Children, media and regulation

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Abstract

Each new medium of communication that has emerged over the past century and more has generated concern over its alleged negative effect on children. This concern has (in most cases) generated a moral panic, involving campaigning by moral guardians and office spokespeople, calls for greater regulation and subsequent response from the government or designated regulators. Based on continued inconclusive media effects research and debates over adults’ and children’s rights, regulation has become increasingly problematic. Such questions as how far you should restrict and protect children and how it may be possible to balance protection with rights, are complex and fraught with practical difficulties. These are the kind of questions that regulators have currently to consider. In addition, media convergence and internet technology threaten traditional regulatory structures. Such developments pose a further regulatory quandary. How are regulators attempting to tackle these issues? The thesis attempts to examine this question by exploring how regulators have responded to panics over children’s media and whether their attempts have resulted in robust regulatory systems.

The regulation systems analysed embrace advertising and obesity, internet chat-rooms and grooming, video games and violence and cinema regulation (the 12A classification). Case studies of these particular areas of current concern show how regulation has developed and how it works in practice, assess whether such regulation is effective and if not, recommends ways in which it could be improved.

Key Words: regulation, moral panic, children, media, cinema, internet, chat-rooms, advertising and obesity, video games.
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<td>Advertising Standards Authority</td>
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<tr>
<td>BBFC</td>
<td>British Board of Film Classification</td>
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<td>BCAP</td>
<td>Broadcasting Committee of Advertising Practice</td>
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<td>CA</td>
<td>Consumer Advice</td>
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<td>CEA</td>
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<td>CEOP</td>
<td>Child Exploitation Online Project</td>
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<td>CMRC</td>
<td>Children’s Media Regulation Commission</td>
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<tr>
<td>ELSPA</td>
<td>Entertainment and Leisure Software Publishers Association</td>
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<td>FDA</td>
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<td>HFSS</td>
<td>High Fat Sugar and Salt</td>
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<td>ISFE</td>
<td>Interactive Software Federation of Europe</td>
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<td>ITC</td>
<td>Independent Television Commission</td>
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<td>NICAM</td>
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<td>PEGI</td>
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<td>SBBBFC</td>
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Introduction

Background to the thesis

‘Murder by Playstation’ (Taylor & Dolan, 2004a: 1); ‘Trained to Kill by Computer Game?’ (Taylor & Dolan, 2004b: 29); ‘Ban These Evil Games’ (Price & Sears, 2004: 1); ‘Restrict Violent Games’ (Johnston, 2005: 20). These newspaper headlines exemplify the press response to the murder of 14-year-old Stefan Pakeerah in 2004 by 17-year-old Warren Leblanc. They refer to a video game Manhunt, which was implicated in the murder due to the style of the killing and reports that Leblanc was obsessed with the game. Following the incident, moral entrepreneurs censured the content and access of violent games to children and therefore campaigned for violent games to be removed from sale and for a stricter regulatory system (Milner, 2005).

The campaign was based on the game being rated ‘18’ by the British Board of Film Classification (BBFC), with subsequent sting operations revealing that retailers were selling adult classified games to underage children. This raised questions over the adequacy of the regulatory system to protect children, as it suggested that the industry was undermining regulation. Evidence of parental misunderstanding of video game regulation and their disregard of ratings further intensified this, as it was reported that they purchased games for their children regardless of adult ratings.

All these concerns revolve around the violent content of the games and the technology enhanced photo-realistic graphics, which blur the line between fiction and reality (Waters, 2006). As a result, moral entrepreneurs contend they may influence children to imitate the behaviour depicted and so argue that regulation should be in place to restrict their availability.

In response to the above, the government and the British Board of Film Classification (regulator) responded and attempted to strengthen provisions. This process of concern

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1 In the game the protagonist slaughters everyone who crosses his path. ‘Stefan was clubbed with a claw hammer and knifed in the same way the computer game depicts’ (Master, 2004: 8).
2 Leblanc was underage to possess this game
3 See the video games chapter p.169
4 See the moral panics section of the video games chapter p.168
and subsequent regulation loosely fulfils the criteria of what is deemed a moral panic. Although it sounds a straight-forward process, the requirement for regulation to be examined and changed to stem panic is problematic and presents a quandary for regulators. For example, in response to the Manhunt panic Tony Blair, former Prime Minister, acknowledged that whilst games should be restricted to children, adults should have the right to access them. Tam Dalyell, Labour MP, provided further comment, claiming that devising the right mechanism for restricting access would not be easy due to lack of conclusive evidence on the influence of games on children (MacDermid, 2004: 3). Considering games may not influence children, on the basis of these two observations, how far do you protect? This was particularly applicable in the Manhunt incident as no proof existed to link the game to the murder. Therefore, should the government and regulators respond to such moral panics when concerns may not be valid?

In addition to the above, when reviewing regulation regulators would need to consider the proposed benefits of games to children and the importance of the gaming industry to the UK economy. Based on these factors, how do you regulate? How do you balance calls for further regulation, inconclusive effects research, industry needs, children’s rights and adults’ rights? This is a predicament that is indicative of media regulation in terms of children generally, as every new form of media generates similar apprehensions and the need for a response.

Supplementary to the above is another issue – regulation in a converging environment. Developing technology has resulted in the internet opening up possibilities to play and buy games on-line, instances that threaten the traditional

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5 This is where concern is generated by the press and moral entrepreneurs over a perceived threat. The concern prompts the requirement for mechanisms to restore the equilibrium i.e. regulation – see the moral panics chapter for a fuller account.

6 Police investigations did not uncover any connections with the game, in fact the game was found in the bedroom of the victim. Instead they concluded the motive was robbery (Gillet, 2004: 30).

7 See the effects chapter p.53-54.

8 David Slater, Her Majesty’s Consul and UK Trade and Investments Director for the West Coast, emphasised the importance of the industry: ‘The leading video companies have found that the United Kingdom offers terrific business opportunities, in particular through collaboration with some of the world’s most innovative and creative games developers and publishers’. He further observed: ‘More than 22,000 people work in the UK games industry, 6,000 in the development sector alone’ (Anonymous, 2005). This equates to the largest software employment field in Europe. In addition, British produced games accounted for more than £1.1 billion retail sales outside the UK in 2000, of which 33% of all PlayStation 2 games sold in Europe originated in the UK (ELSPA, 2005a).

9 See the moral panics chapter.
mechanisms of regulation and make the regulatory process even more problematic (Buckingham, 2003:123). How do regulators tackle this in addition to the above?

Based on the issues so far posed, the aims of this thesis will be to 1) examine how regulators are responding to panics over media content, 2) to discover how they are formulating policies to protect children, and 3) to decipher whether their attempts to please all concerned and tackle convergence, results in robust regulatory systems. If it is proven that systems are in need of modification, recommendations will be formulated to suggest how practices could be improved.

Objectives

In order to achieve the above aim, a number of objectives will need to be fulfilled:

1) To identify the main characteristics of a moral panic. This understanding is vital in determining whether all media regulatory systems have been subject to a panic.

2) To examine media effects research to clarify their role and the validity of moral entrepreneurial\textsuperscript{10} concerns.

3) To understand all the factors involved (moral panic, children’s and adult rights, the industry, convergence and unproven effects) and how they influence the development of regulation.

4) To identify as a result of the above, how regulation has been developed and balanced and whether a new regulatory paradigm has emerged.

5) To analyse and compare regulatory systems in practice to see if they operate similarly and function to protect children as proposed

\textsuperscript{10}Moral entrepreneurs are individuals or groups who attempt to rouse public opinion by leading social movements and organisations to pressurise the government into action. Goode and Ben-Yehuda define them as religious and educational organisations, whereas Cohen describes them as editors, bishops, politicians and other right-thinking people (Critcher, 2008: 25).
To develop evidence-based policy recommendations to improve the robustness of media regulatory systems in terms of children. This will look at ways each system can improve key elements of its regulatory practice. Particular attention will be given to media literacy, as this appears to be regarded as a key component in the future of media regulation (see the effects chapter).

Research method

To fulfil these objectives a case study approach was utilised. This involved multiple cases to highlight the similarities between different media regulation systems, so fostering the development of a more solid argument. In order to achieve this, four different media were selected. Three were chosen due to concerns evident within the public domain at the commencement of this thesis – food advertising, internet chat-rooms and video games. The fourth on cinema regulation was selected as regulatory modification had occurred but did not appear to have been influenced by a moral panic. This case was seen as imperative, as it provided a contrast to the other three. Would regulation develop differently in the absence of a panic? An independent variable like the '12A' film classification is therefore necessary to understand the regulatory process and its outcomes.

The case studies utilised a mixture of methods and resources:

1) Desk based audit – The evidence presented in the majority of the case studies has emerged from this method. For example, the internet was used to identify and review policy documents, regulatory codes, industry guidance and newspaper articles. This approach was also utilised to analyse the practicability of internet chat-room regulation, whereby time was actively spent in chat facilities.

11 Bryman (2001: 53) ‘Essentially, a multiple-case (or multi-case) study occurs whenever the number of case studies exceeds one. The main argument in favour of the multiple-case study is that it improves theory building. By comparing two or more cases, the researcher is in a better position to establish the circumstances in which a theory will or will not hold. Moreover, the comparison may itself suggest concepts that are relevant to an emerging theory’.
2) Secondary analysis – This formed part of the desk-based audit and involved applying and analysing research and statistics produced by other researchers and institutions.

3) Documentary evidence – For the majority of the case studies, determining the practicality of regulation involved analysis of mass media outputs i.e. 12A films and advertisements. This did not amount to content analysis\(^\text{12}\), but instead involved analysis of content to see if it complied with regulatory codes.

4) Semi-structured interviews - To complement the desk-based audit and to verify information obtained about regulatory procedures via the internet, face-to-face interviews were conducted with key individuals crucial to the regulatory processes. For example, representatives who worked for the film and video game regulators were interviewed. Obviously in order to provide a balanced argument throughout the thesis viewpoints had to be obtained from the industry, regulators, organisations and pressure groups who fight for further regulation. However, where substantial evidence could be obtained via the internet and official reports etc, interviews were not conducted unless verification or further probing on certain points was required. For instance, John Beyer Director of MediaWatch was interviewed as he is constantly quoted in the press on violent content in film and in video games, but he has provided very little comment on the 12A classification. As one of the concerns surrounding 12A films is their violent content (see p.217) it seemed appropriate to obtain MediaWatch’s viewpoint on the new classification. On the other hand, although John Carr of NCH (now known as Action for Children) fights for greater internet regulation and media literacy, as he is frequently quoted in the press and in reports, enough evidence was gathered to represent NCH’s arguments in the internet chatroom chapter, thus an interview was not deemed necessary.

The reason semi-structured interviews were favoured over a structured approach is they allow for probing. Moreover, additional questions can be asked that may not have been anticipated when the interview script was formed. As a result greater information might be obtained (Kajornboon, n.d: 2-3).

\(^{12}\) Analysis which quantifies content in terms of pre-determined categories (Bryman, 2001: 538)
Guide to the thesis

A brief summary of each chapter is presented below:

Chapter 1 - Moral Panics and Media Policy. In order to understand the importance of moral panics in the development of media regulation, this chapter defines what equates to a moral panic, what the defining characteristics are and who the key players are in its formation. A breakdown of media panics and subsequent regulation is also included to show how panic theory is applicable to regulation development. Criticism of the theory is also included to query the validity of their influence.

Chapter 2 - Effects, Anti-effects and Regulation. This chapter further seeks to determine the weight of moral panics by examining both sides of the media effects debate, pro-effects and anti-effects. Reference will also be given to other issues crucial to the debate e.g. children's rights, as these may cause further problems for policy development. Media literacy is also discussed, as some anti-effects supporters propose this is an ideal solution to the quandary posed by regulation.

Chapter 3 - Advertising and Childhood Obesity. This chapter will look at the moral panic surrounding the proposed negative influence of food advertising on growing childhood obesity rates (please see below for a breakdown of this chapter; this also applies to chapters 4-6).

Chapter 4 - Internet Chat-rooms and Grooming. This chapter will look at concerns surrounding the ability for paedophiles to use chat-rooms to groom children.

Chapter 5 - Video Games and Violence. This chapter will address those concerns evidenced earlier, the influence of violence on children's behaviour.

Chapter 6 - Cinema Regulation - the 12A Classification. The cinema case study has been left to the end due to the exceptional circumstances of how film regulation has developed (mentioned above). This will allow for contrasts and parallels to be made.

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13 As part of a panic moral entrepreneurial censure normally revolves around the negative impact of the media on children - see the moral panic chapter.
with the other three systems and ultimately provide evidence on how the regulatory regime could be improved as a whole.

To permit comparisons to be made, Chapters 3 to 6 will all follow the same framework:

- Chapter introduction

- Moral panic - how did the moral panic develop, what were the main instigating factors, who were the key players in its development and did regulation develop as a result?

- Development of regulation - to determine how regulation has been balanced in light of the moral panic and other factors.

- Analysis of the system in practice - to examine if the balancing of regulation has resulted in a robust system, fundamental elements of the regulatory procedure will be analysed.

- Recommendations - if regulatory loopholes are apparent various recommendations to strengthen the regulation process will be offered.

Chapter 7 – Conclusion and recommendations – the concluding chapter will seek to summarise the main findings from the four case studies and provide some overall conclusions.
Chapter 1

Moral Panics and Media Policy

Stanley Cohen has noted that moral panics 'serve as ideological safety values whose effect is to restore equilibrium' (Skovmond, 1992: 44). One way this equilibrium may be re-established is through increased social control measures, which can involve the formation of new measures or the escalation of existing controls (Critcher, 2003: 12). Buckingham (2003: 124) has observed similarly, that anxieties surrounding the media, as for example in their reporting of violence, typically lead to calls for stricter regulation. The introduction to this thesis briefly demonstrated this, how a media-linked violent incident generated a typical media moral panic and led to calls for greater regulation and subsequent action. In order to understand the role panics play in influencing regulation and to establish how much weight regulators should give to these concerns, it is important to consider moral panic theory. For example, what influences a moral panic, what is its purpose and who are the typical key players in its formation? What are the main characteristics of a panic? The following two sections will seek to answer these questions by examining the theory behind the concept, and the history of media-related panics.

1) Moral panic theory

What is a moral panic?

The term was popularized in 1971 by Jock Young following his research into drug-taking. However, it is the more extended work of British sociologist, Stanley Cohen, which has been widely publicised. His 1972 publication on Folk Devils and Moral Panics: The Creation of the Mods and Rockers, has provided the basis of continued debate. Cohen utilised the term to characterize reactions of the media, the public, and agents of social control to youth disturbances (Killingbeck, 2003: 1-2). Academics such as Goode and Ben-Yehuda (1994), Jenkins (1992), Critcher (2003), Hall et al (1978) and Thompson (1998) have all built on his foundations.
The following widely quoted paragraph, taken from Cohen (2002), sums up the integral components of a panic. This hypothesis revolved around the press outcry in the early 1960's against teenage gangs (mods and rockers) clashing in Clacton.

Societies appear to be subject, every now and then, to periods of moral panic. A condition, episode, person or group of persons emerge to become defined as a threat to social values and interests; its nature is presented and stylized in a stereotypical fashion by the mass media; the moral barricades are manned by editors, bishops, politicians and other right-thinking people; social accredited experts pronounce their diagnosis and solutions; ways of coping are evolved or (more often) resorted to; the condition then disappears, submerges or deteriorates and becomes more visible sometimes the object of the panic is quite novel and at other times it is something which has been in existence long enough, but suddenly appears in the limelight. Sometimes the panics passes over and is forgotten, except in folklores and collective memory; at other times it has more serious and long-lasting repercussions and might produce such changes as those legal and social policy or even in the way society conceives itself (Cohen, 2002: 10).

What are the main characteristics of a panic?

The above quotation suggests there are a number of elements to the emergence and closure of a panic. The processual model formulated by Critcher (2002) encompasses much of this. The model, primarily based on Cohen's work, shows how panics have similar attributes. The model has 7 chronological stages:

1) Emergence
2) Media Inventory
3) Moral entrepreneurs
4) Experts
5) Coping and resolution
6) Fade away
Critcher also discusses the attributional model. This considers the work of Goode and Ben-Yehuda, Jenkins and Thompson. As this model raises similar issues to the processual model and due to the weight given to Cohen's work\textsuperscript{14}, the processual model will be used to highlight the rudimentary steps of a panic. Nonetheless, as these theorists attempted to develop Cohen's theory, particularly in relation to the media's involvement (Hall et al) and lobby group intervention (Goode and Ben-Yehuda), where appropriate their efforts will be acknowledged.

Critcher's 7 stages apply to all types of panics. Therefore to understand how these may relate to the formation of media regulation, each will be elaborated upon with reference to media panics:

1) Emergence

The first stage of a panic involves substantiating the form of the problem and why it is perceived as a threat. In terms of the form, Goode and Ben-Yehuda formulated the term 'folk devils'. 'Folk devils' being: 'a personification of evil'. A category identified in the media as consisting of troublemakers, deviants that '....are engaged in wrongdoing; their actions are harmful to society; they are selfish and evil; they must be stopped' (Goode & Ben-Yehuda, 1994: 29). Critcher (2008: 150) contends that the application of 'Folk Devils' is flawed, as not every panic could be attributed to a folk devil. This is particularly applicable to media related panics. For example, the 'video nasties' panics (see p. 25) was based on an object – horror films, thus: 'If we assume a moral panic to require folk devils, we make a serious empirical mistake' (Critcher, 2008: 150). Instead it is suggested Cohen's definition is more appropriate: 'A condition, episode, person or group of persons' (see p. 10).

\textsuperscript{14} Critcher (2008:6) Cohen's model is regarded as still 'extraordinarily relevant'. Critcher recommends some revision in the form of critical commentary, but essentially the model and its processes should essentially stay the same.

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With reference to the media, in the past the threat has focused on working-class youth and the negative influence of various media forms. In contemporary society, Bazalgette and Buckingham suggest this has transferred to children as victims of folk devils (Bazalgette & Buckingham, 1995: 125). Critcher (2008) argues similarly, but seeks to identify a time frame, with panics prior to the 1980’s primarily being about young people, working-class males involved in anti-social behaviour and crime. A shift occurred in the 1980’s and 1990’s, whereby instead of youth as folk devils, children were victims of folk devils. This is particularly applicable in the advertising and obesity and chat-room chapters.

The above has given an indication of the form of the panic (who is the focus of concern), but why the threat and the apparent need for the panic? There are many influencing factors; reference has already been briefly given to one – the negative influence of the media.

i. Violence and ‘inappropriate content’

Various media forms that have emerged over the years (see history of panics p. 23-28) have been censured for their violent content, appeal and subsequent supposed negative effect on children and youths. The primary perceived threat, is that young people will copy violent acts witnessed in the media. Thus, the rationale of many moral panics supports the pro-effects hypothesis that the media pose a moral threat to society, hence action to suppress the threat is required (Critcher, 2003:9). This links to the point made in the introduction about why a panic developed over video games regulation. This is considered in more detail in the video games chapter.

Alternatively, Buckingham (2003: 124) contends: ‘media violence is often seen as itself a form of media violence against children, committed by adults whose only motivation is that of financial greed. This affirms his identification of children as ‘victims’. According to many campaigners, media violence represents a form of electronic child abuse’.

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15 See the history of media panics table p. 23-28.
16 Children could be seen as victims of the food industry due to their targeting of high fatty foods.
17 The internet allows paedophiles (folk-devil) to contact children.
18 This will be debated in the effects chapter.
Buckingham (2003: 124) provides a further reason for a panic - the connection between media and violent crime as a 'commonsense demonology'. Politicians and others utilise this to demonstrate moral authority and to detract attention from more 'deeply-seated' causes of violence in society.

ii. Childhood

As stated above, effects theory is central to the reasoning behind moral panics. Another theory that feeds this thinking is the long-standing concept of childhood. Here children are regarded as victims because they are vulnerable and lack the necessary attributes to protect themselves. For this reasoning it has been assumed that they must be safeguarded. Jackson and Scott (1999) have recognised this: 'The degree of anxiety generated by risks to children is associated with a particular construction of childhood as an age of innocence and vulnerability which adults have a duty to protect' (Critcher, 2008: 158). Cohen refers to this in his 'safety valve' theory. Here moral panics are understood as a means of social regulation, which is required basically because childhood is regarded as a stage of life where we are the 'most decisive and the most vulnerable' (Skovmond, 1992: 57). The following chapter on effects will analyse if in terms of research this assumption is valid. However, as the requirement for further regulation tends to revolve around the idea that children warrant protection it is vital to understand where this assumption stems. Consequently, the history behind childhood and why the media threatens this requires consideration.

Due to the constraints of this chapter a full account of the evolution of childhood will not be provided. The reason being is that much of its history is not directly relevant to the understanding of fears around the media and the need for regulation. Therefore, attention will only be given to those characteristics relevant to this thesis.

19 Elkind (2001) The Hurried Child. ‘Hurried children are forced to take on the physical, psychological, and social trappings of adulthood before they are prepared to deal with them. We dress our children in miniature adult costumes (often with designer labels), we expose them to gratuitous sex and violence, and we expect them to cope with an increasingly bewildering social environment – divorce, single parenthood, homosexuality’ (Buckingham, 2000: 22).

20 Phillipe Ariès (1960) tracks the development of childhood from the middle ages in depth and discusses the industrial revolution and development of many child protection laws.
What is childhood? The concept of childhood has an intricate history making a precise definition of its state and emergence problematic. One of the main reasons for this is that of "...all social groups which formed societies of the past, children seldom seen and rarely heard in the document, remain for historians the most elusive, the most obscure" (Jenks, 1996: 61). Nevertheless, it is generally concluded that childhood is actually a recent phenomenon, and that it is not a natural biological state but is in fact socially constructed and historically variable, that for differing periods and societies childhood has varying significance (Pollock, 1983: 4). Despite this childhood is habitually depicted as a period of innocence, vulnerability and dependency, a nostalgic and romantic perception that emerged in the 18th and 19th century through the writings of Jean-Jacques Rousseau, William Blake and William Wordsworth. For example, Blake regarded that children signified love, goodness and innate purity (Sommerville, 1982: 158). Overall, the Romantic perspective perceived that adulthood posed the greatest threat to childhood and that children have the right to a sacred period, one which embraces; 'literacy, education, reason, self-control, and shame' (Postman, 1994:59).

The latter quotation includes characteristics that have been considered fundamental to the existence of childhood, criteria discussed in French historian Phillipe Ariès publication *Centuries of Childhood* (1979). This publication is one of the most cited works in this area. For Ariès the distinction between children and adulthood was vital and at the heart of this was shame and education. In terms of shame, Ariès contended that without it childhood could not exist. Shame revolved around secrecy, where adults differed from children due to their knowledge of life, that a child’s 'world is innocent where the adults is knowing' (Archard, 1993: 29). Basically children are not considered mature enough to cope with the complexities of the adult world (Critcher, 2003: 157). As a result children are assessed in terms of what is appropriate to their biological age; hence the index of maturity becomes the standard against which they are measured (Buckingham, 2003: 7 & 14). Whether or not this is a valid presumption will be debated in the following chapter on media effects. Nevertheless, this viewpoint appears to have influenced media regulation in the past. An example of this will evident in the 12A chapter, whereby film regulation has revolved an age determined classification system (see p. 219).
As stated above education was also deemed crucial to childhood. Its significance lay in the fact it provided an arena which removed children from the adult world, thus extending the period of childhood (Pollock, 1983: 29).

The above indicates that childhood is regarded as a period of innocence whereby they are not fully developed in order to enter adulthood. The next section will detail theorists who contend that the media threatens this stage as it blurs the boundaries between childhood and adulthood.

In the 1990's theories developed that suggested that the idealist view of childhood was disappearing and that the media played a pivotal role. This has become known as the ‘end of child thesis’ or the ‘death of childhood’ (Postman, 1994). The main advocates of this are Neil Postman, Marie Winn, and David Elkind. Central to their argument is that the media provided the opportunity to access content that in the past was only available to adults. For example, Postman believed that the emergence of television abolished the information hierarchy structure and homogenised its audience (Postman, 1994: 77). As a result secrecy/shame diminished (element quoted earlier as key to the notion of childhood). Without this, Postman argued there is ‘no such thing as childhood’ (Postman, 1994: 104).

Joshua Meyrowitz’s (1985) *No Sense of Place* contended similarly but noted a further consequence, that adult control was challenged which would inevitably lead to ‘far-reaching changes in social behaviour’ (Buckingham, 2000: 27-29). Consequently, the child is on one hand perceived as endangered and on the other, seen as a potential threat to society due to various anti-social behaviours associated with children of today (Buckingham, 2003: 3-4). The negative impact of the media on children was mentioned earlier (see p.12).

Marie Winn’s *Children without Children* (1984) also condemned television as instigating the death of childhood, as it revealed adult material and united children’s and adult’s leisure-time. For example, Winn contended that the sexual liberation of

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21 This was based on the idea that Medieval society held no notion of childhood, as neither the young or the old were literate, hence they all shared the same information. The invention of print established a new form of adulthood, whereby children could only enter adulthood if they learnt how to read (Postman, 1994: 36).
the 1960's led to increased acceptance of sexual matter on television, thus allowing children to visualise material which may have previously been hidden (Winn, 1983: 67). Consequently, she accused the media of 'indoctrinating children into the secrets of adult life' (Buckingham, 2003: 23). Winn further contended this led problems for adult control and regulation:

[Parents] have little chance of controlling their children's exposure to every variety of adult sexuality, every permutation and combination of human brutality and violence, every aspect of sickness and disease and suffering, every frightening possibility for natural and man-made disaster that might impinge on an innocent and carefree childhood. There is always the television set waiting to undo their careful plans (Buckingham, 2000:23).

Cultural studies' practitioners have also acknowledged this power struggle. Smith (2006) has observed that '...concern expressed about children's cinema-going often seems to have been less about film images than it was about a perceived loss of control over the culture and behaviour of children' (Smith, 2005: 175). Bazalgette and Buckingham (1995) have identified that 'the threat which has been posed by each successive technological development...has derived from the fact that they seem to offer less and less control for adults' (Smith, 2005: 176).

Elkind's publication *The Hurried Child* (2001) also censured television as rushing childhood but quoted access to violence as the main factor (Buckingham, 2003: 22). Elkind believed it allowed children to view such content before they know the social rules of responsibility, which could increase the possibility of uncivilised behaviour (Elkind, 2001: 96). Violence has already been quoted in this chapter as a key contributor to fears surrounding children and their access to the media (see p.12).

