

DIGITAL ECONOMY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Topic 9: Video recordings

Background

178. The Video Recordings Act 1984 (“the 1984 Act”) makes it an offence to supply a video recording, such as a DVD, containing a video work, such as a film or video game, unless the video work has been submitted to an authority designated by the Secretary of State for classification as to its suitability to be viewed by persons of particular ages and the DVD is supplied in accordance with the classification certificate. The Secretary of State has designated principal office holders in the British Board of Film Classification (BBFC) for this purpose.
179. Certain types of video works are exempted (see section 2 of the 1984 Act). They include video works that, taken as a whole, are designed to inform, educate or instruct, or that are concerned with sport, religion or music, provided that they do not contain the particularly objectionable content described in section 2(2) and (3), which includes sexual activity and gross violence. For example, a music video is not exempted from the classification requirement if it contains depictions of gross violence, human sexual activity or if it is likely, to any significant extent, to stimulate or encourage human sexual activity.
180. Most video games are currently exempted from the 1984 Act, unless they contain content such as sexual activity, gross violence or other matters of concern listed in section 2(2) and (3) of the Act. The BBFC classify video games which contain any film material, because the film material is not usually exempt from the requirements of the 1984 Act, even when it is contained in an exempt game. Additionally, on a voluntary basis, the video games industry submits to the BBFC games which they believe are likely to be classified as 18+.
181. Video games which are currently exempted under the 1984 Act are usually classified on a voluntary basis by the Pan-European Games Information (PEGI) system. PEGI classifications of 12 and over are administered throughout Europe by a UK body, the Video Standards Council (VSC).
182. The provisions that make changes to the Video Recordings Act 1984 concerning the classification of video games were notified in draft to the European Commission under the provisions of the Technical Standards Directive.¹

¹ Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on Information Society services (OJ L24, 21.7.1998, p37) (as amended by Directives 98/48/EC and 2006/96/EC).