deregulation Bill. The Joint Committee is required to make its report by 16 December 2013, after which the Government will consider whether to amend the draft clause before the Bill is introduced.

Age classification criterion

Question 6: Do you agree that films that do not have an age classification rating should not be exhibited in community venues without a licence?
Yes: 23
No: 5
Other views/did not respond directly to question: 19
Undecided: 1

- 2.39 The consultation document set out that option 2 would only remove the licensing requirement where the screening of a film is held in accordance with the age classification recommendation of the British Board of Film Classification (BBFC), or where different, the age rating set by the Licensing Authority in whose area the exhibition of the film takes place.
- 2.40 Most respondents welcomed the exemption being linked to age classification so that persons running community premises were aware of their obligations to adhere to formal age classifications. It was noted that there was near universal agreement coming out of the 2011 consultation that age classification protections needed to be retained. A number of respondents sought clarification on how adherence to age classifications would be implemented and/or enforced under option 2.

- 2.41 Some respondents noted that the existing exemptions for types of film content in Part 2 of Schedule 1 to the 2003 Act were not subject to age classification. In particular, respondents made reference to the existing exemptions for (a) film exhibitions for the purposes of advertisement information, education etc. and (b) film that forms part of a museum or art gallery exhibit.
- 2.42 A smaller number of respondents, while supporting age classification, were concerned about whether the community film exemption was appropriate given that protection of children from harm was a licensing objective. They argued that option 2 risked children being exposed to material unsuitable for them because it removed local authority oversight and 'visibility' on screenings in community premises. They cautioned against any assumption that film content was always shown by bona-fide organisations and concluded that only the current provisions of the 2003 Act could help ensure that effective controls were in place on the admission of children.
- 2.43 A number of respondents made reference to DVD and Blu-ray disc content that was currently exempt from BBFC classification under the Video Recordings Act 1984. In May 2013, the Government had published a consultation response document that said that Government intended to proceed with changing the exemptions from BBFC classification for music, sports, religious and educational video works and specifically to lower the exemptions threshold so that any products in those categories that are unsuitable for younger children would in future be required to be submitted to the BBFC for age rating. Such products would then need to carry the appropriate BBFC age rating. The Government committed itself, subject to Parliamentary approval, to bringing changes into effect via secondary legislation. Some respondents felt that content that would, post this secondary legislation coming into force, remain exempt from age classification (through being suitable for viewing by wider audiences) should then not require an age rating from the relevant licensing authority to benefit from the community film exemption under the 2003 Act. Films for race nights were cited as an example because they fell under the BBFC sport exemption.
- 2.44 Some respondents were concerned about specific categories of film that typically do not acquire a BBFC classification, such as amateur film, rough cuts of a work in progress, and films too old to have an age classification certificate. They argued that community exhibitors should be able to show such 'unclassified film', without the administrative burden of being age certified by the licensing authority, when such screenings either excluded children, or a public audience, or the licensing authority was satisfied that the film was made with an audience of children specifically in mind. These respondents concluded that responsibility had to ultimately rest with the film exhibitor.
- 2.45 One respondent wanted the deregulation extended so that the licensing requirement would be removed for all films suitable for wider viewing (BBFC 'U' rating) regardless of the premises. They argued that the preferred option alone would not achieve the Government's desired policy aim, because it did not strike the right balance between removing regulatory barriers and having an oversight regime in relation to the protection of children from inappropriate content.

Government response

- 2.46 In the light of the consultation, the Government's has concluded that age classification ratings are essential to the design of the option 2 licensing exemption for lower risk community-orientated film exhibition in community premises. BBFC age classification ratings are understood by the public in general and ensure that clear information about content is available to parents on what children will be watching. A film screening will have to have age classification from the BBFC or the relevant licensing authority, to be eligible for the community film exemption. Age classifications applied to films by authorities in other countries will not be valid.
- 2.47 If those responsible for the exhibition of a film on community premises do not have in place operating arrangements that will ensure that age-restricted films may not be viewed by anyone for whom it is unsuitable, they will not be able to benefit from the community film exemption because the conditions are not met. Such an exhibition of film would require authorisation under the 2003 Act (i.e. a premises licence, club certificate or TEN). In the absence of an authorisation, exhibiting a film (or knowingly allowing a film to be exhibited) in these circumstances is a criminal offence under the 2003 Act.
- 2.48 The Government only wishes to remove the licensing requirement where the entertainment activity is of lower risk. By its very nature the content of 'unclassified film' is uncertain – it could be entirely benign, but it might not be. There is far less certainty that it is lower risk. For this reason, the Government does not intend to extend the present licensing exemptions in Part 2 of Schedule 1 to the 2003 Act to facilitate 'unclassified film' being shown in community premises. Any disc content that is exempt from BBFC classification under the Video Recordings Act 1984 will need to acquire an age classification rating from the relevant licensing authority to benefit from the community film exemption. However some content, such as films for race nights, may be covered by the proposed licensing exemption for 'incidental film'.
- 2.49 Subject to Parliament passing the Deregulation Bill, the Government intends to amend the guidance issued to licensing authorities under Section 182 of the 2003 Act to include further guidance on exhibition of films in community premises.



Department
for Culture
Media & Sport