Elkind further believed that television rendered parental controls obsolete as it is 'impossible to know what is coming in advance of the event' (Elkind, 2001: 80). An observation also made be Winn:
Parents] have little chance of controlling their children’s exposure to every variety of adult sexuality, every permutation and combination of human brutality and violence, every aspect of sickness and disease and suffering, every frightening possibility for natural and man-made disaster that might impinge on an innocent and carefree childhood. (Buckingham, 2000: 23).

Within the hurried child, Elkind refers to another realm of the media that has facilitated childhood’s decline. Advertising was quoted as hurrying ‘...children into psychologically and nutritionally unhealthily consumerism’ (Elkind, 2001: 86). Shirely Steinberg and Joe Kinchele (2004) also considered advertising as villainous, that corporate capital destabilises the traditional notions of childhood via bombardment, manipulation which leaves them feeling ‘abandoned, confused and disorientated’ (Buckingham, 2000: 32).

In light of the above, the death of childhood theory revolves around children’s access to adult content via the media and whether they are mature enough to deal with it. The consequence of this is adults worry about how to regulate access and whether the material may influence anti-social behaviour. The media condemned were advertising and television. In terms of the television concern was voiced over access to violent and sexual content. As will be highlighted shortly (see p.23-28), such fears were not confined to just these two media; they were also prevalent as each new media technology developed. For example, comic books, penny dreadfuls, the VCR and the cinema all stimulated concerns due to their attractiveness to children and their violent content. Reference to advertising earlier suggested that apprehension was not only limited to violent content and its negative influence on children’s behaviour. Therefore, the fears about children are not just about their behavioural threat to society, but they are also seen as victims of the media. As will be demonstrated in the internet chat-room chapter, the latter concern developed as the net provided an arena for paedophiles to converge with children on-line.

This section suggests why the notion of childhood is central to moral panics around children and the media. The main premise being that due to immaturity children are susceptible to adult material afforded by the media, thus protection is required. It is
this fear in combination with threats to parental controls that has led theorists to claim that the media erodes childhood.

iii. Technological development

The discussions of childhood revealed how various theorists have criticised the development of various media technologies, thus inferring that technology provides further ammunition for a panic. Other academics have discussed this. Drotner (1992) argues that moral panics are responses to the newness of new media technologies (Oswell, n.d.: 3). The history of moral panics table will demonstrate this, that as each media emerged, concerns have developed. This gives rise to the question, what if a traditional media has not been developed i.e. the cinema, will this mean no moral panic and thus no need for regulation to be revised and strengthened? This will need to be examined in all the case studies.

Buckingham (2003: 126) has noted another repercussion of technology – the ability for it to undermine regulation. The introduction referenced this - how the internet threatens traditional video games regulation. This will need to be examined in each case study to see if this concern is across the board. The consequence of this would be the passing of regulatory responsibility to parents.\(^\text{22}\) The apprehension: the alleged unsuitability of parents to fulfil this role. For Buckingham (2003: 142) this does not mean that parents do not attempt to regulate, instead they find it difficult to perceive what content their children will find upsetting. However, the issue is more to do with parents not being equipped to provide protection (Byron, 2008: 2). For example, in terms of the internet, a digital divide is said to exist between parents and children: 'For adults to educate, empower and protect children about issues they are less familiar with, have less experience, understanding and knowledge of, makes for : an uncomfortable dynamic between the adult and child' (Byron, 2008: 21). Hargrave (2007: 52) also acknowledges this\(^\text{23}\) and provides an additional observation: ‘There is not much evidence that parental regulation effectively reduces the extent or nature of

\(^{22}\) Ofcom’s document on Media Literacy stated: ‘With increasing complexity of technology and wider media choice people will have to take more responsibility for what they and their children see and hear on screen and online.....We will all become gatekeepers for content coming into our homes’(Ofcom, 2008b).

\(^{23}\) In relation to the internet parents encounter a range of difficulties in regulating children’s access online.
media-related risks’. Due to the problem parents appear to have with regulating the internet, one would assume a panic will feature in the chat-rooms chapter.

The above sub-sections suggest a number of factors may influence a media moral panic: 1) anxiety over access to adult content (namely violence) and technology and 2) issues of regulation/control. At the heart of both of these is the concept of childhood and the requirement for protection.

2) Media Inventory - This stage in the panic revolves around how the media treats the nature of the threat. Cohen’s theory discusses 3 elements to media reaction: i. exaggeration and distortion, ii. prediction and iii. symbolisation.

i. Exaggeration – this is how the media amplifies the level of issue e.g. how many incidents. This also takes into account sensitisation, how vocabulary is used to distort reality and influence opinion (Cohen, 2002: 20).

ii. Prediction – The media report the assumption that what has happened is inevitably going to happen again (Cohen, 2002: 26).

iii. Symbolisation – This is the application of certain words that become symbolic of a certain status. For instance, the word ‘Mod’ in the 60’s became symbolic of ‘delinquent or deviant’ (Cohen, 2002: 27).

By utilising the above factors, the press has been regarded as fundamental to panic formation. Hall et al’s (1978) analysis of the panic on mugging in the 1970’s provides further affirmation, whereby they suggested Cohen’s model did not place enough significance on the media’s role. They contended that the media and politicians interact to produce a signification spiral where the panic feeds off itself. They further concluded that the media are dependent on official and authoritative sources, therefore the media are secondary definers of the concern24. As a result, official agencies are

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24 Hall et al - ‘the relations between primary definers and the media serve, as one and the same time, to define ‘mugging’ as a public issue, as a matter of public concern, and to effect an ideological closure of the topic.....whose dimensions have been clearly delineated, which now serves as a continuing point of reference for subsequent news reporting, action and campaigns’ (Critcher, 2008: 15).
not just simply reactive to panics, they ‘form part of the circle out of which moral
panics develop’ (Critcher, 2008: 15). Jenkins (1992: 21) similarly acknowledges the
significance of the press, but does not regard them as instrumental. He believes their
coverage plays a role, but ‘is dubious if the media could create and sustain a campaign
to demonize a group or individual if they are not already a constituency prepared to
accept such a view’. Regardless of the extent of their role, the press is obviously
important to the whole cycle of panic, therefore their efforts will feature in each case
study.

3) Moral entrepreneurs – In addition to the press, lobby groups can also have an
influence. Howard Becker (1963) applies the definition of ‘moral entrepreneurs’ -
individuals/groups who believe existing remedies are insufficient. They attempt to
rouse public opinion by leading social movements and organisations to pressurise the
government into action. A normal reaction by them is to state current regulation is
inadequate and that further measures are required (Kilinbeck, 2003: 3).

Goode and Ben-Yehuda (1994) define moral entrepreneurs as religious groups and
educational organisations. Cohen (2002) has also provided definition editors, bishops,
politicians and other right-thinking people. Goode and Ben-Yehuda (1994:139) refer
to this as interest group theory. Their purpose: to focus media attention, alert
legislators and demand stricter regulation; the benefit being material and ideological
gains. They further contend: ‘the exercise of power in the creation and maintenance of
moral panics is more likely to emanate from the middle rungs of power and status
than the elite stratum’ (Critcher, 2008: 25). In other words, these groups have more
influence than more powerful bodies like the government. Cohen, acknowledges this,
but believes in order for a panic to develop, there must be constructed a sufficient
level of concern and consensus among elites (Cohen, 2002: 42). Despite this, similar
to the press, moral entrepreneurs appear to play a important role in panic
development. Therefore their reactions will also need to be discussed throughout the
case studies.

4) Experts – Expert opinion on an issue could also play a role in fuelling or stemming
a panic. Cohen (2002: 48) states these are: ‘socially accredited experts’ who
‘pronounce their diagnosis and solutions’. Critcher (2008: 18) goes a step further and
suggests the influence they may have, that expertise: 'may carry particular weight, affecting the ways media, especially upmarket papers and broadcasting, come to define the issue' (Critcher, 2008: 18).

5) **Coping and resolution** – This is a key stage in a panic; have the press and media entrepreneurs influenced regulation? Cohen contends that their influence (if successful) will either lead to the escalation of existing controls or innovation of new measures (Critcher, 2008: 11-12). As the basis of this thesis is to examine how regulation has developed, this stage will obviously play a role when considering whether moral panics have influenced regulation.

6) **Fade away** – This refers to when and why the concern fades away and if it may recur. According to Critcher (2008: 153), the resolution stage plays an integral role here, whereby once regulations have been passed the problem has less impetus.

7) **Legacy** - The final stage of a panic refers to whether a panic has had 'little long lasting effect'. Whether changes in policy or law have occurred plays a fundamental part (Cohen, 2002: 74). Critcher therefore debates if there are any long-terms effects and if they relate to previous or subsequent issues (Critcher, 2008: 17-18). Bearing this in mind, Drotner concluded that 'Every new panic develops as if it were the first time such issues were debated in public, and yet the debates are strikingly similar' (Drotner, 1992: 52). Goode and Ben-Yehuda add to this, that: ‘...panics are not like fads.....they do not come and go, vanishing, as it were, without a trace. Even those that seem to end without impact often leave informal traces that prepare for later panics’ (Goode, 1994: 229).

The two later stages are important to this thesis, as if the government and regulators have not appropriately addressed concerns, then the panic may continue or resurface at a later date. In addition, the fade away stage may be applicable to the 12A chapter, as the disappearance/lack of moral panic may provide reasoning for how 12A regulation developed.

*Additional points*
It must be acknowledged that the above stages do not provide scope for Goode and Ben-Yehuda’s grassroots model theory. This is where the panic originates with the general public, who exhibit a ‘widespread, genuinely felt – if perhaps mistaken concern’ (Goode, 2004: 127). They contend that politicians and the media could not fabricate concern, if this did not exist initially. However, they term this theory as ‘naïve’ and acknowledge that public fears will not surface in every panic: ‘....the manifestations of the panic lies largely outside the sphere of public reactions (Goode, 1994: 134). Despite this, public opinion along with all the other individuals mentioned could each play a role. Therefore, (where applicable) all will require consideration throughout this thesis.

As the above elements of moral panic theory will be considered in the four case studies, it is worth noting that depending on the panic, the stages may not occur in the exact order reported. For instance, Cohen states: ‘While it is true each stage of the reaction appears to be a logical product of the prior one, the ..... model is a typical rather the an inevitable sequence. There are no overwhelming technical reasons why it should not be broken or at least re-routed at various points’ (Cohen, 1973: 173). Critcher (2008: 1137) also contends this – the model of moral panics denies agency as it presumes key actors follow a predetermined script.

Critcher’s model in combination with other theories highlights a number of key factors that could contribute to a moral panic. The next sub-section will seek to demonstrate the theory in practice. More importantly it will demonstrate Drotner’s observation on re-occurring traits of media related panics.

The history of media-related panics

Due to space constraints of the chapter, each panic will not be analysed in detail; instead this section is being utilised to pinpoint how key elements of moral panic theory have been embedded in previous media related panics. This is vital to evidence if panics in the past have influenced regulation.

25 ‘No moral panic is complete without an examination of all societal levels, from elites to the grassroots’ (Goode, 1994: 143).
<table>
<thead>
<tr>
<th>Year</th>
<th>Media Form</th>
<th>Concern</th>
<th>Press and other media response</th>
<th>Reaction</th>
<th>Censorship, regulation or policy change</th>
</tr>
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<tbody>
<tr>
<td>1860's</td>
<td>Penny Dreadfuls - popular fiction</td>
<td>The Victorians found these publications an uncomfortable contradiction to their romantic and nostalgic images of childhood (Springhall, 1998: 61). The middle class attempted to link delinquency to the dreadfuls (Springhall, 1998: 71).</td>
<td>The press reported: ‘It is almost a daily occurrence with magistrates to have before them boys who having read a number of dreadfuls....robbed their employees. This and many other evils the penny dreadfuls are responsible for’ (Springhall, 1998: 75).</td>
<td>Local police courts to the Old Bailey inferred a connection between juvenile crime and the dreadfuls (Springhall, 1998: 72).</td>
<td></td>
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<tr>
<td>Early 1900's onwards</td>
<td>Cinema</td>
<td>See the moral panics section in the 12a case study</td>
<td></td>
<td></td>
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| 1950’s – 1960’s | Television | Critics believed that television offered a greater potential for influence than cinema, because it invaded the home making access easier and instead of dealing with ‘images of fantasy’ the television depicts programmes containing real people and real events (Brody, 1977: 3). At the heart of these fears lies the issue of the availability of sexual and violent images (Pearson, 1983: 17). | A number of major Social Science studies claimed a ‘simple relationship between television violence and aggression in viewers’ (Cumberbatch & Howitt, 1989: 41). In 1962 the British Medical Association declared with regard to the state of morals that the adolescent is: ‘Vulnerable to the influence of TV programmes of a deplorably low standard... Reading matter for teenagers was roundly condemned as full of sex and violence’ (Pearson, 1983: 17). | The Watershed was a regulatory rule established in the 1960’s to restrict certain types of content before 9pm. The industry has come to widely accept this: (NVALA1, 2003: 2).

The Television Act 1964, section 4 (1) (a) required the Independent Television Authority to produce a code of guidance for programme makers, requiring them to take into consideration when children may be watching and to restrict violent content accordingly (Dhavaner, 1978: 10). |
<table>
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<tr>
<th>Mid to late 1950's</th>
<th>Horror comics</th>
<th>The concern was based on a panic that had gripped America following the publication of 'Seduction of the Innocent' by Dr Fredrick Wertham in 1954 (Gunter &amp; Harrison, 1998: 5). Wertham condemned comics as dangerous and a threat to children's wellbeing, turning them into delinquents ultimately resulting in the proliferation of juvenile crime (Springhall, 1998: 130).</th>
<th>The issue featured in many newspaper headlines. 17th May 1952 Picture Post (popular UK photo magazine) asked: 'Should US comics be banned?' (Springhall, 1998: 142).</th>
<th>Various groups such as the British Communist Party, the Comics Campaign Council and the National Union of Teachers campaigned for censorship (Springhall, 1998: 143).</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980's - 1990's</td>
<td>VCR</td>
<td>Fear revolved around children's access to violent content within the home (Buckingham, 2000: 84). The then Home Secretary Leon Brittan made reference to this and described it as an: '...intrusive medium: The video becomes a problem not because it lures the young</td>
<td>80's panic – Mary Whitehouse fought the same crusade through the NVALA (Critcher, 2003: 65).</td>
<td>In 1955 the Children and Young Persons Harmful Publications Act was passed. The Act outlawed 'the dissemination of certain pictorial publications harmful to children and young persons' and therefore led to the disappearance of these comics (Barker, 1984: 16).</td>
</tr>
</tbody>
</table>
people away from the home, but because it implants outrage directly into the home' (Barker, 1984: 102). Consequently, the VCR was censured for escalating crime rates (Springhall, 1998: 148). In light of the above 2 waves of panics emerged:

1) 1982-1984 witnessed concern over horror films termed as 'video nasties'. These films were linked to escalating crime rates (Springhall, 1998: 148)

2) 1993-1994 saw the censure of Childs Play 3 following the killing of James Bulger. These 2 panics are also documented in the 12A moral panic section.
1980's -
 gradual increase in video games 

1990's -
 Internet chat-rooms 

20th century -
 Advertising 


Concern has more recently switched to the effect of food advertising on children's weight, whereby the industry has been blamed for growing obesity rates. Grioux (2000:17) condemns corporations who capitalise on the commodification of children, that this endangers children. He further purports: 'As market culture permeates the social order, it threatens to diminish the tension between market values and democratic values, such as justice; freedom; equality; respect for children; and the rights of citizens as equal, free human beings. Without such values children are relegated to the role of economic calculating measures' (Giroux, 2000: 99).

There have been many developments in terms of advertising and children, therefore just a few occurrences will be documented:

Advertising Standards Agency (ASA) was established in 1962 to provide independent scrutiny of the television advertising self-regulation system (Sustain, 2001: 5).

Independent Broadcasting Authority (1981) stated 'No product or service may be advertised, and no method of advertising may be used, in association with a programme intended for children, or which large numbers of children see or
See the chapter on obesity and advertising for further details.

| broadcasting act 1990 required the independent television commission (itc) to develop and enforce a code of standards for television advertising (gunter et al, 2005: 144). | hear which might result in harm to them physically, mentally or morally, and no method of advertising may be employed which takes advantage of the natural sense of credulity or loyalty of children' (young, 1987: 33). |
The history of panics affirms Drotner’s deduction, whereby the majority of panics have focused on the same fundamental concerns – the perceived negative effect of the media on children. Despite whether these concerns directly influenced the state (which would be difficult to substantiate), the table demonstrates that many of the panics resulted in some form of governmental action. It further emphasises that in most cases, the key elements of a panic (moral entrepreneurial, expert or press response and reaction) were present in each of the panics. However, there were instances where not all were applicable, which may suggest that moral panic theory in its traditional form is in need of modification.

**Criticism of moral panic theory**

Although the above history supports the basic framework of moral panic theory, it is not without its flaws. For example, McRobbie and Thornton (1995) argue that Cohen’s model needs updating. They contend that political and media systems now exhibit a greater plurality of views and refrain from defining children. As a result it is ‘...impossible to rely on the old models with their stages and cycles, universal media, monolithic societal or hegemonic reactions’ (Critcher, 2008: 137). This implies that the government and regulators may not necessarily directly respond to moral panics as they have traditionally. As a result, it will be interesting to see in each case study if McRobbie and Thornton’s criticism applies, particularly as the previous table showed governmental action in the past. If it does apply, this will demonstrate a change in media regulatory practice. Jewkes (2004: 85) explains this shift on the grounds that the model is flawed as it assumes the media has an effect on the audience. Reference is also given to definition – youth is now amorphous, thus making categorisation problematic. In other words, based on children’s varying maturity levels, it is difficult to apply regulation across the board. If Jewkes’ reasoning is valid, it is debatable whether panics should influence regulation²⁶.

Phil Cohen (1997 cited in Pickering, 2001: 195) has noted an additional flaw in that: ‘moral panics deal in self-fulfilling prophecies and it’s an open trade secret that the supply of a particular kind of provision tends to stimulate the demand for that type of service’. Panics could therefore be used not in the interests of children (need for

²⁶ The effects chapter will examine this.
greater protection), but as a means to benefit commercially from the controversy. For example, in McRobbie and Thornton's (1995, cited in Pickering, 2001: 195) discussion of acid house music, they quote a music monthly asserting that panics amounted to a 'priceless PR campaign'. As a result, it is debatable whether regulators should respond to such panics as the concern may not be genuine. However, it would be dependent on where the panic stemmed. For example, following the Manhunt incident (cited in the introduction), shops reported selling out of copies of the game. A HMV spokesman, Gennaro Castaldo stated: 'Interest in Manhunt has significantly increased for the wrong reasons' (Clennell, 2004). However, the panic did not stem from the industry, but instead from the press and moral entrepreneurs27, therefore on this basis it might be a misjudgement to refute concerns and not examine regulation.

Finally, Pickering (2001: 196) raises various queries about the theory's failure to address why and when panics emerge and disappear28. Moreover, the theory is 'pretty well illiterate' in forms of temporal dynamics and movements as panics focus on a sociological snapshot at one particular isolated moment. Regulation based primarily on a panic may well be confronted with the same criticism.

Despite these weaknesses, Jewkes (2004: 85) contends the theory should not be rejected as invalid or unhelpful. Critcher (2008: 114) also concludes it should not be disregarded, that it '....remains overall an impressive achievement, worthy of celebration'.

On the basis of the later points, when considering the development of media regulation moral panic theory should not be rebutted. However, throughout this chapter, various elements of the moral panic cycle and criticisms of the theory, queries how much significance regulators should give to panics. For example, the press, moral entrepreneurs or experts could exaggerate the extent of the problem. If this was the case arguably it would be difficult to substantiate regulatory change on this basis. An illustration of this could be the strengthening of regulation following the James Bulger incident (see the moral panic table). Although only one incident

27 See the video games chapter.
28 Historically, moral panic theory lacks in explanatory power, telling us little about 'the longer-term generation of moral panics as opposed to their apparently sudden efflorescence'. It sheds 'little light on their disappearance and on the process of deamplification' (Pickering, 2001: 196).
occurred, regulation resulted following concern. The apprehension here predominantly stemmed from the press, where they contended that children were at risk from one another, and that access to certain films could produce child murders (Wood, n.d.: 1). Considering the current regulatory climate\textsuperscript{29}, such a panic may not warrant the same level of intervention today. On this basis, in order to justify regulatory response the media implicated in the panic would have to pose a significant threat. But how would you measure this threat? Moreover, what happens if neither of these extremes are applicable and a risk is in existence combined with an element of exaggeration? As will be highlighted throughout the case studies, some of the risks and concerns highlighted by moral entrepreneurs are genuine and therefore should not be completely ignored. How do regulators deal with this? The latter question will require consideration in each case study.

Conclusion

This section has revealed that over the years as each new media has developed, the same apprehensions over the negative effect of the media on children have re-emerged. In addition to this, concern has also focused on technology and reliance on parental regulation. As shown, these trepidations have prompted calls from moral entrepreneurs for greater regulation, and in most instances they have resulted in governmental action. By these panics following a similar course, this to an extent demonstrates the role of moral panics in the development of media regulation. As a result, this could be regarded as a useful framework to explain how reaction to media occurs. However, its authority to influence regulation is questioned because it has been suggested this process is not straightforward, therefore questioning their authority to influence regulation. Despite this as noted, although panics may not be completely justified they may raise genuine concerns, therefore how do regulators respond to this? However, even if some of the concerns are genuine, how do they balance this with the preoccupation moral panic theory has with the media having a negative effect on children? Are children vulnerable and is it feasible to base regulation on this? If no evidence exists to substantiate this, doubt may enshroud the

\textsuperscript{29} See the media effects and advertising chapters for clarification of what is meant be this.
validity of moral panics, but more importantly it would also question the viability of state regulation.

The last statement links to another point, that panics may not always result in reaction by regulators or the state. If this is true how is regulation being formulated? Moreover, this further queries Cohen’s theory and ultimately the role of panics in the development of regulation. Consequently, the main queries to emerge from this section are: 1) whether moral panics are genuine, 2) if they rely on the pro-effects debate and 3) how far the government and regulators should respond and modify regulation. In order to address such queries the next chapter will examine the arguments for and against the effects tradition.
Chapter 2

Effects, Anti-effects and Regulation

The previous chapter revealed that concern over the negative impact of the media on children has a long history and has arisen as each media technology has evolved. Despite the different media forms, apprehension has remained similar, that children are vulnerable and innocent and thus susceptible to the perceived negative content of the media, particularly in relation to violence. As a result moral entrepreneurs argue children require protection, hence the need for greater regulation. In response, abundant research has been conducted to determine if the media has a negative effect on children. This has generally revolved around the hypothesis that witnessing acts of aggression causes the audience to respond in a similar manner (Gauntlett, 1995: 2). This is supported by the pro-effects tradition. In opposition the anti-effects theory has emerged, where audiences have been accredited critical autonomy, thus, marginalising the effects tradition. The purpose of this section will be to examine this and alternative approaches to see if, in terms of children, there is any justification for moral panics and increased regulation.

Pro-effects tradition

In this tradition researchers are essentially attempting to determine whether there is evidence of a direct causal relationship between the media and audience behaviour. This will be investigated by looking at how via the utilisation of various research methodologies a wide range of effects theories have emerged.

The earliest theory was the ‘magic bullet’/‘hypodermic needle’ theory, which believed the media have a simple direct influence on the audience, that of cause and effect, whereby the media ‘inject people with ideas which quickly led to undesirable behaviour’ (Burton, 2000: 224). On this basis, for some, children’s media usage is seen to have a direct negative effect due to the essentialist notion that children are vulnerable, innocent and lack the necessary cognitive abilities (Potter, 2003: 74). This is a conviction referred to in the moral panic section as a potential influencing factor.
in the formation of panics. It is particularly evident within the field of psychology, where children are ‘often considered not so much in terms of what they can do, as what they (apparently) cannot’ (Dickinson, 1998: 122). The key question following on from this is whether fears of media influence on children are justified.

**Laboratory experiments**

Within these experiments subjects are divided into groups, the experimental group who will be exposed to a particular treatment and the control group who either receives a different treatment or no treatment at all. The participant's behaviour is then observed and conclusions made based on which condition the groups were subjected to (Gauntlett, 1995: 17).

Probably the most cited experiment is that of Bandura (1960) who sought to prove the hypothesis that children would imitate behaviour witnessed on television (derives from his Social Learning theory) (Curren & Gurevitch, 1996: 308). Within this experiment, nursery school children watched a filmed model reacting aggressively towards an inflatable Bobo doll. The children were then observed through a two-way mirror in a playroom, which is similar to the one they witnessed on the film. The main findings were that the children who witnessed the violent model were more inclined to act aggressively towards the doll, than the control group who had not viewed such violence (Strasburger & Wilson, 2002: 83-84).

Various other laboratory experiments have produced positive results supporting Bandura's findings, these include Walters (1963) and Berkowitz (1962, 1965). In fact the majority of the laboratory experiments in this area have supported this theory (Gauntlett, 1995: 17). Nevertheless Bandura's work has been analysed due to the methodological process. One of the main censures was the artificiality of the setting

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30 88% of them imitated the models behaviour, inferring that children can learn from observation (Cumberbatch, 1989: 34).
and how this cannot be transferred to real-life (Liebert et al, 1973: 6931, Kniverton and Stephenson 197032).

Another problem with such studies is they only measure short-term effects and that they provide 'little evidence that the results can be generalised across different situations and over time' (Gauntlett, 1995: 19). Lastly is what Orne terms 'demand characteristics' - the potential for the experimenters' presence to influence the child's behaviour. This is supported by Borden (1975)33 and Freedman (1986)34.

Field studies

Due to the methodological flaws associated with the laboratory method, researchers sought to prove media effects through the use of more naturalistic conditions: the field study. Feshbach and Singer (1971) provide a classic example. They looked at boys from three private schools and four boys' homes and divided them into equal groups; they witnessed either a diet of aggressive or non-aggressive television for a period of six weeks. Their behaviour was observed and rated daily (Calvert, 1999: 46). Their results supported what is known as psychoanalytic theory/catharsis35, as those who watched the less aggressive programmes acted more aggressively than those who watched the more aggressive programmes (Calvert, 1999: 46). Such findings suggest that instead effects are converse, however on closer inspection the results are not so clear cut. Noble (1975) strongly contested the results on the grounds that the non-violent television group became more aggressive because they were purged from watching their favourite violent TV show36 (Gauntlett, 1995: 20-21). On the other hand, many field studies have provided little support for effects. For example, despite conducting eight field experiments, Milgram and Shotland (1973) found no evidence

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31 Children at home witness TV shows that are longer in length compared to the short 10-30 minute programmes they are subjected to in the laboratory.
32 Children would not normally be confronted with the combination of a mallet and a Bobo doll - children who are not familiar with the doll imitated five times more than those who had previous experience of the toy (Cumberbatch, 1989: 35).
33 The presence of an observer affects the child's behaviour (Dickinson, 1998: 124).
34 The showing of an aggressive film would imply that the experimenter expects aggressive responses (Cumberbatch, 1989: 37).
35 The cathartic effect is a concept that originates from the ancient Greek philosopher Aristotle, who believed that watching tragedy eradicates certain unwanted feelings (Culstock, 2003:13).
36 This posed such a problem that experimenters were forced to allow them to watch Batman.
that television violence causes imitative behaviour (Cumberbatch & Howitt, 1989: 35).

A study by Alberta Siegel (1956) devalues the idea of catharsis. Pre-schoolers were shown an aggressive cartoon (Woody Woodpecker) and a non-aggressive film (The little Red Hen). The children witnessed them a week apart and their play was observed after each showing. If the psychoanalytic hypothesis was to be supported, in theory after watching Woody Woodpecker they should have acted less aggressively, in fact the results were contrary (Liebert et al, 1973: 45).

Field studies are not without their methodological shortcomings. For example, the samples used have been criticised as not being representative of the population (Gauntlett, 1995: 23). Demand characteristics again pose a problem: Green and Thomas (1986), Wells (1973).

Correlation studies

This was another method used to evade the issues linked to laboratory experiments and sought to highlight a causal relationship between two variables. In most cases a measure of how much violent television had been consumed along with a measure of aggressive behaviour (Gunter, 1990: 88). Studies have found evidence to support a correlation between these two variables. Belson’s study of 1565 boys aged 12-17 is probably the most influential. The boys were divided into two groups of higher and lower viewers of violence. Intensive interviews were used to measure their viewing and subsequent acts of violence (Gauntlett, 1995: 28). It was concluded that those exposed to greater levels of violence performed 49% more demonstrations of aggression compared to those who had viewed little (Cumberbatch & Howitt, 1989: 44). This evidence appears to provide some support for the media effects hypothesis. On the contrary, just like previous methods, proving this hypothesis is not straightforward as many flaws exist with Belson’s data. The first problem was

37 Observers in Feshbach’s study were aware of the experimental conditions, thus the results could be biased (Cumberbatch, 1989: 39).
38 Once the observers became knowledgeable of the groups, those who watched the violent films were more likely to be rated as aggressive (Cumberbatch, 1989: 40).
allowing subjects to review and measure their own behaviour\textsuperscript{39}. Belson attempted to quash anxiety by testing for validity on a second occasion and concluded the data was reliable as the responses remained consistent (Cumberbatch & Howitt, 1989: 44). Nevertheless, a similar study administered by Milavsky et al (1982) inferred doubt. Milavsky found a similar link, however once those who had submitted invalid responses were discarded\textsuperscript{40} the correlation reduced dramatically (Cumberbatch, 1989: 45). This suggests Belson’s correlation was a consequence of methodological error.

Focusing on correlational studies in general, Freedman’s (1984) review of several studies displayed how weak correlations were, that most only showed a correlation of 0.10 and 0.20. This is particularly insignificant when you consider that a perfect correlation is 1.00 (Gauntlett, 1995: 26). In addition, it is widely cited that these studies are unable to demonstrate causality\textsuperscript{41}. Consequently, Dickinson et al (1998) pronounces it is a ‘misuse of a method’ (Dickinson et al, 1998: 125).

**Longitudinal studies**

Many of the above studies have been condemned for measuring short-term effects, consequently longitudinal studies have sought to prove that aggressive behaviour can exist or develop over time. Eron et al’s (1972) research is often referenced here. They interviewed children three times over a period of 22 years, when they were 8, 19 and 30 years-of-age (Strasburger & Wilson, 2002: 86). Information about their viewing habits were obtained by asking their parents the names of their preferred television programmes, the shows were then coded on the basis of the level of violence they depicted. Aggressive behaviour was measured through self-reports and peers (Felson, 1993: 109-110). It was concluded a positive relationship existed between viewing violent television at age 8 and aggressive behaviour at age 19. The findings were just as compelling 10 years later, where again TV exposure was related to self-reported violent behaviour at age 30 (Felson, 2004: 109-110).

\textsuperscript{39} Young boys may exaggerate their involvement in aggressive behaviour. There was also uncertainty over recollection of past television viewing (Gauntlett, 1995: 26).

\textsuperscript{40} The children were presented with some fictitious titles to determine who had provided false information.

\textsuperscript{41} They may show that variables occur together but fail to prove that aggressive behaviour is a direct consequence of witnessing violent imagery (Gauntlett, 1995: 26)
Eron's results sound convincing, but like previous methods criticisms are apparent. Self-reporting and reliance on parental information is the first issue. Kay (1972) noted that parents may guess which programmes their child prefer (Cumberbatch & Howitt, 1989: 46). Richard Rhodes claimed Eron's work was: 'poorly conceived, scientifically inadequate, biased and sloppy if not actually fraudulent research'. Accusations made on the basis that Eron only held information on the amount of television watched in 1960 (when the research began) for only three out of the twenty four men who committed crimes years later (Mediawatch, 2004: 4).

Professor Jeffrey Johnson and his colleagues also believe that television causes aggression. Since 1975 they have been following 700 families. Subsequent to their follow-up study in 2003, when the participants were aged 22, they concluded:

Even youths with no history of such aggressive behaviours were more likely to commit aggressive acts over the 8-year follow-up period if they watched one or more hours of television per day at mean age 14, compared with those who watched less that 1 hour per day (Mediawatch, 2004: 2).

In fact the statistics revealed that 22.5% of adolescents who watched between one and three hours a day committed aggressive acts later, as did 28.8% who watched more than 3 hours, compared with only 5.7% of those who consumed less than one hour (Mediawatch, 2004: 2). This infers that adolescents are more likely to turn to violence in their early 20's if they watch more than one hour of TV a day. However, just like Eron's study, evidence was compiled from information supplied by the individuals themselves and their mothers, thus questioning the validity of the conclusions. Furthermore, Guy Cumberbatch believes that Johnson's method was unfair as people were divided according to their viewing habits: those who watched less than one hour per day, between one and three hours and more than three hours. This is problematic as only 88 out of the 700 were assigned to the less than one hour group, thus the group is 'so small it's aberrant' (Whitfield, 2002: 2).
Not all longitudinal studies have produced positive findings, in fact some have produced evidence quite to the contrary. Milavsky, Kessler, Stipp and Rubens (1982) after a three year study discovered no significant association between exposure to violence on television and subsequent changes in behaviour (Bryant, 1986: 42).

The motivation of the above studies was to prove whether televised violence caused real-life aggression. These have generally concentrated on behavioural responses, like imitation in Bandura’s Social Learning theory. What they fail to consider is motivational and cognitive elements that might lie behind the actions. Therefore two further effects theories require consideration: cultivation theory and the desensitisation hypothesis.

Desensitisation

Starting with desensitisation theory, this alleges that subjection to high levels of violent material reduces emotional responses, hence increasing the likelihood that we will be susceptible to violence in real-life. A study by Cline, Croft and Courrier (1973) supports this notion. Two groups of boys aged between 5 to 12 and 7 to 14 viewed programmes which portrayed varying levels of violence. Both groups were measured for physiological arousal (measure of heart rate) and the 7 – 14 year olds had their galvanic skin response measured. The results showed that those who were higher viewers of violence were less aroused than the low viewers, inferring that heavy viewers had become desensitised to the violence (Calvert, 1999: 39). Drabman and Thomas’s (1984) research also delivered positive results. They found that children aged 8-10 who were shown a video of aggressive violence took longer to intervene in apparently real life violence between two younger children they has been left in charge of (Chandler, 2008: 7). Hagell and Hewburn’s (1994) study of frequent juvenile offenders concluded contrarily. They discovered that the offenders’ crimes were an unlikely consequence of television desensitising them to the seriousness of their actions, particularly when they watch less television violence than non-offenders (Gauntlett, 1995: 40).
It is also worth acknowledging Felson's (2000: 120) notion: 'If viewers are exposed to a heavy diet of television violence, one might argue that they will be less aroused by violence and therefore less likely to engage in violence'. Moreover, such studies are normally laboratory based, therefore the above criticisms cited also apply (Chandler, 2008: 7).

Cultivation theory

George Gerbner's Cultivation theory continues to support the idea of the viewer as passive. However, instead of the effect being a direct process he claims that effects are indirect and gradual (Livingstone, 1990: 14). Through this he seeks to explain how children's mental conceptions are shaped by the images they witness. Basically this theory proposes that if children are consistently presented over time with a certain view of the world they will be cultivated into accepting these images as reality. This presents a different type of negative effect, instead of TV encouraging violent actions it creates feelings of fear and apprehension. Therefore, heavy viewers would see the world as more violent and as a consequence would perceive themselves more likely to be a victim of violence (Strasburger & Wilson, 2002: 104).

Gerbner's work is not exempt from disapproval. Martin Barker argues that heavy viewers are more likely to be critical in their media consumption, thus not passive (Williams, 2003: 180). Hirsh (1980) who re-analysed Gerbner's data found that people who did not watch any television at all were more fearful than extreme viewers (Gauntlett, 2005: 53). Durkin (1985) also found no definitive link.42

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42 After testing the hypothesis that children who watch greater amounts of television will have more strongly stereotyped beliefs and attitudes about sex roles, it was found that: 'none of them has demonstrated a strong convincing relationship between the two variables' (Gauntlett, 2005: 53).
Summary of pro-effects research

Deliberation of the pro-effects studies suggests that due to inconsistent findings and methodological shortcomings, it could not be concluded without doubt that a causal relationship exists. In addition, researchers seeking to find such a relationship have been criticised for only publishing positive findings (Gauntlett, 1995: 11, Buckingham, 2007: 20). The problem of defining violence also makes it difficult to draw any conclusions on effects\(^{43}\) (Carter, 2003: 3). Moreover, studies that have reviewed the body of evidence fail to provide support. Gauntlett states: ‘After over 60 years of a considerable amount of research effort, direct effects of media upon behaviour have not been clearly identified, then we should conclude that they are simply not to be found’ (Dickinson, 1998: 120). Richard B. Felson: ‘The inconsistencies of the findings make it difficult to affirm conclusions about the effects of exposure to media violence on aggressive behaviour. Moreover, Hargrave and Livingstone (2006: 203) have observed that effects studies are technology specific, that relatively little work has looked at consumption of all different types of media forms. The predominant research base to which the above studies concentrate is television and video. As this thesis will analyse various media, consideration needs to also focus here. Will the same criticisms of television effects transfer? As the main studies for pro-effects have been covered, reference will only be given to the predominant arguments and conclusions.

Film research

As film is a screen media the research approach and their findings mirror those of television (Hargrave & Livingstone, 2006: 119). In addition, Guy Cumberbatch (2004: 22) reviewed both television and film studies and concluded: ‘The real puzzle is that anyone looking at the research evidence in this field could draw any conclusions about the pattern let alone argue that it demonstrates the harm of violence on television and in film’. Due to the similarities between the two, further emphasis will not be provided.

\(^{43}\) Many researchers do not share the same view of what constitutes violence.
Video game research

It is important to consider effects research for video games separately, as games afford a different experience to that of television\textsuperscript{44}. Nonetheless, as games have become associated with violent content\textsuperscript{45}, the same hypothesis that is applied to television is applicable.

Similarly to television, studies do not imply a strong causal link. Analysis of past research fails to provide concrete answers, lack of research being one of the main reasons. Gunter and Harrison (1998:108-109)\textsuperscript{46} and Griffiths (1997:398)\textsuperscript{47} have both identified this. Kevin Durkin draws a similar conclusion: ‘Overall, evidence is limited, but so far does not lend strong support to the claims that computer game play promotes aggressive behaviour’ (Durkin, 1995: 2). Cumberbatch’s review for the Video Standards Council also provides little support: ‘The research evidence on media violence causing harm to viewers is widely exaggerated and does not stand up to scrutiny’ (BBC, 2004). Unsworth and Ward (2001) further substantiated the problem of inconsistency, but noted another important factor: ‘The inconsistencies in the findings of the vast body of research and the rate of the advancement in video game technology make it difficult to draw any firm conclusions about the relationships between exposure to video game violence and aggressive behaviour’ (VSC, 2004: 39). Contemporary reviews further fail to reach conclusive results. Boyle et al (2005: 40) concluded:

The research evidence of a direct link between video games and violent behaviour in society remains contradictory.....there is a body of evidence that shows playing violent video games increases arousal and the possibility of aggression in some players. However, this

\textsuperscript{44}Whilst it is not disputed that watching television is an active process of decoding information, games involve more due to their interactive capabilities (Durkin, 1995: 7).

\textsuperscript{45}See the video game moral panic section p.161.

\textsuperscript{46}‘The research evidence on the effects of violent video games has been equivocal. Whether or not playing such games displays any manifest links with players’ subsequent behavioural tendencies seem to vary with the type of research methodology deployed to investigate this question.....On the evidence to date there is clearly a need for more research’.

\textsuperscript{47}‘The question of whether video games promote aggressiveness cannot be answered at present because the available literature is relatively sparse and conflicting’.

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evidence is often disputed and cannot be simply read as evidence that
game playing translates into violent social behaviour.

Another parallel with television research is methodological weakness. A major flaw is
that most have considered short-term effects. Jessica Harris’s (2001: v-vii) research
for the Home Office recognised this: ‘......the strongest conclusion emerging from
the present review is the need for more research into the long-term effects of
computer games on children.....Until this is done, claims as to the effects on
behaviour will be weak and directions for prevention, intervention and treatment will
remain limited in scope’.

Internet research

Unlike the violence hypothesis applied above, the internet introduces different risks
that could increase the potential for harm to children. Very little empirical research
exists on these harms. The majority have investigated pornography, an issue that
this thesis will not cover, instead the focus will be paedophilia and chat-rooms.
Research has concentrated here and demonstrates that in terms of paedophile contact
with children, risk is in existence. Reviews of UK crime statistics also infer this.
Palmer and Stacey (2005) reported that incidences of such offences are increased by
widespread access to the internet (Hargrave & Livingstone, 2006: 147). Eneman
(2005) contends that the internet facilitates paedophile activity (Hargrave &
Livingstone, 2006: 147). However, compared to the moral panic surrounding this, it is
accepted that it is a rare but dangerous event, thus the effect is not as big as perceived
link between risks, incidents and actual harm is genuinely tenuous: not all risks taken
result in worrying incidents, not all worrying incidents result in actual or lasting harm’

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48 The ease of access to users, abundance of material available, interactivity of the medium, the lack of
gatekeepers to restrict access (Byron 2008: 48).
49 Hargrave and Livingstone have recommended that more research is conducted (Millwood, 2006:
139). Byron (2008: 53) ‘......we know very little about the nature of contact with strangers online and
how children respond to it’.
50 Due to the moral panic on grooming.
51 See Chatroom moral panic section for examples of incidents of grooming, how many children visit
chat-rooms etc.
(Byron, 2008: 54). Based on the above citation on sparse research and the evidence that will be presented in the later case study on chat-rooms, such conclusions on the level of effect are problematic.

**Advertising research**

The debate will only be briefly considered here – please see the advertising and obesity chapter for greater detail. Due to the type of media, the hypothesis again changes – the effect being advertisings influence on purchasing habits. In this case, advertising encourages children to eat what is deemed unhealthy food.

Reviews of the evidence have produced contradictory results. Hastings et al’s (2003) study favoured a more pro-effect conclusion: ‘Food promotion is having an effect, particularly on children’s preferences, purchase behaviour and consumption’ (Hastings et al, 2003: 3). Nonetheless, they admitted this did not amount to proof of an effect, but believed this provided ‘sufficient evidence to conclude that an effect exists’ (Hastings et al, 2003: 3). Another observation jeopardised their findings, that it is uncertain as to whether food promotion has a greater or lesser influence on children’s food behaviour than any other factor (Hastings et al, 2003: 172).

Other studies queried their findings. Methodology was again an issue. Paliwoda and Crawford (2003): ‘We cannot find the evidence within the Hastings Review that TV has a strong influence on children’s food consumption behaviour’ (Paliwoda & Crawford, 2003: 3). Brian Young et al’s study (2003: 22) concluded similarly ‘In 1996....there was no evidence that food advertising had an effect on the consumption of categories of food (such as foods high in fat or salt)...... There is no reason to change that statement in 2003’.

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52 Sample selection - many of the studies utilised were outdated, not British in origin and relied on a handful of publications (Paliwoda, 2004: 5-9). Livingstone (2004): ‘One simple problem, of course, is that different experiments concern different children (age, gender and so on), different food choices, different cultural contexts, different kinds of media exposure, and so forth’.
Young also supported a multi-faceted approach, whereby a number of factors, not just advertising all interacted with and mutually influenced each other\(^{53}\), findings that question the direct effects hypothesis. (Young, 2003: 23). An outcome supported by Sonia Livingstone (2004), who sought to investigate the findings of the above studies. Livingstone recognised that television advertising has an influence on food preferences, but other factors played a role\(^{54}\) (Ofcom, 2004: 176). This was envisaged as a 2-step process:

\[
\text{Media} \rightarrow \text{Mediating variable} \rightarrow \text{Effect on audience}
\]

Consequently, instead of advertising having a direct effect, it may play a role as an indirect effect\(^{55}\). Due to this recognition of an element of media effect, Livingstone concluded that a ‘modest direct effect’ exists\(^{56}\) (Hargrave & Livingstone, 2006: 11). But what equates to ‘modest’ and how can you measure how much of an effect this is? This deduction is sketchy and open to interpretation, thus failing to conclusively affirm the extent of the effects.

**Conclusion**

Following brief consideration of effects in relation to other media, it appears the same reservations about the inconclusiveness of the direct cause and effect model are present across the board. On this basis the strength of the arguments advanced by moral entrepreneurs is not justifiable. As a result there is arguably little evidence to support the requirement for the strengthening of regulatory systems. Consequently, this queries the validity of moral panics generally. Will the anti-effects tradition provide further vilification?

\(^{53}\) This mixture of factors was termed as an ‘obesigenre’ environment (Young, 2003: 4).

\(^{54}\) Child’s own taste preference, price, familiarity, peer pressure, healthiness and convenience (Ofcom, 2004: 176).

\(^{55}\) Where many factors interact, so that one factor influences another when working through one or more intervening variables (Hargrave, 2006: 38).

\(^{56}\) This will be contemplated later in the conclusion of the anti-effects section.
Anti-effects Tradition

The previous section revealed the notion of intervening variables – this is a concept that has been debated by Cultural Studies theorists since the 1960's and sought to question the simple 'cause and effect' hypothesis (Buckingham, 2007: 3). This form of thinking started to emerge following Joseph Klapper's (1960) publication 'The Effects of Mass Communication'. For Klapper: 'Mass communication does not ordinarily serve as a necessary or sufficient cause of audience effects, but rather functions through a nexus of mediating factors' (Williams, 2003: 176). Halloran's (1970) conclusion exemplifies their thinking: 'We must get away from the habit of thinking in terms of what the media do to people and substitute for it the idea of what people do with the media' (Boyd-Barratt & Alvarado, 1992: 28). Such beliefs question the very notion of the hypothesis debated within the pro-effects tradition, as the audience is no longer regarded as passive but active. Depending on the strength of this argument, other anti-effects theories and how they apply to children, this could potentially call into question campaigning for greater regulation and indeed regulation in general. As a result, these theories require examination.

Intervening variables

Another advocate of intervening variables is Stuart Hall. Within his encoding and decoding model Hall concentrates on how differing social conditions shape responses rather than how individuals just use the media. Due to social circumstances the text can therefore produce varied interpretations as it is polysemic. Hall differentiates between three possible types of decoding: dominant, negotiated and oppositional (Williams, 2003: 196). The dominant reading means the viewer accepts the preferred meaning inherent within the text (the direct effects hypothesis), but if the viewer rejects this preferred reading and decodes in accordance with their own values and attitudes, they would be taking the oppositional reading. However, if the preferred reading is not rejected completely, but has instead been modified to meet the needs of the viewer, they have adopted the negotiated reading (Williams, 2003: 196).

57 Variables included age, gender and social class (Barker, 2001: 66).
This model suggests audiences can participate actively in the reading of texts, but not always to the extreme of the oppositional position\textsuperscript{58}, thus the notion of effects is not completely rejected (Fiske, 1994: 64). Hence, on a spectrum of support for the effects tradition, Hall appears in the middle ground. Theorists do exist though, who lie at the extreme end of the spectrum, one being John Fiske.

For Fiske, power lies with the audience who have the ability to resist dominant meanings, preventing negative effects (Williams, 2003: 202). The reason for this power is that the preferred reading cannot completely contain all the bits and pieces that compose that text. People can put ‘these bits and pieces together in different ways to produce different versions of the text’ (Williams, 2003: 201). For some, Fiske’s proposition attributes too much power to the audience and neglects the problematic history of audience research. Kitzinger (1999) professes that a more compromising approach should be acknowledged, recognising that audiences are active, but accepting that the media are also not without effect (Williams, 2003: 208).

**Uses and Gratifications model**

To an extent, Fiske’s thoughts are integrated under another theory: the Uses and Gratifications model. This argues that audiences use the media in order to gratify their own needs: ‘The uses approach assumes that people’s values, their interests, their associations, their social roles, are pre-potent and that people selectively fashion what they see and hear to these interests’ (Dickinson, 1998: 152). Basically it suggests that children use certain media to fulfil their emotional and social needs (Calvert, 1999: 9). Derdeyn and Turley (1994) through their examination of an aggressive troublesome adolescent who watched horror films support this. They found he used this genre as it intersected with his own worries and fears, which were a result of his deprived childhood. Therefore, his media usage was in fact a symptom of his aggressive behaviour, not a cause (Gauntlett, 1995: 97). Schramm, Lyle and Parker’s study

\textsuperscript{58} The majority of viewers actually hold the negotiated position.
‘Television in the Lives of our Children’ also embraces this view. After ten investigations between 1958 and 1960 in ten communities in Canada and the US, they argued that children use television, that they are active participants who select material to best fit their interests and needs (Lowery & DeFleur, 1995: 261).

Similarly to the pro-effects traditions, censure is applicable. Calvert notes that children do not often choose their own media experience, instead they are often present when parents watch adult television (Calvert, 1999: 9). Gauntlett (1995: 96) suggests this theory cannot provide answers about why people are drawn to certain programmes, plus it does not provide answers to what the material does in terms of behavioural consequences - the concerns in the traditional effects research.

**Other active audience studies**

Over the years various other studies have been conducted that support the critical audience theory, hence rebutting the pro-effects tradition:

<table>
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<tr>
<th>Year</th>
<th>Researcher/s</th>
<th>Research</th>
<th>Outcome</th>
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<tbody>
<tr>
<td>1980</td>
<td>David Morley and</td>
<td>Examined the context of media consumption to determine the meaning people took from interacting with the programme <em>Nationwide</em></td>
<td>They concluded that meaning is not predetermined by the media but its outcome is between the audience and the text. Again support existed for intervening variables (Williams, 2003: 191).</td>
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<td></td>
<td>Charlotte Brunsdon</td>
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<tr>
<td>1986</td>
<td>Patricia Palmer</td>
<td>Interviewed children, home observation and a survey</td>
<td>Children have a sophisticated, interactive approach to television (Gauntlett, 2005: 122).</td>
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<td>1992</td>
<td>Tulloch and</td>
<td>Australian students were shown sequences of</td>
<td>Revealed that children could readily understand and make influences</td>
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59 Socio-economic background played a role in generating different outcomes.
<table>
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<tr>
<th>Year</th>
<th>Author(s)</th>
<th>Description</th>
<th>Findings</th>
</tr>
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<tbody>
<tr>
<td>1996</td>
<td>David Buckingham</td>
<td>Study with young people aged 6-16. Used in-depth qualitative techniques – interviewing.</td>
<td>‘Children respond to and make sense of television in the light of what they know about its formal codes and conventions, about genre and narrative and the production process. In these respects, they are much more active and sophisticated users of the medium than they are often assumed to be’ (Barker, 2001: 13). Buckingham also found that children distinguish between factual and fictional material. They had strategies in place to protect themselves from or deal with negative responses (Barker, 2001: 13).</td>
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<tr>
<td>2003</td>
<td>Andrea Millwood Hargrave</td>
<td>Group discussions with children in the UK aged 9-13 looked at responses to violence in television and film clips.</td>
<td>Argued that children have a more textured approach to violence, they looked beyond the physical behaviour and refer the content to their own lives and are therefore sophisticated in their deconstruction of the images (Hargrave &amp; Livingstone, 2006: 65).</td>
</tr>
<tr>
<td>2004</td>
<td>Buckingham and Bragg</td>
<td>Researched into children’s responses to sexual violence in two different programmes <em>A country Practice</em> and <em>Which Side are you on?</em> After a twenty minute screening they were asked to write a side of A4 on what they were about.</td>
<td>Although some children struggled to understand what they saw, the</td>
</tr>
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content

children strongly defended their right to access such material, as to aid the process of developing their own values and beliefs. They also found that they critically evaluated what they saw and developed copying strategies, thus these consequences were deemed as ‘broadly positive’ (Buckingham, 2007: 19).

2005  David Gauntlett

Video Critical looked at seven groups of 7-11-year-olds and asked them to make videos about the environment.

The study demonstrated a high level of media literacy even in the youngest participants. That in their few years as media consumers they had learned elements of genre, presentation and misrepresentation (Gauntlett, 2005: 169-170).

All the above studies suggest children are active consumers of media and thus can negotiate the dominant meanings of texts. Consequently, they query moral entrepreneurial calls for further regulation to protect children. However, it is not that simple. Some studies have attracted criticism. Kevin Williams (2003: 208) contends:

Active audience researchers stand accused of reading too much into audience resistance. In their search for progressive interpretations of media texts they create the impression that the media have no power, and the relationships between the media and their audiences is unproblematic as critical readers can use the media to serve their own pleasures, needs and desires.

In addition, the dominant methodology used in these types of studies has its weaknesses. Qualitative studies are unable to offer causal evidence and are
'vulnerable to the charge of social desirability' – the research context establishes certain expectations. They are often also reliant on self-reporting - can people tell when they have been harmed? Would they admit to this? Would children necessarily know? (Hargrave & Livingstone, 2006: 43).

Another study that promotes the above theory is Hodge and Tripp (1986). Nevertheless, despite regarding children as active, their findings also suggest that simply renouncing claims for further regulation may not be valid. The reason being, their research recognises another crucial factor, that of cognitive ability. They conducted a series of experiments with children aged 10-14, who were shown a cartoon called *Fangface*. It was concluded as children grow-up they become more sophisticated in the ways they learn, i.e. that they can distinguish between fact and fiction and the only way they can make such a distinction is to engage with such material (Barker, 2001: 12). Consequently, the media can play a crucial role in children’s development, thus having a positive effect (Gunter, 2005: 155). This is important, as it is this ability that controls how a child filters and mediates information and thus could ultimately determine whether an effect takes place. Although it is seen as positive in terms of their development, it also queries the ability of children of all ages to deal with varying levels of media content. If it this was proven, to an extent the pro-effects model might be valid and the requirement for regulation may apply.  

**Children’s Maturity**

As will be shown the psychology and development of childhood theory forms the idealistic notion of childhood discussed in the moral panic section. It sees children as non-adults, and like the effects model it looks at what children cannot do rather than what they can. Developmental Psychologist Piaget provides support for this contention, through defining the various transitions a child passes in order to function comprehensively. He distinguishes between three key stages, the Pre-operational Thought stage (2-6/7 years), the Concrete Operational (7-11) and the Formal

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60 A child might fail to understand a media message if they lack the background knowledge in order to make sense of it (Strasburger, 2002: 10).
Operational (11+). The latter being where a child is regarded as being matured cognitively into adulthood (Strasburger & Wilson, 2002: 19). Within the Pre-operational Thought stage, Noble (1975: 83) has stated young children are ‘likely to think in a binary way, that is, to respond in an all-or-nothing manner to television’. Therefore, within this stage, children have difficulties in distinguishing reality from fiction and understanding narrative progression. Differentiating between reality and fiction is seen as essential, as it is an important ‘mediator of television effects’ (Berry, 1993: 39).

Many of the studies in this area have discovered that children within this stage find this process problematic, whereby they perceive anything that looks real as real. This is known as the “magic window” perspective (Strasburger & Wilson, 2002: 22). Noble (1975) found children aged 2 and 3 actually waved and talked to TV characters (Strasburger & Wilson, 2002: 22). Noble (1969: 84) has also ascertained, that after showing 5-8-year-olds a puppet film called Patrick and Putrick, and then asking them ‘could the puppets make pastry like they did in the film?’, the 5-year-olds were significantly more likely to conclude that the programme was real compared to the older children who were entering the Concrete Operational stage. J aglom and Oardner (1981) discovered that if an egg was broken on the television, children would attempt to clean it up (Berry, 1993: 42). Additionally, Flavell et al (1990) found that many 3-year-olds stated that a bowl of popcorn would spill if the television was turned upside down (Strasburger & Wilson, 2002: 22).

The above studies appear to reinforce Piaget’s theory of development. Nevertheless, Piaget has been condemned for grouping children in accordance with age. It is believed that a child’s maturity is not so abrupt and clear-cut, the reason being, children do not mature consistently and social conditions play a part in this development. Van de Voort (1986) showed that not all children of the same age identify with TV in the same manner (Gunter, 2005: 136). Potter (2003) believes that this distinction is faulty, that many undervalue children’s ability and in fact ‘children can be fairly sophisticated in judgements about reality’ (Potter, 2003: 71). Potter further contends that children’s limited cognitive abilities are not necessarily negative,
instead they can act as a protective measure. Collins (1973, 1983) provides an illustration of this as he discovered that younger children are less likely to understand the relationships between motives and aggression, therefore they may be less inclined to imitate such behaviours (Potter, 2003: 75). Based on his research (stated previously), Buckingham opposes Piaget’s way of thinking and the effects tradition in general, as he believes children do hold the essential knowledge and critical skills in order to make mature readings of the media:

Children respond to and make sense of television in the light of what they know about formal codes and conventions, about genre and narrative and about the production process. In these respects, they are much more active and sophisticated users of the medium than they are often assumed to be (Barker & Petley, 2001: 13).

Likewise Gauntlett’s (2005) study found that children as young as 7 can make ‘thoughtful, critical and media literate video productions themselves’ (Dickinson, 1998: 122). As a result, restricting access could have a negative impact.

**Benefits of the media**

To further contradict the pro-effects tradition, in addition to the above studies and their proposed positive outcome of the media – the active user, other benefits have been afforded.

In terms of video games a body of research exists to suggest their positive influence. The main benefits being on cognitive skills i.e. problem-solving skills (Eisele, 1981) and their ability to increase concentration span (Ball, 1978). One of the leading proponents in this field is Patricia Greenfield, whose 1984 study discovered that benefits to cognitive ability also transferred to other tasks which required similar applications (Gunter & Harrison, 1998: 22).
Many benefits have been afforded with the internet. Jenkins (2006) contends instant access to information, ability to develop cultural competences and social skills allows children to develop judgements about content and improve their critical evaluation skills. Buckingham (2007: 18) notes further positive effects: language development, development of pro-social behaviour, awareness of social issues, civic participation, social interaction, creativity and self-expression and identity development. Don Tapscott’s *Growing Up Digital* argues that the internet enables children to be active consumers as it empowers them: ‘[Children today] have new powerful tools for inquiry, analysis, self-expression, influence and play. They have unprecedented mobility. They are shrinking the planet in ways their parents could never imagine’ (Buckingham, 2003: 47). Tapscott does however recognise that this is dependent on access to the internet. Buckingham (2003:54-55) also acknowledges that the benefits of the internet are not inclusive.\(^{61}\)

Byron (2008: 19) when discussing both video games and the internet proclaimed: ‘These technologies offer a range of opportunities unheard of in previous generations – opportunities for play, for communication, for skill development, for creativity and for having fun’. As a result: ‘....the correlation between benefits and potential risks means that we need to take a sophisticated and proportionate approach [to regulation]’ (Byron, 2008: 27). The later point will be discussed shortly under the paradigm of children’s rights.

Despite observing benefits himself, Buckingham (2007: 19) also concludes that positive effects are ‘just as limited and equivocal as the evidence for negative effects’. Moreover, in relation to video games he claims: ‘...the research on the beneficial effects of games is no more convincing than the work on harmful effects. There is little persuasive evidence that any positive skills learned during the course of play – or indeed any broader dispositions towards learning – transfer across to non-game contexts’ (Buckingham, 2007: 31).

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\(^{61}\) There is little evidence that the internet is anymore democratic. Children require skills to locate, select and evaluate information – such skills are only realised by an elite, but notes there is a growing polarisation between the information rich and the information poor.
The above evidence suggests that analogous to the pro-effects tradition, research substantiating the anti-effects tradition is not solid. Due to conflicting evidence from both sides this poses an issue for regulators as how do you balance these views and form regulation? Before considering if these traditions can be balanced and if it is desirable, another factor that affects the reliability of each requires acknowledgement—research impartiality.

Research impartiality

When contemplating the conclusions of certain studies it is worth noting who funded or conducted the study and the research questions asked as these may provide bias. For example, Willard Rowland’s book *The Politics of Television Violence* (1983) looked at the debate over television violence between 1930’s and 1970’s and suggested how interest groups, the industry and policy-makers used research to attempt to define or (redefine) social issues for their own purposes (Buckingham, 2007: 10).

In terms of conducting research, when consulting on regulatory modifications regulators often utilise public opinion as one source to justify decisions. But how far is this true? Suspicions exist about the motivations of these consultations, therefore questioning if they truly reflect societal thought. One of the main criticisms is how questionnaires are used and that tightly scripted questions could pre-define public opinion (Lewis, 2001: 11). If research questions are configured to influence responses, this queries the motivation of the regulator, as such methods may purely be a way of guaranteeing the preferred response. The way the data is utilised poses comparable reservations. Barry Sussman contends political leaders routinely dismiss results if they ‘do not inform their own political goals’ (Lewis, 2001: 35). Helliger and Judd purport similarly, that when public opinion does not correlate with their interests, elites ‘have a significant capacity to ignore it’ (Lewis, 2001: 35). Based on such queries, this further adds to the problem of how to regulate on the basis of effects research.

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62 BBFC base policy changes on public opinion. Ofcom consults with the public.
Reaching a common ground?

The evidence presented throughout both traditions offers studies that support, but also contradict their hypothesis. They are further questioned by methodological flaws and queries over research bias. In terms of the first point, Buckingham (2007: 26) has noted this predicament: ‘The evidence of harmful effects is generally less persuasive — although that is not to say that there are no such effects. Equally, the evidence of beneficial effects is far from convincing either — although given that does not mean that such effects may not exist’. This provides a complex quandary for regulators, as how do you weigh up such conclusions? Millwood Hargrave and Livingstone attempted to provide an answer by reaching a common ground and concluding on ‘modest effects’\(^63\). But as questioned earlier, what equates to modest effects? How do you interpret this and formulate regulation? On this basis should regulators ignore moral entrepreneurial calls? In addition, Buckingham has criticised their attempts to reach a conclusion based on different approaches: ‘These contrasting types of research cannot simply be added together to create a sum total, as though they were equivalent’ (Buckingham 2007: 26).

Where does this leave regulation? Buckingham (2007: 5) again provides comment:

> The challenge in applying research in policy is to balance out these potential harms and benefits. It is important that children are protected, but not over-protected, to an extent that might prevent them from enjoying the potential benefits of media.

Such a conclusion seems fair and suggests based on the evidence it would be desirable to balance both sides, but again how do regulators achieve this? This would obviously be open to interpretation and could lead to inconsistent regulatory practices. This would question whether such a balance could be achieved. In addition, the process of

\(^{63}\) Was discussed early, see p.45.
determining how to regulate could be further complicated by the issue of children's rights.

**Children's rights**

Livingstone has acknowledged that in order to counteract the pro-effects tradition, a children's rights perspective is beginning to be asserted (Livingstone in: Carlsson, 2006: 31). This in a sense coincides with all the anti-effects theories as they argue children should have the right to access the media to reap their benefits. However, similarly to the existence of the two opposing effects traditions, the same applies to this perspective.

On one hand there are extreme libertarians that contend children should possess the same rights as adults: ‘The tendency of civil libertarians to treat children as adults when it comes to the First Amendment issues is not accidental. It is rooted in contemporary liberal political theory, especially in its more extreme libertarian version’ (Etzioni, 2004: 47). The rationalization for this conviction embodies to an extent the anti-effects approach - media output causes no harm, whilst restricting access does (Etzioni, 2004: 34). However, as shown such a black or white distinction is not that straightforward. The fundamental element here is the media is regarded as an educational tool and key to children's developmental progression. This classic vindication was declared by John Milton in the middle of the 17th century whereby he condemned ‘censorship as a barrier to learning’ (Puddephatt, 2003: 3). Barendt (1985: 25) provides additional emphasis:

....it is an integral aspect of each individual's right to self-development and fulfillment. Restrictions on what a man is allowed to say and write, to hear or read, inhibit the growth of his personality. People will not be able to develop intellectually and spiritually unless they are free to formulate their beliefs and political attitudes through public discussion.
Mike Godwin (2003) professes similar thinking: ‘...children who grow up in free speech societies are less likely to be disturbed by so-called offensive speech. Their society has taught them that learning to deal with the offensive speech of others is part of what becoming an adult is about’. Heins (1999: 8) further states: ‘Even for pre-teens, consideration should be given to the notion of preparing them for adulthood through education and exposure to ideas, rather than creation of forbidden thought zones and closed circuit indoctrination’.

On the other side of the coin is the protectionist approach; the requirement to safeguard vulnerable individuals from harm. John Stuart Mill’s ‘On Liberty’ (1978) made reference to this: ‘The only purpose for which power can be rightfully exercised over any member of the civilised community, against his will, is to prevent harm to others’ (MacMillan, 1983: 107). Therefore, unlike the other approach, this would not function for the benefit of the individuals. Due to the requirement to protect children from harm, this taps into the notion of pro-effects. Similar reasoning is embedded within Article 10 of the Human Rights Act 1998, whereby ‘protection of health and morals’ is listed as a circumstance when freedom rights can be ignored (Collins, 1996: 97). The government Study Guide for the Act clarifies that this condition may affect children’s rights: ‘...where these forms of expression are concerned, restrictions can more easily be justified in order to protect the rights of others and the interests of society. This means that there can be lawful restrictions on access to certain films, videos and publications so as to protect children’ (DCA, 2002). In addition, despite Article 13 of the UN Convention on the Rights of the Child expressing the importance of children’s right to freedom of expression and Article 17 which expresses their right to collect information from the media, the document also includes the restraint that rights will only remain as long as the material is not ‘damaging’ (UNICEF, 2006). Contrary to Mill’s statement, both these instances could be regarded as a positive right, but would be dependent on how far access was restricted as this could have an adverse affect.

This section has revealed there are two sides to children rights. On one side there is the right to access, whereas on the other side is the right to protection. But how does one balance these rights?
Regulatory stance

Based on the above predicament what stance has media regulation taken? Is a paternalistic approach to regulation still favoured\(^\text{64}\) or has a new paradigm of regulation emerged like McRobbie and Thornton suggested\(^\text{65}\)? This question forms the backbone of this thesis, how regulators have tackled this quandary, and as a result, have robust systems emerged. Before this can commence acknowledgment needs to be given to a proposed solution. Buckingham (2008: 34&43) has afforded such a solution, whereby ‘...in the absence of definitive research, instead of further regulation, the focus should shift to developing forms of media literacy’. Other proponents of this are Martin Barker and Julian Petley (1998: 4): ‘We will need a positive educational strategy, rather than a negative one that is based on censorship’. Moreover, it combines both sides of the traditions and children’s rights, as an element of protection remains but children’s access and the need to develop as critical consumers is also acknowledged. Therefore is seeks to address the conclusions of effects reviews by recognising there is the potential for both negative and positive effects of the media. Consequently, considering the complex nature of effects and to prevent stifling of children’s development, this appears to be a viable solution. Have regulators on this basis chosen to adopt this approach as an answer to their regulatory dilemmas?

Media literacy

So what exactly is media literacy and is it an appropriate response to balance the issues noted throughout this chapter? Ofcom has provided a definition of media literacy: ‘The ability to access, understand and create communications in a variety of contexts’ (Ofcom, 2008b). In terms of this debate, the pivotal term here is ‘understand’, as it is envisaged that obtainment of critical skills permits children to question media messages which in a sense acts as a form of self-regulation: ‘Theoretically media literacy assumes that children can be empowered both to use

\(^{64}\) The moral panics chapter demonstrated how government intervention was a favoured response in the past.

\(^{65}\) See the moral panics chapter p. 29.
media to their advantage and that power by the individual also protects the child from negative effects' (Kundanis, 2003: 16). Such an educational strategy would seek to prepare children to 'understand and to participate actively in the media culture that surrounds them' (Buckingham, 2001: 8). Basically instead of acting as a hindrance it would permit children to enter the democratic world and ascertain a level of freedom: 'Education in media literacy is thus not simply an alternative to censorship; it is far preferable to censorship, for it enhances rather than curtails young people's intellectual growth and their development into critically thinking adults' (Heins, 2003: 3). On this basis if media literacy operates in this manner and achieves what it is perceived to do, it appears an ideal solution to the quandaries that besiege censorship. However, for this approach to be effective, it is generally believed that various avenues of education require attention. For example, media literacy should be a multiple process, whereby education initiatives need to go further than the child itself, as parents and carers also require knowledge to sustain the child's learning outside of the classroom (Buckingham, 2007: 62).

It must be noted that despite some positives, it is questionable whether media literacy is the absolute solution to the issues raised throughout this chapter. No research exists to support the notion that the more media literate children are, the less easily they are affected by the media (Hargrave & Livingstone, 2006: 83). In addition, it has been regarded that media literacy should not be regarded as a sole solution to the effects debate. Buckingham (2005: 60) acknowledges that whilst media literacy is 'extremely important and constructive - it does not obviate the need for other forms of regulation', instead it 'should be seen as part of a broader regulatory strategy, and not as a substitute for it'. In a further 2007 study Buckingham concludes: 'media literacy should not be regarded as an alternative to regulation, as people who are more media literate are not necessarily immune to harm' (Buckingham, 2007: 62). Cary Bazelgette (British Film Institute) contends similarly: 'Media literacy cannot be a substitute for regulation......education can only basically empower, it cannot protect, it cannot limit, it cannot stop you doing things' (Livingstone, 2004: 14). Consequently, the issue of balance again arises - if regulators chose this option how should they balance media literacy with regulation? What level of intervention should be applied? Moreover, does it work in practice? These questions will be considered in each case study by examining media literacy in place and its effectiveness. This is particularly
important, as when producing regulation regulators frequently refer to the effects
debate when justifying their actions, but do they contemplate evidence when targeting
media literacy initiatives? This section has already highlighted that it should not be
seen as an isolated answer to the problems associated with regulating media content.
Moreover, it further suggested that initiatives should not be just aimed at children,
thus suggesting a strategic approach to dissemination is required.

Conclusion

This chapter has discussed pro and anti effects debates, both of which have produced
inconclusive and methodologically flawed research. As highlighted throughout the
analysis, the main issue is balance, how should regulators balance these two
paradigms? How far should they regulate? How much freedom should be given to
children to allow them to develop as critical consumers? These are the kind of
complex questions regulators are currently facing and it is whether by attempting to
achieve this balance regulation functions as intended. As stated earlier, this will form
the foundation of this thesis – how regulators are dealing with this predicament,
whether they have found solutions to the quandary of regulation and if this works in
practice. In terms of a solution media literacy has been offered. Have regulators
decided to follow this route? If so is it an adequate solution?

This thesis will also consider how regulators balance the above with calls from moral
entrepreneurs for further regulation. As highlighted in the introduction, if effects were
unproven, the grounds for a moral panic and regulatory changes may not be justified.
Consequently, in view of the regulatory predicament together with the proposed new
regulatory solution (media literacy), should regulators still directly intervene (as
evidenced in moral panic chapter), particularly as some regard panics as
unwarrantable:

The history and persistence of effects of research can be much more
easily traced back to the recurrent moral panic associated political
interest about popular media, than to any more intelligence process
of thoughtful research development based on a growing body of
knowledge. The research evidence has at least shown that this moral panic has little justification (Gauntlett, 2005: 137).

Regardless of this, the moral panic section highlighted two further concerns that are not linked to the effects tradition: technological developments and parental regulation. Do these factors pose a problem? If so how are regulators seeking to address and balance these with all the factors already mentioned?

The following case studies will seek to examine how regulators are balancing all the above issues, by tracking the development of moral panics and subsequent regulation (if any). Once the regulatory regime has been established this will be analysed to determine its efficiency. Recommendations will then be suggested to improve the regulatory regime.
Chapter 3

Advertising and Childhood Obesity

Advertising and its effects on children is a long debated topic and concern which is fuelled by the assumption that advertisements seduce undeveloped and undiscerning minds. This contention has existed from the outset of television advertising and was primarily a result of marketers' realisation (from the mid 1950’s onwards) that children fulfilled the necessary criteria as consumers (Kline, 1995: 167). As a result concern has developed over: 1) increased pressure on parents (what has become known as pester power) and 2) children’s lack of cognitive and conceptual skills to reject advertising messages. In terms of the latter, in the mid 1960’s William Wells provided comment: ‘Perhaps the most pervasive difference between children and adult respondents is that children find abstract concepts very hard to understand and even harder to express’ (Kline, 1995: 164, 167, 187). This was also comprehended in 1953 within an edition of Principles, whereby it was noted that advertising ploys sought to take advantage of ‘children’s natural credibility and sense of loyalty’ (Henry, 1986: 315-316).

These claims derive from the pro-effects tradition and its application (by some) continues to the present day. Concern recently has transferred to advertising of HFSS (high fat, sugar and salt) products, where it is contended they encourage unhealthy eating in children, therefore resulting in escalating childhood obesity rates. Despite the acknowledgement of other instigating factors e.g. poor diet and lack of physical exercise, HFSS advertisements have attracted attention and have become pivotal to the construction of a panic. An advocate of this is Sustain (The Alliance for better Food and Farming), who in conjunction with 137 national organisations formed the ‘Children’s Food Bill’, calling for the banning of food advertisements to children. As a result the government called for research into the effects of advertising on food choices and a review of current regulatory provisions. The outcome was Livingstone’s conclusion of ‘modest direct effects’66. How the government and regulators responded to this, balanced the concerns of moral entrepreneurs and ultimately how the

66 See p.45.
regulation works in practice will be the focus of this chapter. In order to examine the latter, it is firstly important to establish how the panic developed, as the strength and validity of the panic may have impacted on how much influence it had on the development of regulation.
Moral Panic

As moral panics involve calls for greater regulation, it is vital to understand how the concern surrounding food advertising has developed and whether this has impacted on regulation. This section will therefore examine how the panic has developed over the years and what were the key instigating factors behind it. Where possible the main stages of moral panic theory will be applied, hence, reference will be made to responses from moral entrepreneurs, the government, experts, and the press.

Key Instigating Factors

The link between advertising and obesity did not emerge until the 1990’s. Prior to this the concern was dental hygiene (Young, 1987: 33). Various elements have played a role in this transition; these will all be briefly discussed.

1. Press coverage of growing obesity rates and health implications

Unlike the majority of media related panics which have revolved around violent content, this panic has focused on another negative consequence – the influence of food advertising on growing obesity rates. This sub-section will highlight how the press has responded, as their role could aid panic formation. Concern appeared to mount in 2001 when the press addressed rising obesity levels. The Daily Mail observed that pressure groups condemned the food industry for ‘fuelling an obesity epidemic’, terminology which could help intensify a panic. (Poulter, 2001: 22). Such censure continued in 2002 and 2003: ‘Food industry blamed for surge in obesity’ (Boseley, 2002: 10). One article stated that in recent years obesity amongst 6 year-olds had doubled and trebled in 15 year-olds (Meikle, 2003: 12). This led to the conclusion that the UK was suffering from a ‘health time bomb’, a cost to the government of approximately £3.6 billion a year (Meikle, 2003: 12). As a result, advertising was soon censured as a form of child abuse. This was instigated by MEP Patricia McKenna’s comments: ‘Children are a vulnerable section of society and I believe to a certain extent, the targeting of children by the food industry is an abuse

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68 Exaggeration of the issue may amplify concern – see moral panics chapter p. 19.
(Jolly, 2003). Since 2003 the reportage of heightened rates of obesity has continued. In April 2006 *The Guardian* featured an article, ‘Child obesity has doubled in a decade’ and junk food and lack of exercise were named as reasons (Carvel, 2006).

In addition to the reporting of obesity rates, the coverage of further associated negative effects could have aided apprehension. This has revolved around health risks and the resulting governmental costs. Coverage included: ‘Epidemic raises risk of children developing diabetes’ (Laurance, 2004: 8). ‘Obese kids to die sooner’ (Mirror, 2002: 2). ‘Rise in obesity is set to cripple health service’ (Roberts, 2004: 11). This highlighted how obesity in children had tripled in the past 20 years and that obesity might surpass smoking as the greatest cause of premature loss of life. It further revealed it would cost the nation an estimated £7.4 billion a year.

### ii. Industry investment

Industry investment in food advertising plays a role in the panic due to the amount of HFSS products targeted at children, thus demonstrating their importance to the market. In May 1991, *The Independent* reported that more money was spent on food advertising than any other product, but received ‘scant mention in the codes published by the ITC (Independent Television Commission) and ASA (Advertising Standards Authority)’ (Garrett, 1991: 15). In 1993 The National Farmers’ Union recognised that in 1992 £523 million had been invested in food promotion. As a result, they called for junk food advertisements to be banned or severely restricted from children’s viewing (Erlichman, 1993: 5). They also conducted research that revealed 99% of TV food adverts screened during children’s programmes promoted HFSS items. This prompted a statement from Joe Harvey, Director of the Health Education Trust: ‘It’s a tragedy, a betrayal of our youngsters who should be protected from the onslaught of these products in their own home....this is a disaster. The way these manufacturers target these youngsters is immoral, an exploitation of their vulnerability’ (Townsend, 2001: 15). Such comments are emotive and are central to the panic. They are based on the hypothetical notion (mentioned earlier) that children do not possess the necessary prerequisites to refute advertising messages. Whether such affirmations are valid has prompted expert research, this will be considered shortly. Continued industry investment however, suggests that advertising must hold some value. In 2003
between 20% and 30% of ITV's revenue came from food advertising (ADASSOC, 2005: 2). Moreover, in 2003 Andrew Brown, (Advertising Association) revealed that less then £2 million was spent on promoting healthy food in comparison to £600 million on commercial food (Wintour, 2003: 14).

iii. **Technological development**

Following the examination of moral panic theory, another area that was highlighted as a potential stimulator for a panic was the development of the internet and the problems this poses for regulation. This is relevant here, as research has revealed that the industry is shifting advertising to the internet where current regulation is not applicable. In 2005 research demonstrated that the industry was targeting children as young as 6 and 7 via the net (Food, 2005: 1). Within the same year Sustain reported: ‘.....food marketing websites targeted at children often use some of the most insidious and manipulative marketing techniques’ (Food, 2005: 1). They further stated: ‘While controls on advertising in print and broadcast media are weak, in other media, the situation is even worse..... The internet representing one of the most powerful forms of promotional activity with its capacity to engage and influence children, remains effectively unregulated (Sustain, 2005: 28). Which, a consumer body reported similarly in 2006 in their report Child Catchers. They revealed that the industry was using sophisticated methods to target children via the internet and mobile phone technology. Headlines followed suit: ‘Junk-food sneaks; giants target youngsters via websites’ (Poulter, 2006: 45), ‘How the admen target children’ (Clark, 2006: 6).

Lucrative capabilities of the net could further intensify apprehension, these include: 1) an ideal environment to attract children; 2) It is inexpensive to advertise on your own site; 3) Advertising can remain online for months and can be updated regularly unlike repetitive fees and production costs associated with broadcast slots (Food, 2005: 1). 4) They have international scope, with children able to log on all over the world (Food, 2005).

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69 See the moral panic section in the first chapter p. 18.
70 This will be discussed in the development of regulation section
71 In 2004 KP alleged over 50,000 teenagers logged on to their site every month (ASA, 2004: 3).
Inadequate regulation

The above reports concerning lack of internet regulation are relevant here. Other criticisms have also been noted. Such censures will feature throughout this chapter, including in the moral entrepreneurial response section, but brief acknowledgement will be given as moral panics normally involve calls for greater regulation (Killingbeck, 2001: 3). *The Independent* suggested that in the 1990's regulation in terms of food advertising was inadequate (Garrett, 1991: 15). The *Daily Mail* in 1992 questioned regulator motives and the adequacy of their codes. They commented on how Thunderbirds tie-ins urged children to eat at Pizza Hut, yet the ITC code banned the use of puppets to endorse products. Moreover, despite banning adverts which encouraged children to eat frequently, Mars were permitted to state that Milky Ways were: ‘the sweet you can eat between meals’ (Taylor, 1993: 34). This raises questions about regulator autonomy. Thus the relationship between the industry and regulators will require further consideration. 

Sustain also noted a possible flaw in the system – the failure of regulation to recognise the cumulative effect that the total advertising of unhealthy food to children is likely to have. As a result, they concluded that the regulation ‘fails to protect children from grossly imbalanced food advertising’ (Sustain, 2001: 5).

iv. Parental responsibility and regulation

Concerns over parental responsibility have also been noted as a potential instigating factor. The relevance here is that advertisements may encourage children to pester their parents for items advertised. This is known as pester power and is again based on the negative effect advertising has on children. Whether or not this assumption is valid, the key points are parental ability to resist pestering and their understanding of a healthy diet. If parents fail to apply the latter and continue to feed children HFSS foods, their actions may undermine regulation measures. Research suggests they require more information. For example, Ofcom found that while mothers proclaim they know what constitutes a healthy diet, they are at a loss how to make it attractive

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72 See the development of advertising regulation section.
73 See the moral panic section in the first chapter p.18.
to their children (Ofcom, 2001: 11). In addition, Ipsos MORI’s study on behalf of Kingsmill found while 98% of parents are aware of the importance of feeding children a healthy diet, 86% would welcome more information (prnewswire, 2007).

v. Moral entrepreneur response

As a result of the above concerns, various lobby groups since the mid-1990’s have sought to raise these issues and call for greater regulation. Stephen Kline (2004: 22) has noted that such action unleashed a moral panic from 1999 onwards. Although some of the concerns stated above derive before this period, due to Kline’s observation and the confinements of this chapter, action after 1999 will be documented. In 2000 the Food Standards Agency (FSA) proclaimed: ‘There is a considerable concern that the way foods that are high in fat/sugar/salt are promoted to children is undermining healthy eating advice and contributing to childhood obesity and longer term health problems’ (Sustain, 2001: 4). In 2001 the British Dietetic Association lobbied against the employment of cartoon characters in adverts (Ferguson, 2001: 14).

Debate intensified following Hasting’s pro-effects verdict (see the expert research section), as it provided fuel for those wishing to eradicate HFSS advertising. This affirms the weight of the effects theory to moral entrepreneurs and as a result they pushed for a ban under a Ten Minute Rule Bill to ‘ban the advertising of high fat, high sugar and high salt content food and drinks during pre-school television programmes and related scheduling’. This was submitted to parliament by MP Debra Shipley on the 4th November 2003. Shipley drew on Hasting’s findings by condemning ministers as ‘completely stupid’ for isolating physical activity as the sole predetermining cause of the obesity crisis (Wintour, 2003: 11). Inadequacy of the current regulatory framework was also mentioned: ‘There is a growing consensus that a ban is the only way forward as self-regulation is demonstratively not working’ (BBC, 2003: 1). In fear of a ban the industry responded. For example, Martin Glenn, President of PepsiCo UK, argued that the proportion of food advertising had actually declined over the past 15 years (Wintour, 2003: 7). In addition, in November Coca Cola pledged to withdraw advertising aimed at the under 12’s (Prynn, 2003: 9). Shipley reintroduced the Children’s Food Bill in May 2004. The motion had support
from 241 Parliamentary members and 121 national organisations, but again remained unsuccessful (Sustain, 2005).

The next waves of censure focused on industry unwillingness to voluntarily reduce HFSS advertising. Shipley commented on voluntary efforts:

> Voluntary codes won’t work while the industry continues to believe its not part of the problem. Responses such as McDonald’s have only come about because the spotlight is firmly on these companies. As soon as political and media attention shifts, they’ll continue to do as they have always done (Barrett, 2004).

In addition, Charlie Powell (Sustain) criticised such techniques for ‘using ever more sophisticated marketing ploys’ (Derbyshire, 2005: 7). Consequently, they persevered for a total ban and the Children’s Food Bill was again reintroduced in June and again in December 2006 but on both occasions to no avail (Campbell, 2006).

The above provides a snippet of the extent of moral entrepreneurial response. Since 2006 the campaign has continued, but these will feature in the below sub-sections, as criticism mounted following research and governmental and regulator response.

**vi. Expert research**

As already noted, moral entrepreneurial concern revolves around media effects and the supposed negative influence of advertising on children’s food choices. But are their claims valid? Should the government and regulators listen to their campaigns and modify regulation? Various research publications have surfaced over the years to determine this and have become central to this debate.

As stated in the previous effects chapter, the 2 main publications were Gerald Hastings' *Review of Research on the Effects of Food Promotion to Children* (2003) and Sonia Livingstone’s research for Ofcom: *Childhood Obesity – Food Advertising in Context* (2004). Commencing with the Hastings report, this generated a knee-jerk reaction from moral entrepreneurs due to its pro-effects conclusion. Kath Dalmeny,
Policy Officer at The Food Commission said the report was a ‘call to action’. In addition, the Co-op called for a widespread ban of HFSS food during children’s television. The food industry provided defence by maintaining that strict codes of practices were in place to govern advertising (Uhlig, 2003). Whether or not this is true will be debated in the development and evaluation of regulation sections.

Hastings’s report, in combination with lobby group pressures, triggered reaction from the government, whereby they requested that Ofcom analyse the evidence and review current regulatory codes (Ashley et al, 2003). Sonia Livingstone’s conducted the research on their behalf. As stated above the outcome, unlike Hastings’s suggested a ‘modest direct effect’, whereby advertising was listed as one of many factors of increasing obesity rates (Ofcom, 2004: 176). This is interesting, as the panic surrounding advertising and obesity ignores this. However, this conclusion also infers that an element of risk is present, thus to an extent moral entrepreneurial concerns could be genuine. As raised in the previous chapter, this presents a quandary for regulators – how do you regulate, how far to restrict access on this basis? The following section on the development of regulation will demonstrate how regulators have sought to tackle this.

The result of Livingstone’s report was greeted with varying responses, particularly as it formed the basis for how Ofcom would revise regulation (see the government section). It was warmly received by FDF (Food and Drink Federation): ‘There’s been an awful lot of emotionally-laden opinion on food advertising, and we are pleased this report takes an evidence-based approach’ (Laurence, 2004: 8. Consumer groups responded critically: ‘The conclusions of the Ofcom report will do little to address the diet and health crisis. This is yet another example of the government passing the buck from one department to another. The time for stalling is over’ (Consumers’ Association, cited Laurence, 2004: 8).

Livingstone’s report may have been required to 1) stem panic, 2) reassure the public that advertising was not as powerful as Hasting suggested and 3) prevent emotionally led regulation. Based on the above quotation, it appears it did little to combat pressure group concern.
vii. Government and regulator response

One of the final elements of a moral panic is reaction from the government or regulators. The majority of action will be documented in the development of regulation section. Focus here will be on the most recent developments, as it could be construed that government intervention followed the continued wave of censure since 1999. The latter sub-section highlighted that the government responded by requesting Ofcom analyse and review the codes. Whilst this process was in motion, the government also asked the industry to voluntary withdraw HFSS advertising to children. If they failed to do so, the government pledged:

If by early 2007, they have failed to produce change in the nature and balance of food promotion, we will take action through existing powers or new legislation to implement a clearly defined framework for regulating the promotion of food to children (Campaign, 2004).

The government did not respond in 2007, instead they waited for Ofcom’s results. Following their consultation and Livingstone’s ‘modest effects’ conclusion, Ofcom modified the regulation and the revised code was released in February 2007. The major changes - advertising of HFSS products in or around children’s programming or during programmes of ‘particular appeal’ to the under 16’s was forbidden. These modifications will be elaborated on in the development of regulation section.

The above suggests that the government and regulators were reactive to the concern, thus inferring that the panic may have influenced regulation. However, how fundamental were the above regulatory changes? How much weight did the government and Ofcom give to the panic and the modest effects conclusion? This will be discussed in the following section.

Despite intervention, moral entrepreneurial censure continued. Peter Hollins of the British Heart foundation professed: ‘Ofcom have turned their back on the right thing for children’ (BBC, 2007a). Sue Davies, Which? Chief Policy Advisor also provided

74 See moral panics section in the first chapter p.21.
condemnation: 'The new controls will clearly fail children...... The only way to ensure that the majority of children are not exposed to ads for unhealthy foods is by introducing a 9pm watershed' (BBC, 2007a) The lack of a watershed was one of the main criticisms purported by non-industry lobbyists (this and other censures will be debated in the regulator section).

One further criticism requires acknowledgement, that of regulator impartiality. The British Heart Foundation stated: '.....this limited proposal (new code) will be further weakened by lucrative loopholes open to exploitation....Ofcom has acted in the interests of the advertising and junk food industry, not our nations children' (BBC, 2006a). Professor Sir Al Aynsley-Green, Children’s Commissioner for England and Wales claimed similarly: ‘Children have been sold out yet again to the interests of profit’ (BBC, 2006a). Such affirmations again question regulator impartiality. Response by the industry suggests otherwise. The FDF condemned Ofcom for going too far and being ‘disproportionate’ (BBC, 2007a).

The above criticisms infer that regulation may not been balanced appropriately, that flaws still exist. They further suggest that the regulators have to consider a further factor – the industry. The sub-section on industry investment suggested the importance of advertising to the industry. As a result it could be contended that they would wish to protect their right to advertise. Whether or not they play a role in how regulation develops and whether concerns of impartiality are valid, will be debated in the development and analysis sections, as will be the validity of moral entrepreneurial concerns generally.

Conclusion

This section has affirmed that a number of factors may have played a role in moral entrepreneurial response and the development of panic. These include growing obesity rates, unwillingness of the industry to self-regulate, inadequate regulatory provisions, the potential for the internet to undermine regulation and queries over parental responsibility. The governments reaction suggests that these factors, and hence the panic, may have played a role in the development of regulation. However, as previously mentioned, this could never be proven. Nonetheless, a factor that may
have played a greater role is Livingstone’s ‘modest direct effects’ conclusion, particularly as her research formed part of Ofcom’s consultation and subsequent response. Have Ofcom managed to balance this with all the factors mentioned? The fact moral entrepreneurial censure continued after the modifications suggests not. In order to substantiate whether such concerns are valid, analysis of the regulatory system is required.
Development of Regulation

In order to ascertain the validity of moral entrepreneurial censures and ultimately the viability of the continued moral panic\textsuperscript{75}, before analysis can commence, it is necessary to establish if these concerns have been addressed and how regulation should function. This will involve consideration of those responsible for codes and governance, but also possible motivators behind key regulatory decisions. The latter is important due to queries over industry bias. This may also provide an indication of how the government and Ofcom attempted to balance all the factors, as their decision process may highlight which provided the greatest influence.

The History of Regulation

Food advertising regulation in relation to children and obesity is a fairly recent phenomenon. Prior to the 21\textsuperscript{st} century there has been very little applicable regulation. In fact, before Ofcom’s new code in 2007, regulation in terms of advertising and childhood obesity was scarce. In the 1950’s the issue was whether advertisements were ‘legal, clean, honest and truthful’\textsuperscript{76} (Henry, 1986: 33). In the 1980’s this transferred to whether adverts could cause harm: physically, mentally or morally (Young, 1987: 33). Children’s health issues started to feature in 1981, but concerned dental hygiene\textsuperscript{77}. In the early 1990’s the possible affect of advertising on children’s health was acknowledged. For example, in 1991 regulation stated: ‘Advertisements must not damage good dietary habits or discourage the consumption of food that is generally accepted as a good dietary option. Confectionery and snacks should only be presented as an occasional pleasure’ (Gunter et al, 2005: 147). In 1994 this was also addressed: ‘Advertising should neither encourage eating and drinking near to bedtime, nor promote the replacing of main meals with snacks and confectionery’ (Young, 1998: 36). The latter may have been a response to two controversial advertising campaigns: 1) A Mars a day helps you work rest and play and 2) Milky Way, ‘the sweet you can eat between meals without ruining your appetite’ (Sustain, 2005: 28).

\textsuperscript{75} If concerns are not valid then arguably the necessity for continued concern is debatable.

\textsuperscript{76} This rule was established by The Advertising Advisory Committee, a body required by the 1954 Television Act to advise on advert formation.

\textsuperscript{77} ‘Advertisement shall not encourage persistent sweet eating throughout the day or the eating of sweet, sticky foods at bed-time’ (Young, 1987: 33).
Following the 1994 amendment, regulation remained relatively untouched for ten years despite continued concerns (Sustain, 2005: 28). The lack of response may explain why concerns by moral entrepreneurs have gained momentum over the years, as the codes stated appear to have done little to address the issues raised i.e. the cumulative effect of advertising\(^78\) and the increase in HFSS food targeted at children\(^79\). In terms of the later, Sustain believed that regulation failed to address television advertising presenting a grossly imbalanced nutritional message (Sustain, 2005: 28). Nevertheless, as already stated the government did act and the codes were modified. But why did they not intervene until 2004? Definitive reasoning can not be provided as this has not been disclosed, thus only inferences can only be made. Factors that could have played a role were suggested in the moral panics section: increased obesity rates, children’s health and long term implications, costs to the government, press coverage and moral entrepreneurial campaigns. In terms of the latter has government intervention in combination with Ofcom’s new code addressed their concerns?

**Current Regulation**

As stated previously the regulation system remained untouched for 15 years until 2004 when the government intervened. This was a two-step process: 1) Tessa Jowell (the then Secretary of State for Culture Media and Sport) asked Ofcom to investigate the robustness of current regulatory provisions (Ofcom, 2005). 2) The government’s Health Select Committee recommended that, while not calling for a ban: ‘.......we would very much welcome it if the industry as a whole acted in advance of any possible statutory control, and voluntary withdrew such advertising’ (Parliament, 2003). As stated previously, if the industry failed to demonstrate commitment by 2007, the government threatened to intervene directly\(^80\). The Hastings’s report and the debate that followed may have prompted this response.

The government decided further action was not necessary and waited for Ofcom’s new code. This decision is interesting as it represents a different stance than those

\(^78\) Sustain’s criticism of the Independent Television Commission’s Code – see p.68.
\(^79\) See industry investment in the moral panics section p.66-66.
\(^80\) See government response in the advertising moral panic section p. 72-73.
taken in previous panics\textsuperscript{81}. As a result it implies the regulatory paradigm has changed. The following section will seek to determine how Ofcom’s code operates.

Ofcom’s code was released in February 2007. The main rules to stem from the code are:

- HFSS products must not be aired in or around children’s programming or those programmes which are of ‘particular appeal’ to the under 16’s

- Rules are applicable to sponsorship but will not affect brand advertising (Ofcom, 2007).

If these work in practice, the second rule may address the concerns over cumulative exposure to adverts and also the increased levels of HFSS adverts. The effectiveness of these rules will be examined in the analysis section.

Ofcom decided to implement these restrictions in various stages. In relation to children’s programming they were applicable from April 2007; those programmes with particular appeal to children from 1\textsuperscript{st} January 2008. Due to the foreseen profound effect on dedicated children’s channels, the code would be phased-in with full implementation by 1\textsuperscript{st} January 2009 (Ofcom, 2007). This staggered implementation triggered criticism about Ofcom’s motives. Sustain professed: ‘given the notice that stakeholders have already had about restrictions, we cannot see that a transitional period would be necessary’ (Sustain, 2006a: 15). Ofcom deemed it necessary due to possible effects on certain channels, particularly dedicated children’s programming, thus allowing opportunities for re-scheduling (Ofcom, 2007: 23). The industry supported this move, with some contending greater time should have been afforded\textsuperscript{82}.

Queries over regulatory bias continued following Ofcom’s lengthy process in forming the code. Following the government’s requirement in 2004, Ofcom stated measures

\textsuperscript{81} See p. 23-28 – as a result of panics in many cases direct intervention resulted.

\textsuperscript{82} The FAU (Food Advertising Unit) felt timings were challenging following Ofcom’s delayed launch so late in the trading period for 2007, when programming budgets for 2008 were already committed (FAU, 2006: 4).
needed to be placed in time for the government's review of industry commitment in early 2007; the code was not released until February 2007 (Ofcom, 2006: 87). This could be regarded as a delaying tactic which ultimately benefited the industry. On the other hand they could argue the process was long, with a number of consultations required.

In addition to Ofcom’s code is the BCAP (Broadcasting Committee of Advertising Practice) code. This concentrates on content issues i.e. celebrity and cartoon endorsement and promotional offers and runs in tandem with the Ofcom code. Analogous restrictions are contained within the CAP (Committee of Advertising Practice) code which covers non-broadcast content. Both of these codes were also updated in 2007 as part of the government review.

In terms of the CAP code, the Food and Drink Advertising and Promotion Forum was established to ‘strengthen and bring together existing provisions’ of non-broadcast media (FSA, n.d.). Such action was considered imperative as it was envisaged that advertisers might attempt to shift promotions elsewhere, particularly to the internet. Moral entrepreneurial research and censure may have provided influence here. This was particularly important as previous regulation did not cover all internet advertising, regulation only applied to paid-for-space, thus permitting manufacturers to advertise on their own sites. The significance of this was highlighted in the moral panic section – it provides a forum to elude television advertising rules.

Despite the Food and Drink Advertising and Promotion Forum review of regulation, the new code failed to address own site promotions. Consequently, this may do little to stem concerns about internet advertising. Whether these concerns or the lack of action are justified, will depend on if food companies are advertising online (this will be examined in the analysis of regulation section). Sustain expected such a decision from the Forum:

It beggars belief that the Government is relying on a group with strong industry interests to develop meaningful proposals to restrict

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83 Internet, magazines, billboards etc
84 See the moral panic section p. 67.
junk food promotion to children. Many of the industry bodies represented do not even publicly accept these are unhealthy foods, let alone that they are part of the problem (Sustain, 2005).

This again questions the regulators ability to act impartially. Nonetheless, Sustain ignored the fact the forum is attended by other bodies with varying interests e.g. FSA, National Children’s Bureau and the National Heart Forum. Moreover, the group’s secretariat is the Department of Health. But exactly how much weight this group had in the formation of the code is unknown, therefore CAP may have been responsible for modifications. The latter is likely considering the Forum only drew up principles to advise CAP, leaving consultation to CAP (Blair, 2007).

The above clarification of the current regulatory regime suggested that the new code may address some of the concerns raised, but concerns over the threat of the internet and regulator autonomy may continue. With regard to autonomy, to ascertain if these concerns are valid, how the regulatory bodies operate requires consideration. Due to the government’s role, they will also be examined.

**Responsible Bodies**

*The government*

As the government requested that Ofcom review and revise current provisions, their role in the development of regulation cannot be ignored. As already stated the government’s decision not to directly intervene infers a change in viewpoint. Is their decision substantiated? Based on the unproven effects tradition and children’s rights such a move might be warranted. But how sincere are they in their decisions? Generally in terms of all media Juliet B. Schor questions governments’ ability to remain impartial:

> The unchecked growth of corporate power, and its fusion with state power, has led to a situation in which children’s interests and well-

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85 See the effects chapter, p. 57.
being cannot be adequately ensured…….The corporations mandate is to make money, the government is to help them do so (Carlsson, 2006).

Is this applicable here? Various observations about the government’s relationship with the industry suggest that it is. In 2004 the Guardian reported that advertisers had taken advantage of their direct access to the government in an attempt to protect their commercial interests\(^6\) (Lawrence, 2004: 8). A *Mail on Sunday* article suggested similar links following Heather Rogers (former senior civil servant) move to an American lobbying firm Edelman, an industry body that aims to 'create a more positive environment for the growth of the savoury snacks category'. This was worsened by the fact Rogers had worked at the forefront of the UK obesity problem, whereby she acted as a principal private secretary to Tessa Jowell. David Davies (MP) provided censure: ‘It is extremely worrying that such an incestuous relationship between the Labour government and the private sector lobbying industry has been allowed to develop’ (Oliver, 2006: 43). This connection continued with Alan Milburn’s (former health secretary) appointment as an advisor to Pepsi in early 2007 (Smithers, 2007: 3). Despite these censures it would be difficult to prove if the industry had influenced governmental action.

**The regulators**

Ofcom became responsible for broadcast advertising in 2003 following the passing of the Communications Act. Ofcom were encouraged to contract out this function to a co-regulatory partnership, with effective self-regulation where appropriate. Co-regulation is a combination of self-regulation (the industry play a role in the formation, modification and application of regulation) and state regulation (a legal framework would attempt to guarantee adherence) (CAP, n.d.). This method is the direct opposite of public regulation - codes of conduct are formulated and monitored by social groups/industry bodies (CAP, n.d.). As a result in 2004 Ofcom appointed the day-to-day regulation of broadcasting content to the ASA (Advertising Standards Authority). A body created under the banner of ASA was BCAP (Broadcasting

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\(^6\) The FDF had over 2000 contacts with ministers, MP’s, Lords, MEPs, MSP’s and special advisors.
Committee of Advertising Practice). ASA held responsibility for investigating complaints, whilst BCAP's remit was for setting, reviewing and revising broadcast advertising code. Both these bodies represent the self-regulation element as both are industry bodies. Ofcom provides the mandatory element under the 2003 Act - the power to penalise or revoke a broadcaster's licence if codes are contravened (CAP, n.d.).

In addition to the above bodies is CAP (Committee of Advertising Practice) which is responsible for non-broadcast regulation. Like BCAP, this is a self-regulatory body. The only difference with non-broadcast regulation is that this is a completely self-regulated system, as no legislation exists to penalise if codes are breached (ASA, n.d.).

The above requirement of the 2003 Act and Ofcom's subsequent decision to adopt a co-regulatory system, in addition with the existence of a self-regulatory system, further suggests that the nature of regulation is changing. But how effective are these regulatory frameworks?

Self/co-regulation

The introduction of the Communications Act 2003 and the formation of Ofcom have been regarded as pivotal as it marks a transition from complete public regulation to a more privatised led system (self/co-regulation) as it merged 2 privatised regulators with 3 government bodies. This represents a move from a 'hierarchical command and control approach' prioritising monitoring, compliance and enforcement...to a more public-facing, self-regulatory approach (Livingstone et al, 2007: 5). The latter is seen as a lighter, softer and joined up attitude to regulation which devolves the role of the state and engages multiple stakeholders in the process of governance (Livingstone

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87 Ofcom has been regarded as a quango - a non-departmental body which collectively encompasses many rules and functions on behalf of the government (Lunt, 2009: 3).
88 ITC (Independent Television Commission, BSC (Broadcasting Standards Commission and the Radio Authority.
89 Ofcom and Radiocommunications Agency.
90 Examples of direct government regulation were evidenced in the moral panics chapter e.g. the Video Recordings Act (see p. 23-28).
It is this approach to regulation that is referred to throughout this thesis as the ‘current regulatory climate’.

In order to understand if this regulatory shift to self/co-regulation will impact on the effectiveness of regulation, a brief understanding of why the government changed its approach to regulation is required. One potential justification has already been discussed in the effects chapter, that of inconclusive effects research and civil rights. If self-regulation works then this would solve the quandaries posed in the effects chapter. The difficulty of regulating converging media has also been aired as a reason (Lunt, 2009: 2). The latter fear was raised in the moral panic chapter, therefore it would be interesting to see if this new paradigm of regulation tackles this. Based on the above, if this new method of regulation works in practice this could be regarded as a good move by the government, particularly as there are other benefits associated with self and co-regulation:

Self-regulation:

- The industry is ideally placed and most experienced to gauge the dangers and risks associated with their service. Their codes could reflect this and arguably make them more efficient than if they were established by a public body which has no or very little knowledge in that area (Palzer and Scheuer in Feilitzen, 2003; 166).

- Industry expertise may allow regulation to be more easily and swiftly adapted to correspond with technological and societal developments (Hardy, 2003: 81).

- In order to prevent state intervention, the industry might be more willing to comply with the rules voluntarily. Ofcom terms this procedure as ‘industry buy-in’, whereby commitment to make the process successful works in their favour.

- Breaches of codes may be dealt with more promptly than if they were legally enforced. (ASA, n.d).
Co-regulation – the same above pros apply due to the industry’s involvement. However, arguably a co-regulation system is a more solid approach due to the state involvement as this may encourage compliance (ASA, 2004).

Despite the above advantages, another motivation given for the government transferral of regulation to the industry is that of commercial interests; supporting the economical growth of the media in the UK. As a result it has been contended that corporate interests may supersede public interests as ultimately the media are first and foremost businesses who produce goods and services for public consumption (Hutchison, 1999: 25). Des Freedman (2008: 49) supports this notion, whereby he believes that the change was made to ‘provide increased opportunities for accumulation of profitability’. Robert Horwitz (1989: 15) asserts similarly, that as regulation is bound to commerce origin it ‘...fails to construct adequate barriers against private capital or against state involvement on behalf of private interests’.

As a result of the above, queries have developed concerning the ability of industry led regulators to remain impartial and balance the needs of the citizen (in the case of this thesis, children) and consumer interests (O’Neill, 2008: 11). This concern was raised earlier in this chapter (see pages 71, 75-76). In terms of media regulation generally Palzer and Scheuer in Feilitzen & Carlsson (2003: 169) note:

...self-regulation suffers from a lack of democratic legitimation. It originates from economic players or groups with their own specific interests - interests that may contribute to or even be partly congruent with the general interest; nevertheless these special interests do not necessarily coincide totally with the general interest. Thus, there will always be a tendency to allege that self-regulatory organisations pursue their own policies rather than general policy goals.

Sylvia Harvey contends similarly, that due to the tension between citizen rights and philosophy of free trade, how can both co-exist and one not be more favoured over the other? (Briggs, 2002: 226). Other concerns are also in existence:

1. As no legal sanction exists there is no incentive for the industry to comply.
2. If systems are not independently adjudicated and monitored on a regular basis, violations may go unnoticed (Cannataci & Bonnici, 2002: 8).

These criticisms question whether a move to a lighter touch regulatory approach will lead to effective regulation that balances children’s and industry rights. Nevertheless, as shown there are also purported benefits of self and co-regulation. Moreover, David Croteau and William Haynes (2001: 150) assert that the industry should not just be regarded as working to fulfil commercial needs, instead they are ‘fundamentally intertwined with matters of the common good rather than just private profit’91. Consequently, it will be interesting to see how this new approach to regulation works in practice.

In terms of advertising regulation, all of the above negative issues might be applicable to the CAP code as it was noted above this is a completely industry led code. It might also apply to BCAP, but due to Ofcom’s role in this system (ability to penalise under the 2003 Act), the first point may not apply. However, it must be acknowledged that Ofcom has been regarded as an economic regulator (Livingstone, 2007: 27). With the second issue, this may apply to ASA (industry body), as they only investigate advertisements on receipt of a complaint. The work of Clearcast aims to intervene here, as they are responsible for pre-vetting adverts prior to transmission. Nevertheless, they are also an industry body (ASA, 2008b).

The funding of these regulators also raises the issue of impartiality – all have an element of industry funding. For example, Ofcom is reliant on licence fees and Clearcast is funded by eight commercial broadcasters (ASA, 2008b). The ASA’s revenue stems from a 0.1% levy on advertisement airtime. ASA proclaim independence is guaranteed via the Broadcasting Standards Board of Finance (Basbof) which collects the money on their behalf, thus ‘there is no question of the amount of an advertisers contribution influencing the ASA’s decision making’ (CAP, n.d.). This has not prevented Sustain’s denunciation: ‘...as the system will be funded entirely from levies on advertising spend, the separation of the regulatory funding arm

91 This belief is based on the media key interests being public interest, diversity, innovation, substance and independence.
(Basbof) from ASA does little to increase confidence that decisions would be independent of industry influence' (Sustain, 2004: 6).

Whether the criticisms of self and co-regulation apply in practice to the above regulators and codes will be examined in the following evaluation of regulation section. However it is first worth acknowledging there have been suggestions that the system is effective. The ASA (2008) has declared that the system has been ‘working well’ and that ‘consumer protection laws in the UK are some of the strongest in the world’ (ASA, n.d.). Moreover, ‘although the system is non-statutory, participation in it is mandatory by virtue of the agreement of advertisers, agencies and media to maintain common standards’ (ASA, n.d.).

One last point to acknowledge is Ofcom’s responsibility under the 2003 Act. In terms of regulation they have to assure interventions are ‘evidence-based, proportionate, consistent, and accountable’, and seek the ‘least intrusive regulatory mechanisms to achieve its policy mechanisms’ (Ofcom, n.d.). They also have to protect children due to their vulnerability (Ofcom, n.d.). In addition to these prerequisites, Ofcom have stated they cannot ‘ignore’ their legal obligations towards broadcasting as they ‘are a broadcast regulator’ (Ofcom, n.d.). Ofcom therefore have to balance the issue of rights, the protection of children and the wellbeing of the industry. Is it possible to balance all of these commitments and produce robust regulation? This was a concern raised earlier by Sylvia Harvey about self and co-regulation generally. By considering factors that may have influenced Ofcom’s new code, this may indicate how they attempted to achieve a balance. This could further raise issues of impartiality.

**Potential influencing factors**

1) *Research*

As mentioned previously, Ofcom’s code may have been influenced by Sonia Livingstone research on advertising effects as they commissioned the research. Livingstone concluded that a ‘modest direct effect’ existed (Ofcom, 2004: 176). Ofcom may have taken this into account when choosing to ignore calls for a
watershed ban\textsuperscript{92}. This is understandable due to the complex nature of effects and also their remit\textsuperscript{93}, thus direct intrusive regulation would not be justifiable. However, as noted in the moral panics section, 'modest effects' infers that an element of risk exists, thus explaining why the government decided to act. Despite this action, moral entrepreneurial criticisms of the new code suggested that a less intrusive approach would not work\textsuperscript{94} (this will be debated in the analysis section).

2) Consultation process

Another stimulus may have been the various consultations Ofcom conducted with the industry, the public and consumer groups. Their November 2006 consultation attracted fifty three responses: seventeen from consumer and health groups, eight from individuals, sixteen from advertisers and food manufacturers and twelve from broadcasters. If you combine the later two, twenty eight stemmed from the industry. How representative Ofcom were would have been dependent on how they utilised these responses. Sustain suggested industry bias, that Ofcom met with the industry on one hundred and seventeen occasions compared to eighteen with health and consumer representatives (Sustain, 2006a). However, the circumstances of these meetings are unknown. Ian Blair (Ofcom) justified their actions by affirming they did not instigate meetings, instead they met with groups upon request. He also queried the one hundred and seventeen meetings, that it was more like seventeen and that this included meetings with individual manufacturers as well as industry groupings. Hence, Sustain may be confusing “groups” with the “number of meetings” (Blair, 2007).

3) Public opinion

The public consultation (survey) revealed that 48% consulted wished for a 9pm watershed. Ofcom quoted that qualitative research reflected a slightly different picture, namely that mothers felt such a ban would compromise adult freedoms to enjoy advertising and that it would be ‘unfair’ to advertisers (Ofcom, 2004: 20). This is vital considering one of Ofcom’s aims: to guarantee regulation is not too intrusive.

\textsuperscript{92} See moral panics section p.73.
\textsuperscript{93} Ofcom’s code should be proportionate, evidence based and be the least intrusive mechanism (Ofcom, 2007).
\textsuperscript{94} See the government and regulator response in the moral panics section p.72-73.
As a ban was not adopted, it appears the qualitative research may have had a greater input. Should they have ignored the 48%? Ofcom never discussed a pre-9pm ban as an option during public consultation, but the topic ‘spontaneously occurred in most sessions’, consequently this figure may have been greater (Ofcom, 2006: 6). The fact it was not an option infers it was not a route they wished to take. This is plausible considering the lack of solid effects research. Sustain contended otherwise, again raising issues of impartiality: ‘I suspect the reason they did not include the 9pm watershed was because they knew that the result would be enthusiastic support for robust restrictions that really will protect children, at the expense of their friends in commercial broadcasting’ (Sustain, 2006b). Ofcom provided defence: ‘Industry groups had no role in writing the case for the 9pm watershed option in the research or any of the other options’ (Sustain 2006b).

Whether Ofcom were right to ignore the watershed option, will be debated in the analysis and recommendations sections. However, research by other organisations suggests otherwise. For example, research conducted by the CO-OP found 80% supported a ban (Dalmeny, 2003: 20). In 2004 BBC statistics demonstrated 84% were in support (Sustain, 2005: 6). Contrarily, within the same year Ofcom figures suggested this dropped to 57% (Ofcom, 2004: 10). In 2006 the British Heart Foundation (2006) placed the figure at 68% (Sustain, 2006b). It must be acknowledged though, that research outcomes appear to favour those who produced or commissioned the research. Consequently, how worth while is public opinion and should it inform regulation? Other queries exist, for example, are they knowledgeable enough to provide an informed response95? Moreover, their parental status may blur their judgements96.

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95 The ‘normal’ individual may not be knowledgeable of the whole debate e.g. arguments for and against effects. The BBFC’s research into ‘Public Opinion and BBFC Guidelines’ (2005) exemplifies this, whereby 69% agree that watching criminal or dangerous activity in films can sometimes lead to copycat behaviour in real life. In addition, a further 45% contend that watching violence in films generally makes people more likely to be violent in real life. Only 28% were in disagreement and the remainder, 27% were ‘neutral’ (BBFC, 2005b: 8).

96 Glasser & Salmon (1995) - false consensus is the process whereby individuals regard their own opinions as ‘relatively common and appropriate to existing circumstances’. This perception also revolves around the estimation that this viewpoint is ‘shared by a larger proportion’ of the same reference group (Glasser & Salmon, 1995: 263).
The above verifies that Ofcom had to please multiple individuals when modifying the regulatory codes. This in addition to the elements mentioned previously - their role as a regulator, a protector and industry commitments; again leads to the issue of balance and whether this answered moral entrepreneurial concerns and produced an adequate system.

Conclusion

This section has established how regulation has developed and who the key players are in its implementation. One of the main elements to surface is the differing approach to regulation - lack of state involvement. As demonstrated this has resulted in two different types of code, co-regulation and self-regulation. As noted, due to children's rights and the purported benefits of these frameworks, this seems an appropriate response to tackling the element of risk presented, as without conclusive effects research direct intervention would not be warranted. However, by balancing these factors and by having two different codes overseen by a predominately industry led system, will regulation work in practice, particularly due to commercial interests? Moreover, Ofcom's decision will do little to stem moral entrepreneurial concern about the industry's ability to self-regulate. Are the industry unwilling to co-operate and does the new regime guarantee this? The pros and cons of self-regulation are relevant here and will require further consideration. Although the latter have been raised within the context of advertising regulation and the formation of Ofcom, they may also be applicable in the following chapters as this new approach to regulation may have impacted on other media regulatory systems (Ofcom only covers broadcast regulation).

This section has also examined impartiality - a key concern of moral entrepreneurs and critics who contend market interests jeopardise citizen rights. Although this would be hard to prove, considering government relations with the industry and how the regulators operate and are funded, it is not surprising moral entrepreneurial concern has emerged. Is the regulation working in practice? If so such concerns would not be justifiable.

97 See the advertising moral panic section p.69-70.
The other main concern to stem from the moral panics section was inadequate regulation. Ofcom’s code may address the frequency of adverts, but little has been done to tackle concerns over convergence - online advertising. Is the industry transferring advertising to the internet as lobbyists suggest?

This section has also revealed that in addition to moral entrepreneurial calls, Ofcom has had to consider a multitude of factors when modifying the regulation: effects research, public and industry opinion, moral entrepreneurial concerns and their own regulatory aims and commitments. By attempting to address all these factors, has Ofcom formulated a robust system?

In order to answer all the above questions and evaluate the adequacy of current regulation, analysis of how the regulation is working is required.
Evaluation of Regulation

The chapter so far has raised a number of concerns about the adequacy of the current regulatory system:

- Regulator impartiality
- The functionality of a two tiered system – co-regulation and self-regulation
- Industry willingness to self-regulate
- The ability of internet advertising to undermine regulation

As previously stated, the purpose of this section will be to evaluate the validity of these issues to see if Ofcom has managed to balance all factors and produce a solid set of regulatory codes. This will involve analysis of 1) the codes 2) industry response, 3) monitoring and 4) media literacy.

1) The Codes

**Ofcom’s broadcasting code**

The development section highlighted the fundamental aspects of Ofcom’s new code. The main decision was banning HFSS advertising during children’s programming. As raised previously this could stem concern over the extent of HFSS advertising and its cumulative effect. Brief consideration of lobby group responses in the moral panic section suggested otherwise, that the modifications did not go far enough. In order to establish if these ascertains are valid, the rules require further analysis

i. Restrictions on programmes of particular appeal

In addition to the banning of adverts during children’s programming, Ofcom attempted to increase protection by extending restrictions to those programmes of ‘particular appeal’ to under 16’s (programming outside dedicated children’s viewing). If this rule works in practice this may also stem concerns as it should reduce the number of HFSS adverts viewed by children.
To distinguish which programmes are of particular appeal, the industry applies an index based on BARB (Broadcasters’ Audience Research Board) viewing figures. The index is set at 120, so when the proportion of children aged 4-15 is more than 20% higher that of the general public the programme is deemed of ‘particular appeal’. Consumer and health groups believe this rule is flawed, as it permits HFSS advertising when significant numbers of children are watching. Various examples demonstrate this. In October 2006 Which observed that the top 26 programmes (all broadcast within adult air time) watched by children would have escaped indexing. For example, although Ant and Dec’s Saturday Night Takeaway attracted 1,154,500 children the index was only 88.78. However, Spongebob and Squarepants which was watched by significantly less children, faced restrictions (index of 268.69) (Which, 2006: 6). Consequently, the code could be seen as ineffectual, as although banning HFSS adverts from children’s programming, significantly more children watch early evening programmes which evade restrictions. The graph below from Which emphasises this:

![Graph showing overall viewing trend for the period 16th October to 29th October 2006 for 4-15 year olds](Which, 2006: 7).

A more recent example is Britain’s got Talent which was shown at 19:45 in 2007. This programme attracted four times more children viewers than Bratz (dedicated children’s programme), but escaped restrictions due to the adult and children audience balance (Which, 2007). This permitted Rowntree’s Fruit Pastilles sponsoring of the show and an advert for Nestle Straws (product high in sugar).
A further contention is that the calculation and application of the index is left to the industry. Are concerns over self-regulation justified? The ASA has stated that application will be monitored: ‘The effectiveness of the new rules will be closely monitored by a lot of organisations...BCAP will do ongoing monitoring from the outset’ (Wilson, 2007a). This affirmation appears sketchy. Considering the amount of output, can every commercial break be monitored? This was noted earlier as a possible flaw of self-regulatory systems – lack of a comprehensive monitoring system.

Another potential problem with the index is its dependence on audience ratings – what if it is a new series or one-off programme? In these instances broadcasters will be required to predict audiences. This process could be open to abuse and is reliant on the industry acting responsibly (Ofcom, 2006b: 46). Whether the industry is generally committed to regulation will be considered shortly.

**Exclusion of branding**

Under the new code, as long as an HFSS product is not shown, brand advertising is permitted during children's programming. This means McDonalds could still advertise to children. On hindsight this appears fair as it prevents advertisers from being 'hit too hard'98. Ofcom envisaged that manufacturers may use this method as a substitute for loss of product advertising opportunities (Ofcom, 2006a). On the contrary The Heart Forum contends this displays regulator bias: ‘Ofcom clearly recognises the risks of leaving brand advertising unregulated, but it is likely to be under huge pressure from the junk food companies and advertisers to throw them a lifeline’ (Heartforum, 2006). The reason for their concern is brand strength which could create a regulatory flaw, as the average British child is said to be familiar with up to 400 brand names by the age of 10 and that 69% of all 3-year-olds can identify McDonalds' golden arches (Freedland, 2005). Whether this is negative would depend

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98 Ofcom's aim - To guarantee measures did not strike broadcasters 'too hard' considering the relatively proven small role of television advertising (Ofcom, 2006: 86).
on the type of food associated with the brands e.g. McDonalds: chips and burgers or fruit pieces and carrot batons?

**BCAP Code**

The development section revealed that the BCAP content code runs in tandem with Ofcom’s scheduling code. When Ofcom consulted they also included the BCAP code. Public opinion of the code appeared positive: ‘responses to the content rules are generally positive, with many of the rules seen as good in principle’. Nonetheless, the rules ‘could be problematic’ due to ‘ambiguous wording’ (Ofcom, 2006a: 30). Sustain purported similarly: ‘.....These proposed standards tend to be vaguely worded, lack detail and contain no specific targets to improve advertising’ (Sustain, 2004: 12).

Following analysis of the code, these reservations are fair. For example, rules include: ‘Advertisements must avoid anything likely to encourage poor eating habits or an unhealthy lifestyle in children’ and ‘Advertisements must not encourage excessive consumption of any food or drink’ (BCAP, 2007: 23-34). Both lack definition and are very broad. These flaws infer that in this case an industry body has failed to produce informed and efficient codes 99. Nevertheless, BCAP did produce subsidiary notes to aid interpretation, but unfortunately they do not exist for every rule and are brief in content.

Sustain provided further critique, that the rules are ‘.....designed to be unregulatable, largely because they have been drawn up by the advertisers’ (Sustain, 2006c). This censure is based on BCAP’s close ties with the industry and the fact the code is voluntary. Research suggests otherwise, that it works in practice. In 2007 ASA revealed a 99.2% compliance rate, following an assessment of advertisements. Christopher Graham, ASA Director General, commented on the success:

> The compliance rate of advertisements with the new food rules is encouraging and highlights the benefits of a self-regulatory system for advertising standards (ASA, 2008a).

99 An advantage cited of self regulation – see the development section p.79.
This outcome could be debatable due to ASA’s links with the industry. The sample is also questionable as less than half focused on television adverts - out of 759 adverts, 292 focused on television. The majority centred on press adverts (377) (ASA, 2008a: 12). The TV advert sample also appears small considering they surveyed 139 channels over one month (July 2007). That’s roughly only 2 advertisements per channel.

The research findings also suggested compliance with the CAP code (ASA, 2008a: 14). As you will see in the following section, regardless of compliance, this regulation is inherently flawed.

**CAP Code**

As highlighted in the development section, the CAP code regulates non-broadcast content. Not all of these will be considered due to the breadth of their remit. Focus will fall on the internet due to concerns already raised – to counteract Ofcom’s code it was envisaged that the industry would take advantage of internet own-site advertising where regulation is not applicable. Considering the attractiveness of the internet, on face value this appears to be a major flaw. Whether this is an issue will be dependent on the extent of industry embracement.

Research by Sustain (2005), The Food Commission (2005) and Which (2006) all revealed industry application, thus concerns appear valid. Analysis of HFSS websites\(^{100}\) in November 2005 for the purpose of this study proved similarly.

**Main Outcomes of the Analysis**

Where appropriate, CAP restrictions are noted to demonstrate that if this regulation did apply to on-site advertising, many would be in contravention.

The fact that key brands i.e. Mars, Nestle, Kinder, Kelloggs and Haribo all embraced on-site advertising demonstrates the industry’s lack of commitment to regulation. It

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\(^{100}\) Starburst, Coco Pops, Frosties, Nesquik, Kinder, Panda Pops, Smarties, Fruit Winders, Skittles and Haribo.
also emphasises their determination to seek alternative measures, thus demonstrating their unwillingness to self-regulate. How this is being achieved will be briefly shown.

The industry have been utilising an array of tactics on-line:

1) Games - Games allow children to associate themselves with the product and packaging so increasing brand awareness. Kinder’s usage of games provides an example of how the code could be contravened here. The CAP code states: ‘Marketing communications should not encourage excessive consumption of any food or drink’ (CAP, 2007: 2). They achieve this by encouraging children to collect ‘magicodes’ from Kinder products in order to participate in gaming. The fact that these codes can only be used once could violate another CAP clause: ‘Marketing communications should not seem to encourage children to eat or drink a product only to take advantage of a promotional offer’ (CAP, 2007: 4).

2) Promotions - This often involves the collection of wrappers etc to enter a promotion. This would also breach the rule mentioned above on promotional offers. It could further breach the code: Marketing communications for collection-based promotions should not seem to urge children or their parents to buy excessive quantities of food’ (CAP, 2007: 3). This rule is vague. As no clarification is given of what equates to ‘urge’, it is difficult to know whether this would apply. Nonetheless, research by Ofcom indicates why such promotions are contentious and why advertisers might be keen to use them. 49% of parents believed free toys/gifts encouraged children to request food/drinks. A further 31% said products involving the collection of coupons etc appealed (Ofcom, 2004: 133). It is not surprising that many of the sites advertised offers. Smarties website was a prime contender as they advertised all their promotions, all of which involved multiple purchases.

3) Communication devices - This tactic encourages children to divulge contact information, i.e. e-mail address and mobile numbers in order to use certain site features like sending e-cards. These often ask for contact details of friends, thus allowing direct access to spread product awareness. This is possibly one of the most manipulative techniques as it allows them to target children with ease and permits advertisers to build intimate relations, tailor advertising and tap into children’s
interests and vulnerabilities. Even if the current CAP code did address on-site advertising directly, no rule exists to restrict this. It is also worth noting that by asking for personal information marketers have been criticised for threatening children’s privacy rights (Swain, 2007). This could go against the ability of new forms of regulation to protect children’s rights.

4) Competitions – Manufacturers sometimes advertise competitions that can only be entered via their website. The restrictions on multiple purchases would again apply here, as some competitions require numerous purchases in order to enter. However, the utilisation of competitions is not covered directly within the CAP code. This tactic again allows the extraction of personnel data which could aid further target advertising.

5) Direct advertising - Most of the sites utilised explicit product promotion\(^{101}\). On some occasions a page is specifically dedicated to this:

![Example of direct advertising](image)

This is a prime example of how the industry is undermining broadcast codes by transferring advertising of their products to the internet. Under Ofcom’s code such advertising would never be permitted during children’s television. Masterfoods embraced another form of direct advertising which would also undermine broadcasting codes; the capacity to view TV adverts on-line. A feature also available on the Haribo site.

It must be acknowledged that since the analysis was undertaken some companies have demonstrated responsibility. Kelloggs scrapped two of their websites aimed at

\(^{101}\) Haribo, Kinder, Smarties, Skittles, Fruit Winders and Panda Pops.
children\textsuperscript{102}. Moreover, their main site now utilises tactics e.g. games to promote healthy eating and teach children about balanced diets. Despite such efforts, Nic Howell, deputy editor of \textit{New Media Age}, claimed in 2007 that industry pursuit continues: ‘the brands might be sticking to the letter of the law (TV) but they’re clearly in breach of the spirit of the latest Committee on Advertising Practice (CAP)….. it seems the industry are going to fight for their right to advertise to kids to the very last’ (BBC, 2007c). Bearing this in mind and examples given, it appears moral entrepreneurial concerns are valid, that the industry is transferring advertising to the net to evade broadcasting restrictions and that current regulatory provisions allow this. Thus a loophole exists in the current system.

2) Ofcom’s Code and Industry Commitment

One of the concerns in the panic section was queries over industry willingness to comply with regulation, the analysis of net advertising suggested this. Will this apply to broadcast advertising? In 2004 the industry professed dedication:

In the last year the food and soft drinks industry and broadcasters have made great strides in implementing a wide range of initiatives to improve children’s diet (Jeremy Preston in FAU, 2006).

Some people remonstrated that tactics were either clever marketing ploys to shift attention\textsuperscript{103} or like with the usage of the internet, efforts were being transferred elsewhere\textsuperscript{104}. Analysis of television advertising will provide an indication of which opposing viewpoint is valid.

As Ofcom’s code was not released until 2007, direct adherence cannot be measured, as the majority of the analysis for this chapter occurred in 2005. However, how the industry responded to the government’s 2004 prerequisite to modify the nature of food promotion, will provide an indication of commitment.

\textsuperscript{102}Frosties and Coco Pops.

\textsuperscript{103}A \textit{Guardian} article condemned initiatives as empty gestures, gaining ‘credulity for exalting virtue, when basically they are still ‘selling sin’ (Freedland, 2005: 11).

\textsuperscript{104}Charlie Powell (Sustain) slammed techniques as ‘worrying’ as they are merely ‘using ever more sophisticated marketing ploys’ (Derbyshire, 2005: 7).
Advertising expenditure

Prior to analysis of adverts, the most simple way to establish industry response is advertising expenditure, as this will show if efforts have been reduced. In 2004 Nielsen Media Research discovered a 22% drop in food/drink promotion during children’s programming from 44,330 adverts to 34,703 (Brook, 2004). Such figures appeared encouraging and demonstrated willingness. In spite of this, the same study stated that total spend had increased between September 03-September 04, from £258,749 to £471,573. This suggests that to counteract the above reduction, the industry may have sought to advertise elsewhere. If this was true, as the code is now operational, arguably the chances of this are even higher.

Recent figures suggest adherence. In 2007 Mintel revealed that advertisement spend for crisps and snacks was 27% lower in 2006 compared with 2004. A similar picture existed in the sugar and confectionary industry with a 36% decrease (Mintel, 2007). These figures are total advertisement spend, not just expenditure on children’s programming. Nonetheless, they suggest a reduction, thus implying the industry may respect Ofcom’s code.

The sample

Advertisements during children’s October 2005 airtime were consulted. Channel schemas observed were: ITV (CITV), Channel 5 (Milkshake) and Sky (Nickelodeon and Jetix), see appendix A for the breakdown of advertisements (p.269-273). Although it was recognised that children watched a significant amount of television outside of children’s viewing, this was not considered because of 1) chapter confinements and 2) the government’s prerequisite revolved around children’s programming. This will be combined with statistics and examples past and present to create a bigger picture.

Analysis of advert content

i) Healthy messages
During the sample only certain types of HFSS foods were promoted: sugary cereals and fast food chains. There were no advertisements for chocolate or crisps and only one sweet product (candy spray). Excluding the latter, this implies a level of commitment by some of the manufacturers. Those who continued to advertise, attempted to counteract the government’s request by incorporating healthy messages. In an advert for McDonald’s Happy Meals, a Teenage Mutant Ninja Turtle states: ‘Hey dudes, don’t forget to be active for at least an hour a day’. Moreover, ‘run-around, have fun, eat a balanced diet’ featured in Nestle’s Coco Rocks advertisement. Whether this was an adequate response is unknown as the Department of Health (responsible for monitoring industry response) failed to stipulate criteria. In addition, the government planned to examine industry efforts to see if further regulation was required, but as of yet this has not been released. In today’s regulatory climate these messages would not suffice and adverts for products like Coco Rocks would no longer be permitted during children’s programming. Regardless of this, such tactics suggest the industry may seek ways to undermine measures.

ii) Free gifts, usage of characters and brand advertising

Four of the adverts featured in the sample promoted free gifts. The value of gifts to sales is unquestionable.\(^{105}\) The issue here is if tackling obesity was a priority, toys would be utilised to encourage healthy eating. Both McDonalds and Burger King did include healthy eating options in their adverts; for instance Burger King showed a Grapple Bag (fruit) and a Fruit Smoothie. But would children know what a Grapple Bag was? Would children notice the healthy options when faced with clips of toys and cartoon characters? Shots of burgers and chicken nuggets were still incorporated. Dr Richard Taylor (MP) commented on this: ‘McDonalds should encourage children to eat more healthy by only giving away free toys to those who opt for fresh fruit rather than chips’ (Cozens, 2003). By utilising gifts and characters and ignoring positive opportunities to promote healthy options, a lack of willingness is displayed.

\(^{105}\) In 2002 the *Guardian* revealed: ‘A successful promotion easily doubles or triples the weekly sales volumes of children’s meals’ (Brown, 2002: 16-17). In 2002 the Food Commission’s Parents Jury voted McDonalds free toy scheme as the marketing technique most likely to encourage pester power (Dalmeny, 2003: 4).
Under Ofcom’s new code, McDonalds HFSS advertising to children would be prohibited. Sustain contends this might be undermined by the strength of the brand and the fact Ofcom’s new code allows this type of advertising. This followed McDonalds collaboration with Shrek 3 (May 2007) where adverts for Happy Meal were aired during children’s programming. Richard Watt, Campaign Coordinator from Sustain, stated:

My view is using Shrek to promote Happy Meals breaks the spirit of the rules....My more general view is that MacDonald’s is still an outlet where people buy HFSS products. One thing this does is build brand loyalty for the future among impressionable young consumers (Sweney, 2007).

Nonetheless, this advert did not contravene Ofcom’s code, as no junk food was promoted; instead characters advertised healthy alternatives, which demonstrates a level of improvement. McDonald’s justified their actions: ‘Ofcom’s regulations are aimed at improving children’s diets and we believe the changes we’ve made are the type of responsible behaviour that supports this aim’ (Sweney, 2007). But, as Watts suggested, this could be a clever tactic to evade restrictions due to the strength of the brand. As mentioned earlier, what foods do children associate with McDonald’s, chips or carrots? This adds to earlier discussions on the exclusion of brand advertising from the rules. Moreover, it demonstrates how the industry can manipulate regulations to continue advertising.

iii) Positive action

Despite questionable motives, during the sample some positive efforts were noted. Nickelodeon’s invested £1 million in ‘Nicktrition’, forty different short advert stories highlighting healthy eating and exercise. They ran a 1000 times a month and targeted children aged between 2 and 12 (Martinson, 2005: 23). Nickelodeon however, was not completely flawless. They aired an advert for ‘bitter mouth candy spray’ which contained no healthy message. This demonstrates that regulation adherence is twofold manufacturers decide on the content of the advert and the broadcasters for airtime content. The majority of this section has discussed the manufacturers role, however, it
is ultimately the responsibility of the broadcaster to monitor output. This is made evident by broadcasters solely facing penalties if in breach\textsuperscript{106}. The adequacy of penalties as a deterrent will be discussed in the recommendation section.

Commitment outside of the sample has been noted. Brivic encouraged children to exercise e.g. through utilising images of children learning skateboarding and footballs skills in their Fruit Shoot advertisements (Derbyshire, 2005: 7). Pepsi promised not to target children (Mail, 2005: 36). McDonalds showed Ronald McDonald in a tracksuit, juggling vegetables and enticing children to play football, bike and snowboard (Teather, 2005: 19). In 2006 Kellogg’s and Nestle required children to provide their age prior to signing up to clubs and promotions (Elliott, 2006: 27).

\textit{iv) Other observations}

Another instance which questions willingness was the content of an industry conference in June 2007: Marketing to Kids and Parents. The discussion of creative ways to work within legislation was placed at the top of the agenda (Pidd, 2007: 6).

The above observations infer that industry commitment to Ofcom’s new code might be debatable. Whilst it is acknowledged some have expressed positive efforts, equally it appears some of the industry are attempting to find ways to evade restrictions or are shifting advertising elsewhere. Based on this it is problematic to determine whose argument is valid, the industry or moral entrepreneurs.

\textbf{3) Monitoring}

Despite some of the above issues, regulator monitoring of adverts should prevent breaches and ensure that the system works (this only applies to broadcast advertising). It is an Ofcom licence requirement that all advertisements featuring on channels that are broadcast from the UK are examined (Blair, 2007). Therefore, if a broadcaster continued to display adverts in breach, they could be fined or have their licence

\textsuperscript{106} See the development of regulation section p. 81.
revoked\textsuperscript{107}. ASA have suggested this regulatory aspect works well: 'because of pre-clearance it is only occasionally that the ASA finds a TV advert that has fallen foul of the code' (ASA, 2005). CAP have suggested otherwise, that 'almost all TV ads' are vetted, thus suggesting some may slip the net (CAP, n.d.). Moreover, Clearcast do not vet all commercials, instead broadcasters can elect to carry out their own clearance. These two points suggest that the system could be open to abuse, thus would do little to stem lobby group apprehension. Nonetheless, it would be up to the broadcaster's discretion and the threats of repercussions to guarantee only compliant adverts are aired.

Even if all adverts were pre-vetted, this does not guarantee compliance. Clearcast revealed that 47 complaints about adverts that had been vetted were upheld (McGuinness, 2008). This suggests a regulatory loophole or poor application of regulation.

4) Media literacy

In order to analyse the adequacy of regulation, this section has so far focused on the role of the industry and the regulators. As seen in the moral panic section, concerns did not just lie here. Concern was also expressed over the ability for parental food choices to undermine regulatory efforts. In order to tackle this, it was regarded that knowledge of a healthy diet was vital. By parents requesting further information this inferred a potential loophole. Education is vital here and could be regarded as two-fold. First is the obvious response: education on the importance of a healthy diet and how to make healthy food attractive to children. Second is media literacy, a measure noted in the effects chapter as an idealist solution to the quandaries faced by regulators. Media literacy could be applied by educating parents on the techniques used by advertisers. This could help them establish their own mechanisms to combat pester power.

In order to help produce a more robust system, did the government and Ofcom consider the above education options to address concerns over parental responsibility?

\textsuperscript{107} Ofcom's remit – see the development section p.81.
In terms of media literacy campaigns, none appear to have been targeted directly at parents. The commitment to healthy eating campaigns is not much better: only two campaigns appear to have been conducted. The government here placed responsibility with the Department of Health. They responded by pledging to roll out an obesity social marketing campaign. There was a delay in the launch of this initiative, showing a reluctance to help parents tackle obesity (CPA, 2007: 5). The Department of Health defended their delayed response. They stated they were totally committed to using marketing as a core part of the obesity programme. Moreover, they are working with 150 organisations to develop an understanding of the drivers of families' food and physical activity habits. As a result they delivered a 5 a day campaign and ‘Top tips for mums’ (Fitsimmons, 2007). Since these were released in 2007 no further campaigns have resulted, nor has research been conducted to determine their success. Consequently, it is difficult to conclude if parents are uninformed.

Conclusion

The analysis suggests that moral entrepreneurial concerns of the regulatory system appear genuine. A multitude of factors lead to this conclusion. The main being, the reliance on a predominantly industry based system. As a result, the pros asserted of a co/self-regulatory approach in this instance are questionable, as this framework is riddled with flaws. As a result, although regarded as a suitable option in light of lack of effects and children’s rights, Ofcom have failed to provide an adequate balance. Although on face value Ofcom’s new code appeared positive and addressed some of the concerns, in practice it seems to favour the industry due to a flawed index based system and by permitting brand advertising. The code is further undermined by the CAP system and its allowance of internet on-site advertising. As a result, a major flaw is the existence of two separate bodies, as arguably the CAP code undermines Ofcom’s code by having no rules to prevent the transfer of advertising to the internet. Analysis suggests the latter is reality, thus inferring the industry’s lack of commitment to reducing HFSS advertising. In fact, although some positive response by the industry was noted, generally their motivations are debatable. Regulator monitoring in terms of broadcasting adverts should intervene here, but their efficiency is also questionable.
In addition is the lack of media literacy initiatives to improve parental knowledge. This in conjunction with all the above elements infers that despite attempts to improve regulation, the result is a system in need of modification.
Recommendations

The analysis of the regulatory process raised a number of issues regarding the adequacy of the regulatory system. One major shortfalls is loopholes that allow the industry to undermine codes, particularly in relation to evening television and internet advertising. Other inadequacies include:

a) Possibility for HFSS advertising to continue indirectly via branding.
b) Dependency on a predominantly industry led and funded system (combination of co and self-regulation).
c) Parental ability to reinforce regulation.
d) Clearcast’s failure to monitor output and prevent breaches.

Consequently, there appears to be room for improvement. Based on the above criteria, the concluding part of this chapter will analyse possible solutions.

Country comparisons

Before consideration of the above, attending to other national systems may provide benchmarks for improvement. Examination of the American, Australian, Canadian, French, Swedish, Norwegian and German systems indicates the UK is more advanced. For instance, many other codes are yet to restrict HFSS advertising during children’s programming. Those who have (e.g. Sweden) have not expanded this further (e.g. into evening television). In addition, Sustain has observed that no country has a comprehensive ban on food advertising to children (Sustain, 2005: 27). Consequently, it appears that compared to other worldwide systems the UK is ahead and that their efforts infer commitment to tackling obesity and moral entrepreneurial concerns, but as shown there is room for improvement.

A unified independent system

The government pledged that if the industry failed to change the nature of food promotion they would intervene with legislation. One of the major pitfalls identified
during this chapter was the industry’s unwillingness to self-regulate. This was evidenced particularly via the transition of efforts to the internet to avoid broadcasting rules. It could therefore be argued that further regulation is necessary to prevent this, especially when CAP failed to prevent this in their revised code. As direct government regulation is unfavourable due to negative associated connotations e.g. constitutional free speech issues and children’s rights, it would be favourable to continue with a co-regulatory approach like Ofcom’s broadcasting code. Although this system also demonstrated loopholes i.e. regulator impartiality and incoherent monitoring, at least it has foundations to build on i.e. penalties, unlike the completely self-regulated CAP system. As a result, it is recommended that all the regulators and codes are united; whereby an independent body (to quash impartiality queries) would form and monitor codes for both broadcasting and non-broadcast. This body would need statutory responsibilities to apply penalties. To encourage industry ‘buy-in’, the industry could inform code modifications.

By forming one coherent code, with a statutory back-drop (penalties) this may increase industry application and stem criticisms aimed at the vagueness of the BCAP code. It would also prevent the CAP code undermining Ofcom’s.

Due to Ofcom’s statutory responsibility, they could be a contender for this unified role, particularly when they have formed one of the codes and hold the statutory power to penalise. Nonetheless, as already suggested their impartiality is questionable, therefore if they were to accept such duties how they are funded would need reviewing. An independent audit of operations to prevent criticism of funding should be conducted on a yearly basis.

Monitoring of adverts

Clearcast’s pre-vetting indirectly regulates the industry and should uncover self-regulation deficiencies. As self-regulation is open to abuse this is a useful mechanism to monitor adherence and prevent contravening adverts being aired. The analysis

108 ‘Censorship ultimately does nothing to resolve social problems or affirmatively help adolescents and children cope with their environments and impulses or navigate the dense and insistent media barrage that surrounds them’ (Heins, 2002: 257).
uncovered that their current practices are inadequate as pre-vetting breaches exist. To counteract this, all adverts should fall under their jurisdiction. Ofcom could make it a license requirement that broadcasters only air advertisements that hold a valid Clearcast clearance code. Whether Clearcast could deal with this level of output would have to be considered. However, the question is whether this should remain with Clearcast bearing in mind their relations with the industry. Surely an independent body should be responsible for this? This role could again be passed to Ofcom.

Another way to ensure compliance would be the application of penalties. As already stated these already exist under Ofcom. If broadcasters demonstrate continual breaches, they have a number of sanctions available:

1) financial penalty, a maximum fine of £250,000
2) shorten a licence
3) revoke a licence (Ofcom, 2005).

The question here, would fines deter the larger broadcasters? Moreover, what is the likelihood of a licence being shortened or revoked? Would Ofcom revoke ITV’s licence? To determine the adequacy of the above, it is recommended that the procedures for the above sanctions and how they have been applied are independently reviewed.

Another problem with the current monitoring process is that ASA (the body responsible for monitoring transmitted adverts) is dependent on complaints, therefore breaches may be overlooked. This could be combated by a more proactive approach of sampling adverts from pivotal parts of the broadcasting schedules, e.g. during children’s television and early evening programming. If all adverts were pre-vetted independently (Clearcast), this might not be an issue. However, a back-up system should exist in case an advert slips through the net.

**Internet advertising**

As shown, the internet provides an environment for the industry to bypass Ofcom’s broadcasting restrictions, as no regulation exists to prevent own site advertising. As
the CAP code contains no rules to prevent this, the most obvious recommendation is for the rules to be expanded to cover unpaid-for space. To make this rule effective, monitoring and penalties would be required. If Ofcom became responsible for all the codes, this would fall under their remit. Alternatively, if CAP remains independent the ASA could assist here, but criticisms of their current practices would be considered. Moreover, as CAP is self-regulatory no sanctions exist to deter breaches. Based on the unwillingness of the industry to self-regulate now, you would assume this would continue. Therefore, regulation without teeth would be pointless.

The monitoring process should be fairly simple as there are key HFSS manufacturers e.g. Mars, Cadbury’s Pepsi, Coca-Cola, Walkers, McDonald’s Burger King, Haribo, Kinder. A definitive list would need to be formed and sampled on a monthly basis. Nonetheless, even if the code was made applicable, many manufacturer sites are worldwide, thus the regulation would be ineffective, as codes would only be applicable to UK based sites. Integration of the above would at least be a step forward and act as a deterrent.

9pm watershed

Analysis of Ofcom’s index for programmes of particular appeal to children suggested that this rule undermines the banning of HFSS promotions during children’s programming. Consequently, Which contended that a blanket ban before 9pm is the only way to protect children. Whether a watershed ban is a reasonable recommendation will now be considered.

Ofcom did consider the option but decided it would be unjustifiable based on the potential cost to broadcasters. As it would significantly reduce revenue, they deemed it inconsistent with a proportionate approach. For example, the regulatory option adopted by Ofcom was estimated to cost the industry 0.4% (between £17.4-26.5 million) per year. On the other hand, the watershed option would have cost 3.5% (between £184-224 million) (Ofcom, 2006b: 40). Revenue losses that were reported to have a detrimental effect on the quality of children’s programming (Ofcom, 2006b:

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109 Part of Ofcom’s remit – see the development section p. 80.
110 This varies across channels, with dedicated children’s channels suffering more: 4.7%.
However, it was noted that the watershed option would have a greater impact on the amount of HFSS adverts viewed by children: a reduction between 82-89%, compared to 41-51% for the adopted option (Ofcom, 2006b: 40).

Sustain has insinuated that costs to the industry are unreflective, that they ‘systematically overestimate cost to broadcasters at the same time as systematically underestimating the health benefits of new restrictions’ (Sustain, 2006a: 8). Costs are also suggested as biased, that Ofcom failed to conduct an independent survey and instead relied on industry estimations. Hence: ‘We have little faith in figures provided by such an obvious vested interest’ (Sustain, 2006a: 7). In addition, the NCC (National Consumer Council) believed that Ofcom overestimated the potential losses to broadcasters on the 9pm option, as such restrictions could be counteracted by embracing healthy alternative advertising (NCC, 2006: 11). This implies that Ofcom may have been biased in their approach and the result regulatory flaws. The above claims however, ignore industry input. They argue contrarily, that Ofcom underestimated costs to the industry and overestimated mitigation of replacement by other products111 (CH4, 2006: 5). Due to opposing evidence it would be problematic to recommend the watershed ban. Instead the route Ofcom chose is middle grounded and attempts to please both moral entrepreneurs and the industry. However, this does not solve the flaws this balance has created – a solution will be proposed shortly.

Another reason why the adoption of a watershed is unfavourable is it would infringe on adults rights, as it could be regarded they have a right to see HFSS adverts during evening television. This would go against Ofcom’s aim to prevent intrusiveness into adult viewing112. Statistics reinforce this: nine adults watch for every child under sixteen during the hours of 6-9pm, so a ban would have more impact on adults than children. (Ofcom, 2007: 3-5). It could be argued that such a ban would combat obesity across the board and benefit older children and adults (Ofcom, 2006a: 39), but due to the significance given to safeguarding adult rights113, such a move would be difficult to justify.

111 Advertising of healthy foods
112 See development section p. 85.
113 ‘Section 3 of the Communications Act states that Ofcom should set standards on harm and offence in a way which best guarantees freedom of expression. Ofcom believes this can be best achieved through a less intrusive regulatory approach to material intended for adult audiences’ (Ofcom, n.d.).

The difficulty of balancing adult’s and children’s rights makes a watershed recommendation unfeasible, so how else could this issue be addressed? One suggestion is the inclusion of an additional rule based on the product, content and style of the advert. For instance, when a product is likely to appeal to children e.g. contain characters, free gifts etc it should be prohibited from early evening television. Such examples would be adverts for McDonald’s Happy Meals, sugary breakfast cereals i.e. Frosties. In this sense you could evade adult rights, as arguably it would not be in their best interest to view adverts for products not aimed at them. If Kellogg’s wanted to advertise a product like Frosties to adults, the advert would be formed in a manner that would not be overtly attractive to kids. This might be hard to implement and code guidance would have to be specific to prevent misinterpretation. For instance, how do you define products of particular appeal to children?

Another factor raised concerning the index and programmes of particular appeal, was the reliance on the advertiser to determine the index level. In order to promote industry buy-in to Ofcom’s code, they could continue this role on a primary level. To prevent possibilities of inadequate application, on a secondary level Clearcast (as part of their monitoring remit) could check the appropriate index had been applied. Again reference to their links with the industry would require consideration.

**Branding**

The evaluation section revealed how the exclusion of branding appears to favour the industry, as it indirectly allows advertisers to continue advertising to children. If the rules developed to restrict HFSS advertising in the Ofcom code were extended to include this, this would be a simple solution. In order to justify this, further research into the power and strength of HFSS product branding would be required. If this provision was to be removed the further financial impact on broadcasters would have to be considered (similar to the impact of the watershed).
Media literacy

The moral panics section raised concerns about the potential for parental food choices to undermine regulation. It would be difficult to prove if this was occurring. However, research suggested parents would like further information to help them combat pester power and to make healthy food attractive. The analysis section suggested this could be addressed by two different types of education, healthy eating campaigns and media literacy initiatives. In terms of the later, the analysis revealed there were no known initiatives. Campaigns to promote health eating to parents were also lacking. Therefore, two recommendations are necessary. 1) With regard to media literacy it is recommended that such initiatives are considered and that research is conducted to determine the kind of information required and how to best target parents. As Ofcom are statutorily responsible for media literacy, again they are ideally situated to take on this role.114 2) To ascertain if further healthy eating campaigns are required it is recommended that the Department of Health conducts research into the effectives of their previous initiatives.

114 Section 11 of the Communications Act 2003 under paragraph A requires Ofcom: ‘bring about, or to encourage others to bring about, a better public understanding of the nature and characteristics of material published by means of electronic media’ (Campbell, 2006).
Chapter 4

Internet Chat-rooms and Grooming

The sexual abuse of children is a long-established problem, but a far more threatening stereotype emerged in the early 1970’s. The image of the ‘rather pathetic child molester’ transformed into a ‘the sophisticated and well-organized paedophile’ (Jenkins in Critcher, 2003: 100). Concern over paedophilia gained momentum in the 1990’s following a number of child abductions and killings between 1978 and 1986. Yvonne Jewkes (2004) contends the term did not gain prominence until 1996, when the theme of ‘paedophiles in the community’ swept the nation. This was a result of the US’s creation of ‘Megan’s Law’, following the rape and murder of Megan Kanka by a twice-convicted sex offender. Lobbyists in the UK campaigned for a law to be developed here and in 1997 the Sex Offenders Act was introduced (Jewkes, 2004: 95). Concern continued between 2000 and 2001, following the murder of 8-year-old Sarah Payne and a subsequent campaign by the News of the World to publicly condemn known paedophiles. This campaign, in conjunction with another effort, ‘Every parent’s right to know if a convicted paedophile is living in their neighbourhood’, fuelled apprehension. Consequently, this period witnessed the highest ever figures for paedophile stories in both The Times and The Daily Mail (Critcher, 2003: 99). Keith Soothill noted that the repercussions: ‘provoked an understandable bout of national soul-searching about paedophile offending’. He further claimed it was ‘the most significant moral panic of the last two decades’ (Jewkes, 2004: 94).

Recently, internet chat technology has threatened to intensify the panic over paedophilia, by providing paedophiles with a source to contact children with greater ease, scale and anonymity. This has become termed online grooming (Calder, 2004: 6). It is intensified by the scope of this technology, making regulation problematic.

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116 The law permitted public knowledge of the locality of sex offenders.
The brief outline of the paedophilia moral panic prior to concerns about the internet, demonstrated its moral significance, press involvement and development of law. Has the risk of internet grooming warranted similar attention? Has regulation become inevitable to stem public panic? If regulatory intervention was necessary, how have regulators sought to balance concerns with the purported benefits of the internet\textsuperscript{117}? The proceeding chapter demonstrated how advertising regulators and the government were faced with a similar predicament and the result was regulatory flaws. Will a similar outcome be evident in this chapter? In order to answer such questions, how the government and regulators have responded and how the regulation works in practice will form the focus of this chapter.

\textsuperscript{117}See the effects chapter p. 107
Moral Panic

In order to understand how regulation emerged to combat the new threat of paedophilia, it is important to examine how the panic over online paedophilia developed, as the strength of the panic may have impacted on whether the government and regulators decided to act. The first section of this chapter will seek to explore this by: 1) highlighting key factors to the formation of the panic and 2) subsequent responses by the government and regulators.

**Key instigating factors**

**i. Technological development**

The moral panic chapter highlighted the importance of technological change to the generation of a moral panic. This is fundamental, as a number of technological developments have provided avenues for paedophiles to contact children.

The ability to converse online dates back to the early 1970’s when academics communicated via PLATO, one of the first generalised computer assisted instruction systems. The technology advanced in 1988, when Jarkko Oikarinen invented internet relay chat (IRC). In this period there were only small numbers of users. In 1989 only 40 IRC servers ran across the world. This expanded in 1995 following Java applet support. In 1999 MSN developed ActiveX Chat Technology and opened their first online chat room service (Haxx, 2006). As a result it became broadly accessible and many internet providers today offer a range of chat facilities.

Initially, concern over the internet primarily fell on the availability of child pornography and the ability for paedophiles to converge in chat facilities (Silverman & Wilson, 2002: 87-88). It was not until the late 1990’s that the press recognised the threat internet chat-rooms could pose, providing paedophiles with a source to contact children with ease, scale and anonymity (Calder, 2004: 6). This concern is amplified by the enormity of the internet, making regulation problematic. These factors lie at the heart of this moral panic.
Further technological advancements associated with chat have fuelled apprehension, one being internet access on mobile phones. These permit children to log on wherever they are, thus circumventing the possibility of parental supervision (Gardner, 2003: 5). The Japanese experience was influential here. A Westminster Conference revealed that since 3G’s arrival in Japan, there had been 500 cases of abuse through mobiles within the first 6 months of 2002. Cultural differences were acknowledged, nevertheless due to the appeal of such technology to under 18’s it was envisaged the problem was ‘likely to transfer to Europe’ (Gardner, 2003: 10).

Another portable device appeared in 2005, the Nintendo DS. It was reported that these consoles could ‘easily be used by perverts to groom victims’ (Neetleton, 2005: 29). It was also revealed, that unlike the fixed Internet: ‘DS chat facility is unsupervised and leaves no evidence of users once the gadget is switched off’, thus making regulation even more problematic (Neetleton, 2005: 29). Despite this press coverage, no actual incidents have been reported.

The Cyber Research Unit in 2004 revealed a further technological development that potentially aided the paedophile: the webcam. This permitted what has been termed ‘cyber sex’: ‘Flirting or talking about sex with other chatters’. This can also involve the sending of pornographic images e.g. via a webcam and abusive and threatening behaviour (O’Connell et al, 2004:16). The mere fact this adds another strain of internet abuse could provide further scope for concern. This is strengthened by actual incidences. In 2006 Adrian Ringland befriended four girls in a chat-room and gained control of their PCs by attaching a virus to an attachment. This enabled him to operate their webcams without their knowledge. An officer involved in the case stated: ‘the technology used by Ringland is far more advanced than any other internet paedophile we have come across’ (Cowan, 2006: 8). Another key case was that of Canadian Mark Bedford. Police alleged he chatted to at least 42 girls in Kent. After meeting them online he hacked into their e-mail accounts gaining access to their ‘buddy lists’ and then contacted them posing as their friend. He also persuaded them to expose themselves via webcam (Boffey, 2006: 13). This only amounts to two incidents and would query the viability for regulatory action based on this. The issue of whether concern is justified will be discussed shortly.
Another realm of contact emerged in 2006: blogging, websites that allow users to create their own pages and detail personal information and photos etc. Other surfers can view these pages and leave messages. Example sites are: Myspace, Youtube and Bebo. The press has condemned these social networking sites as ‘feeding grounds’ for paedophiles (Steele, 2006). The amount of children engaging in these sites could lead to moral entrepreneurial concern; an estimated 61% of UK children aged between 13 to 17 have a personal page (Lewis, 2006: 3). In addition, in the US a teenage girl claimed to have been sexually assaulted by another Myspace user (Duff, 2006: 14). The UK witnessed their first case via Bebo in 2007 (Crooks, 2007: 5).

In light of the above, a number of technological developments could have played a role in the development of a moral panic. Another aspect is that mobile formats undermine parental supervision118. Thus, in combination with the general difficulty of regulating the internet119 and the fact online technology allows paedophiles to invade spaces that would normally be regarded as safe120, these potential risks have provided moral entrepreneurs with scope for concern. But is the concern genuine? Is chat-room grooming a widespread reality?

**ii. Incidents**

This section will seek to identify cases of on-line grooming. This is vital, for if grooming is a widespread reality then concerns raised by moral entrepreneurs could be regarded as genuine. Statistics will be considered alongside landmark cases. These are important, as the circumstances of certain cases could have heightened concern.

Ascertaining the extent of the problem is difficult because of the paucity of statistics. This is exacerbated by many cases going unreported (understandably, children may be apprehensive in coming forward) (Calder, 2004: 40). Sonia Livingstone (2001: 3) has recognized this: ‘We suspect that the cases of harm which come to light and are pursued through the courts are merely the tip of the iceberg, but we do not know how

118 This was noted in the moral panics chapter as a factor that may influence the development of a panic, see p.18.
119 Its sheer scale and world wide access. In terms of the later, UK regulation would not be applicable to sites originating from other countries.
120 They can chat to children whilst they are at home or at school.
big is the iceberg itself”. Supplementary, official statistics provide little clarification, as they often combine all grooming cases, making it difficult to distinguish how many relate to on-line approaches (Calder, 2004: 9). For example, Home Office data 2004/05 revealed 10,678 sexual grooming crimes, this rose to 11,252 for 2005/06 (Walker et al, 2006: 27). No further breakdown exists.

Other sources attempt to provide verification. The Virtual Global Taskforce (VGT) reported that since their website went live in 2005, in February 2006 they had received 125 reports relating to on-line grooming (NCS, 2006: 9). Furthermore, in 2006 Jim Gamble, head of VGT confirmed receipt of around 90 reports a month from children and their parents (Pallister, 2006: 11). The problem with such statistics is it is unknown how many of these complaints are valid.

Due to the problem of verification, an analysis of press articles was conducted to establish the number of press reported cases. For the purpose of this research, incidents were defined as reports of allegations and convictions. Although it is acknowledged that allegations do not amount to proven instances of grooming, it highlights the extent of press coverage. Moreover, it is recognized that press coverage can be a symptom of moral panic rather than evidence of a panic’s validity.

The graph below demonstrates incidents reported between 1998-2007.

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121 Lexis Nexis and BBC Online were utilised Please see the appendix B (p.274-275) for search criteria and a breakdown of all reported instances. Although this provides an insight into numbers, it must be noted that reliance on press articles is not conclusive as only the high profile incidents may gain press attention. Nonetheless, this is a useful exercise, due to the role the press plays in the facilitation of panics (see p.19).

122 See the moral panics chapter p.19.

123 Due to the reliance of online search tools, it must be acknowledged that there may have been incidents prior to this.
The lone incident in 1998 is regarded as Britain’s first; a 16-year-old boy was lured in a chat-room by a 47-year-old man, Philip Rankin. According to the graph incidents increased from 2000 onwards. This reinforces O’Connell et al’s (2004) observation, that mid-2000 was a ‘wake up call for the UK in terms of grooming’. This followed the incident of a girl called Georgie who had chatted online to a man she believed to be 15, who turned out to be 41 (Calder, 2004: 40). This was further reinforced by Patrick Green, the UK’s first perpetrator to be found guilty of a sexual offence where contact initiated within a chat-room. According to a Times article, this case made ‘grooming on net chat rooms hit public consciousness’ (Molloy, 2002: 21).

The peak in 2004 could coincide with government intervention (see sections below). The case of Studabaker was critical in this year as it received large-scale exposure, probably due to the case’s unusual nature: a US marine’s abduction of a 12-year-old British girl whom he had groomed for 11 months (Carter, 2004: 5). Since 2004, figures have remained consistent.

This section has revealed that it is difficult to establish how widespread the reality of online grooming is, thus questioning whether the degree of concern is justified. Although statistics exist to suggest its existence they do not always directly relate to online grooming or it is unknown whether reports are valid instances. The latter also applies to the press coverage statistics. Regardless of whether the figures quoted are accurate, they do infer an element of risk. However, it is unknown how big a risk it poses and if it justifies government and regulator intervention. Whether the government and regulators have decided to act will be demonstrated shortly.

iii. Parental responsibility and regulation

In a similar manner to the advertising and obesity chapter124, concern has been raised over the capacity of parents to exercise responsibility – their ability to help and enforce regulation. However, there is a major difference, due to the difficulties of regulating the internet, parents have been regarded as fundamental to the regulatory

124 See p. 68.
process. The industry has noted this: ‘We believe that parents are the first line of defence when it comes to protecting teens in the offline and online worlds’ Chris McCafferty, MySpace spokesman (Kelly, 2007). But are parents able to fulfill this role? Statistics suggest not. In 2005 79% of children claimed to use the net unaccompanied at home (Livingstone & Bober, 2005: 10). Ofcom found that: 40% of 8-11 year-olds and 71% 12-15’s use the net unmonitored (Ofcom, 2006c). Consequently, to counteract this, parents should be incorporating various safety mechanisms: 63% claim to keep an eye on the computer screen; 50% say they stay in the room with the child and 41% check the computer’s history (Livingstone, 2004: 45). In addition, 46% say filtering software is installed. This suggests parental attempts to regulate. Nevertheless, 23% affirm that chat-rooms are not blocked (Livingstone, 2004: 44). Moreover, Livingstone’s study highlighted that children contended otherwise (to parents allegations to regulate), thus undermining claims of parental responsibility: 35% of children believed filtering software was in practice; 17% said parents monitored the screen; 22% stated they stay in the same room and 9% verified parents checked the history (Livingstone, 2004: 45). 23% of adults also do not know how to restrict access (Ofcom, 2006c: 110). 2006 statistics presented a similar picture: 33% do not know how to deny access to specific sites. Moreover, 53% of children claim they are ‘never’ or ‘hardly’ supervised (NCH, 2006: 2). Such statistics assume children correctly interpret the situation.

Even if parents do exert regulation, children’s computer literacy may elude this: 63% profess to hide online activities (Livingstone & Bober, 2005: 25). A report by NCH and Tesco Telecoms revealed 65% of children claimed to clear internet history. In addition, 46% were confident in eluding constraints (NCH, 2006: 3). Supplementary to technical issues, a report by Livingstone and Bober (2006) questioned parental regulation generally:

.....relying on parents to implement consistent, effective regulation within the home is problematic – not necessarily because parents are unwilling or incompetent, but rather because for both practical and theoretical reasons, this is a difficult and in some ways, inappropriate burden to rest on parents’ shoulders. The realities of everyday family
life, and the particular practice and expertise building around the internet, means that such a policy is likely to be consistently successful (Buckingham, 2006: 110-111).

Based on the above, if regulation is reliant on parents as the industry suggested, the regulatory process may be flawed, thus providing further basis for concern. Moreover, are the regulators aiding them in this role? The advertising chapter stated that parents wished for further information, but very little had been done to address this. Whether this flaw transfers to internet regulation and chat-rooms will require exploration\(^\text{125}\).

**iv. Children’s awareness and risk**

How children put themselves at risk may also fuel concern. Their vulnerability is dependent on their awareness of risks. This will be considered briefly by highlighting how they are ignoring advice (this will be considered later) that has been formed to help reduce risk (media literacy initiatives – this will be considered later). The following statistics suggest some are ignoring this information. O’Connell et al (2004) reported that 91% of children were acquainted with the advice: ‘Never give out your address or phone number to people you meet online’ and 76% were familiar with the instruction ‘Never arrange to meet anyone in the real world whom you have only met online’ (O’Connell et al, 2004: 22). Despite this, other research findings suggest ignorance or disregard of advice. Livingstone (2004) revealed that 49% confessed to not disclosing personal information i.e. name, address and e-mail address, hence a significant amount ‘had provided at least some of this information on-line’ (Livingstone, 2004: 39). One in twelve stated they had attended a face-to-face meeting (Livingstone, 2004: 40). While one in four children reported having ‘sometimes’ been asked to meet face-to-face (Calder, 2004: 39). In addition, in 2004 only 45% informed their parents about such meetings (Livingstone, 2004: 40). The reliability of these statistics is debatable as children may not be willing to admit this behaviour.

\(^{125}\) See the development and analysis sections
Another point is that a third of 9-19-year-olds have received unwarranted sexual or nasty comments (linkage to cyber-sex) (Livingstone, 2004: 40). The problem here and with all statistics is the lack of clarity as to who such contact was with: other children or adults/prospective paedophiles.

These statistics show that some children are putting themselves at risk. However, statistics suggest that the amount of children engaging in chat is actually small. In 2003 the Home Office’s Internet taskforce stated that 20% of children use chat-rooms (Allen, 2003) In 2004 this figure remained comparatively static at 21% (Livingstone, 2004: 21). The issue of children divulging such behaviour should be acknowledged, particularly when 64% of parents profess to forbid the activity (Livingstone, 2004: 42). Figures might have increased via the popularity of message boards like Myspace. For instance, it is estimated that 61% of UK children aged between 13 and 17 have a personal file on a networking site. (Lewis, 2006: 3).

Based on the above statistics, similarly to the number of grooming incidents, it is difficult to substantiate the level of risk. This poses a quandary for regulators – how far do you regulate, as although very few appear to use chat-rooms, based on children’s ignorance of safety messages and reports of grooming, an element of risk is evident. How do you regulate on this basis and will it work in practice?

v. Press response

The incidents sub-section highlighted the volume of press coverage. This is not the only element that could aid panic formation: vocabulary and sentiment may also have an impact. For example, emotive language has regularly been employed. On the 18th January 1998 the Bath Chronicle ran an article: ‘Children at Risk from Internet Paedophiles; PORN PERILS: Charity calls for Tighter Controls on Customers’. The charity NCH Action, deemed portals as ‘notoriously dangerous places’ (Bath, 1998:

126 See the moral panics chapter p.19.
7). Within the same year 1\textsuperscript{st} May 1998, The Mirror ran the headline: ‘Sinister World of Chatrooms: Danger of Paedophiles Infiltrating Internet Chatrooms. The same story quoted Nigel Williams, Childnet International: ‘The internet is like a big, bad city and can be highly dangerous for young people who are unsupervised’ (Miller, 1998: 5). In September 2002 The Express stated: ‘Perverts use Phone Text to Lure Children’ (Lambie, 2002: 17). Two months later Philip Bugler’s grooming of a 15-year-old made front page news: ‘Predator; Pervert Lured Schoolgirl, 15 for Sex using Internet Mobile Phone Chatroom’ (Tait, 2002: 1). The Sun’s 2007 article, ‘Chat is No1 Net Danger’, would have done little to stem panic. The article revealed findings of a study conducted by CEOP (Child Exploitation and Online Protection Centre): ‘Our analysis shows online chat and instant messenger are still the most reported area of abuse and grooming is the most frequently reported activity’ (Anonymous, 2007).

Another feature of press coverage of paedophilia is the criticism of chat-rooms in child abduction cases. On a number of occasions the press have accused chat-rooms of playing a role in missing children cases, despite the fact the link was unwarranted. This would not only fuel concern, but it also provides an indication of the level of panic. For example, they were mentioned in the Holly Wells and Jessica Chapman case, as both girls had spent time on a computer prior to their disappearance. A headline in The Guardian emphasize the linkage: ‘Missing School Girls: Danger Lurking in the Chatrooms’ (Kelso, 2002: 4). The Times reported similarly: ‘Hunt Highlights Dangers of the Internet’ (Rowan, 2002b: 7).

\textit{vi. Moral entrepreneur response}

All the above factors may have provided moral entrepreneurs with fuel for their campaigns. These criticisms will be briefly referred to, due to the role moral entrepreneurs play in fuelling panic to influence regulation. In 2002 Matt Loney, editor of ZDNet UK (Technology Website), condemned industry unwillingness to self-regulate: ‘There are no controls in place, and companies offering chat room services tend only to respond to complaints, rather than actively policing’ (Rowan, 2002a). Within the same year, Lord Bassam, Home Office Minister, believed the situation had become critical and that ‘we have almost got to the point where it is too
late (to intervene)' (McAuliffe, 2002). Lack of industry commitment was also noted by John Carr, NCH (children's charity) in 2005. He acknowledged that the industry had shown 'great willingness' to fight problems like spam, viruses and phishing, but 'this has not simply happened in the field of child protection' (BBC, 2005). The IPPR (Institute for Public Policy Research) in 2008 further censured the industry. Government efforts were also questioned: '....the Government and internet companies need to do more to protect young people from inappropriate content and to promote and enforce guidelines on the limits of acceptable behaviour' (IPPR, 2008).

The above criticisms suggest that regulation of online chat-rooms is based on self-regulation. This will be clarified in the development of regulation section. Criticisms of this type of regulation were afforded in the advertising chapter – will they apply in this instance? Contrary to the moral entrepreneurial censures, it has been suggested that the voluntary mechanism works. The IWF (Internet Watch Foundation) claimed: 'This guidance (self-regulatory code) is an excellent example of significant industry members collaborating in a partnership to protect children'. Paul Goggins (then Chair of the Government's Taskforce on Child Protection on the Internet) asserts similarly: 'These guides will ensure safer online standards for children' (IWF, 2005). Whose assertion is true and whether the system works in practice will form a substantial part of this chapter.\textsuperscript{127}

The above sections attempt to provide an insight into elements that may have played a role in instigating a moral panic. The most significant being, that unlike other panics\textsuperscript{128}, it appears that the threat is real. However, it is conjectural how big or small the danger is. Other vital factors include the problem of regulating the net and whether self-regulation is adequate, parental ignorance and children's disregard of dangers. Whether these accumulate to a justifiable panic and regulatory action has been raised by Sonia Livingstone, who has conducted various pieces of research on children and the internet: '.... the risks do not merit a moral panic, and nor do they warrant seriously restricting children's internet use, because this would be to deny

\textsuperscript{127} See the following two sections – development and analysis

\textsuperscript{128} In most of the other case studies the hypothesised effect/risk of the media quoted by moral entrepreneurs is unfounded. For example, video games and violence (see p.3).
them the many benefits of the internet.’ (Livingstone & Bober, 2005: 4). This is a key point and was raised in the effects chapter. Byron (2008) has observed its importance:

The potential benefits of the internet for everyone, including children and young people, are enormous and include the possibility that children can improve some of the skills that are so crucial to their cognitive development (critical evaluation, judging sources of information)’ (Byron, 2008: 62).

Not only could regulation hinder children’s rights, they could also impact on adults, as portals they have access to might be affected. The industry may also be affected, as if regulation restricted children’s access advertisers may no longer invest in the sites. This could hinder profits as many portals are reliant on advertising for revenue. Considering all parties involved, how do you balance these alongside moral entrepreneurial calls and the inconclusive level of risk?

vii. Government and regulator response

The development section will provide an in-depth account of government and regulators response, therefore to prevent duplication this will not be documented here.

Conclusion

This section has demonstrated that a number of factors could have influenced moral entrepreneurial concern over online chat-rooms and paedophilia: the risk of grooming, the difficulties the internet poses for regulation, reservations over the adequacy of regulation (self-regulation), queries over children’s knowledge of risks and the ability of parents to supervise children’s on-line activity. In terms of the risk, statistics fail to affirm the widespread reality of grooming. Despite not knowing if this is a high risk, the incidents in combination with the potential for children to put themselves at risk, with the arena the internet affords for grooming, implies that an element of risk exists. To an extent, concerns appear genuine, therefore, how have the government and

129 Chat-rooms closed down or their operations restricted.
regulators responded? As stated throughout this section, it appears when forming regulation they would need to give reference to a number of factors: unsubstantiated risk, moral entrepreneurial concerns, children and adults rights and industry needs. How have they sought to balance these? By querying the effectiveness of current provisions, moral entrepreneurial concern suggested this has not been achieved. To determine the validity of this and to see if this balance has led to loopholes, the UK regulatory system requires examination.

130 If children are restricted from sites, there is the risk of losing advertising revenue—sees moral entrepreneurial response sub-section p.124.
The Development of Regulation

The previous section questioned whether attempts to balance various factors may have impacted on the adequacy of regulatory provisions. Moral entrepreneurs also questioned the competence of the system. In order to evaluate this, it is first necessary to determine how the government and regulators responded. This will involve identifying: 1) the formation of regulatory bodies, guidelines, legislation and media literacy campaigns and 2) who the key regulatory bodies are and who they represent. As chat-rooms are a relatively recent phenomenon, there is not a long history of regulation development. Consequently, the provisions addressed are all current and functioning.

Current regulation

Regulation with reference to children’s online safety surfaced in March 2001 following the government’s establishment of the Taskforce for Child Protection on the Internet. Motivation for this decision may have stemmed from Patrick Green’s prosecution. However, the government suggested the main influencing factor was the Internet Crime Forums (IRC) report, ‘Chat Wise Street Wise’ (2001), which identified potential problems with chat facilities (IRC, 2001: 1). The government felt obliged to act and professed to give ‘high priority’ to the tackling of sex offences against children, thus the formation of the Taskforce (Home, 2003: 1). This involved a collaborative partnership of government, law enforcement, industry and children’s charities. They hoped to achieve the government’s aim via 1) the evaluation and progression of legislation, 2) development of effective safeguards and 3) media literacy (EURIM, 2004: 2-3).

In 2003 the Taskforce took their first step to achieving their aims via the launch of a ‘Model of Good Practice and Guidance for the Internet Industry’, an advisory guide for ISP’s who offer chat and instant messaging services. This attempted to address the difficulties of internet regulation by promoting self-regulation. Action was again

[131 See p.113.]

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stimulated from the ‘Chat Wise, Street Wise’ report, whereby they called upon ISP’s to:

- Provide clear advice about dangers and safety messages.
- A user-friendly reporting mechanism
- Provide a responsible standard of care to protect its users. Such mechanisms should be ‘transparent to all users’ (IRC, 2001: 29).

The Taskforce guidelines sought to embody these suggestions by providing advice on:

- Product – what service is on offer e.g. is the facility moderated?
- Safety advice
- Tools – The incorporation of certain features e.g. ignore buttons and filters
- Reporting – mechanisms to report inappropriate behaviour
- Moderated chat – alert/help functions, recruitment and training.

As highlighted above, this is a voluntary model (self-regulation). Service providers were advised to adopt ‘what they can’ (Home, 2003: 8). Based on the predicament the government faced, balancing an undetermined level of risk with industry and children’s rights, it is not surprising they opted for this regulatory route. Whether the pros and cons of self-regulation apply will need to be analysed throughout.

Another form of voluntary regulation occurred in 2003, Microsoft’s decision to ban chat facilities. Despite directly tackling the problem, their decision was not well received by all. This will be considered in the recommendations section, for if current regulation provisions are inadequate, this option may require further consideration.

Two bodies were also established in 2003. The aim of POLIT is to ‘support, co-ordinate and assist national and international investigations of Internet related child

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132 Direct state intervention would only really be justifiable if research proved effects – see the effects chapter
133 See the development of regulation section in the advertising and obesity chapter p.81.
134 See the recommendations section p.151.
abuse’, while the Virtual Global Taskforce (VGT), an international alliance of law enforcement agencies, investigators, industry figures and child protection specialists from over 20 different countries (VGT, 2005). They aim to: 1) make the Internet a safer place; 2) identify, locate and help children at risk and 3) hold perpetrators appropriately to account. (VGT, 2006).

In 2004 the government acted directly via the Sexual Offences Act 2003. This became law on the 1st May 2004. An offence was defined as: ‘A course of conduct enacted by a suspected paedophile, which would give a reasonable person cause for concern that any meeting with a child arising from the conduct would be for unlawful purposes’ (CPS 2003). Section 15 stipulates the criteria for prosecution, that an offence is committed when an offender meets face-to-face with a child or travels with the intention of meeting a child. Fundamental elements to this are:

- Communication (a meeting or other form of communication) on at least 2 previous occasions, this does not have to be of a sexual nature;

- The child is under 16 and the adult does not reasonably believe that the child is over 16. However, if a police officer has posed as an underage girl prosecution is still likely;

- The person must have intended to commit a sexual offence (CPS, 2003).

If found guilty, the offence holds a maximum sentence of 10 years (CPS, 2003). Similarly to the advertising regulation system, by introducing a mandatory element it becomes a co-regulatory system (instances of grooming found by the voluntary bodies can be penalised via this Act). Whether this combination of state and industry regulation will work will be evidenced in the analysis section, particularly as the advertising chapter concluded that the systems did not work hand in hand.

The difference with this co-regulatory system is that the legal side is for prosecuting paedophiles, not penalising the industry for not applying regulatory codes. The Act should deter groomers, but what about the self-regulation side of industry application,
are there measures in place to monitor the industry and reprimand contraventions? The latter was regarded as a general concern associated with self-regulatory systems\textsuperscript{135}, does this concern apply here? Based on the Taskforce having no monitoring procedure or mechanisms for reprimanding\textsuperscript{136}, this could present a regulatory loophole. However, this criticism may not be relevant if 'industry buy-in' was applicable, as the industry may be voluntarily complying to prevent further regulation\textsuperscript{137}. This will require examination in the analysis section.

Although the above confirms a co-regulatory system is in place, since the introduction of the Act in 2004, regulatory responses have continued. In December of the same year, the VGT website was launched. The main purpose of the site was to provide a reporting mechanism for incidents of abuse to be logged and subsequently investigated.

In 2005 the Home Office Taskforce supplemented their 2003 guidance with another publication: 'Good Practice Guidance for the Moderation of Interactive Services for Children'. As the title suggests, this guide just concentrated on moderation techniques. This guidance remained voluntary.

A further body, CEOP was established by the government in 2006 to work alongside VGT. They focus on UK activity and amalgamate representatives from a variety of bodies e.g. POLIT, the Serious Sex Offenders Unit, The Met, AOL, NSPCC, ChildNet, IWF, BT. By drawing on all this experience they hope to provide:

- Online presence helping to protect children in the UK;
- Educational support for parents;
- A focus for industry to collaborate with law enforcements to tackle technological advancements
- Support for police forces (CEOP, 2006).

\textsuperscript{135} See the development of regulation section in the advertising chapter, p.81.
\textsuperscript{136} See p.134.
\textsuperscript{137} A positive ramification offered of self-regulation – see the development section in the advertising chapter, p.82.
In addition to the above bodies, the government continued to act via Gordon Brown’s request in 2007 for an independent review into the risks children face from the internet to see if regulation was satisfactory. Dr Tanya Byron, a psychologist, conducted this report and it was published in March 2008\textsuperscript{138}. It is worth noting industry response to the Byron report. The moral panic section raised concerns over their commitment to protecting children, but their reaction to Byron’s recommendations suggests otherwise. Many welcomed her conclusions. For example, Google applauded her work by ‘bringing these important issues to the fore’. They further pledged: ‘Google is deeply committed to protecting children on the internet and providing all of our users with a safe experience online, through empowerment, education, and protective measures’ (Richards, 2008). Myspace and Facebook responded similarly. Such a response is not surprising considering Byron recommended that voluntary regulation continue\textsuperscript{139}. Therefore, the industry responses do not necessarily prove commitment, instead they may represent the fact Byron’s recommendation works in their favour. Whether this affects the adequacy of the system, and if the moral entrepreneurial concerns are valid, will be examined in the analysis section.

The continual action by the government over the years suggests they have been reactive to concern and are committed to protecting children on-line. By acting, (particularly by making grooming a crime) this shows similarities with those panics noted in the moral panics chapter – the governments continued response to protecting children by acting directly. However, the slight difference (likewise with advertising regulation) is that the state regulation is combined with self-regulation. As a result both need to work in tandem for the regulation system to be successful. Although it is recognised this appears the most adequate response considering all the factors involved, if loopholes exist like in the advertising system, modifications may be required. Before the analysis on the effectiveness of this co-regulation system, other issues key to the success of this system require acknowledgement.

\textsuperscript{138} As the report was released when this case study was almost complete, a full analysis of Byron’s findings have not been conducted. Nonetheless, as this report focuses on internet regulation, where appropriate Byron’s findings will be discussed.

\textsuperscript{139} See the recommendation section p.152.
Public Awareness Campaigns

Another element crucial to the system is media literacy. This was regarded as a key aim by both the Home Office Taskforce and CEOP. It is important is to help parents fulfil their role and to help children protect themselves. Moreover, it is seen as a useful self-regulatory tool due to issues associated with regulation\textsuperscript{140}. If adequately distributed, these should address issues highlighted in the moral panics section (evidence suggested that not all parents were equipped to fulfil their role as a regulator and that some children seemed to be ignoring safety messages). Consequently, it is important to document initiatives to see if the regulators have attempted to address these concerns.

Media literacy campaigns have not solely been conducted by Home Office bodies. NGO’s (non-government organisations) have also played a key role e.g. charities, ISP’s. Due to the limits of this case study, all these channels cannot be noted, thus significance will be given to regulatory body efforts, as this will aid evaluation of their regulatory response.

Over the past few years the Taskforce and CEOP have been involved in a number of large-scale awareness initiatives, which date back to 2001:

- December 2001 - ‘Wise up to the Net’, a £1.5 million advertising campaign to reveal the dangers of grooming (Richardson, 2001).


- January 2003 – £1 million was invested in the redevelopment of the government’s site www.thinkuknow.co.uk, alongside TV, radio and online advertising (Lyndhurst, 2003).

\textsuperscript{140} See the media effects chapter.
• October 2004 - £300,000 was dedicated to a series of radio and online adverts and an advice leaflet was developed for parents (Home, 2004).

• November 2005 - ‘Getting to know IT All’: lesson plans, curriculum materials and modules for parents were formulated. These packs were sent to all schools teaching 11-14 year-olds (VGT, 2005).

• January 2006 – Another £1million initiative. A new site for parents and children was developed: www.internetsafetyzone.co.uk (Safetyzone, n.d.). In addition, 3 adverts featured in the national press encouraging parent’s involvement. Online adverts aimed at 11-14 year-olds were also embraced (Rojas, 2006). In September the Home Office went a step further and pledged to give every child internet safety lessons by hosting internet safety days at secondary schools. The “Thinkyouknow” events were primarily intended to be attended by 1 million children by March 07, which would subsequently be rolled out on an ongoing basis (Meikle, 2006).

• February 2007 – As part of European Safer Internet Day (6th Feb) parents and young people were urged to visit the thinkuknow site (CEOP, 2007a).

• October 2007 – CEOP launched ‘Purely for Parents’ which aimed to teach parents ways to keep their children safe. This was delivered through specially designed parent’s evenings (CEOP, 2007b). Within the same month they launched an initiative for 8-11 year-olds called Cybercafe, a website which provided games on online safety and provided a basis to send emails and text messages (CEOP, 2007b).

The above initiatives show a conscious effort to address concerns as both children and parents have been targeted. However, whether these have had a positive impact and the usefulness of such campaigns will be considered in the evaluation section.
Regulatory bodies

Now that the main regulatory mechanisms have been established, discussion of the operation of the key bodies is essential, for how they function may have impacted on the success of their efforts. One issue also raised in the advertising chapter – the potential for bias.

**CEOP**

CEOP is affiliated to the Serious Organised Crime Agency (SOCA). This means that they are subject to the scrutiny of the SOCA Board (CEOP, 2007c: 16). They are predominately funded by the Home Office, for example for the year 2007-2008 they received an annual budget of £5.657 million. They also receive significant levels of support from industry and third sector (a breakdown is not available) (Hansard, 2008).

**VGT**

The VGT is the international alliance of CEOP and is made up of law enforcement agencies from all over the world: Australian Federal Police, CEOP, Italian Postal and Communication Police Service, Royal Canadian Mounted Police, the US Department of Home Security and Interpol (VGT, 2005). Due to the international scope of VGT, their performance will not play a fundamental part in this case study as this analysis is just focusing on the UK system.

**Home Office Taskforce**

As mentioned earlier The Home Office Taskforce is made up of a various organisations, these include representatives from a variety of sectors. For example, government bodies (Department of Education and Skills, Crown Prosecution Services, CEOP, Ofcom), charities (NSPCC, Barnardo’s, NCH) and ISP’s (Wanadoo, Yahoo, Vodaphone, T-Mobile, AOL, Microsoft). As a result of this cross-representation and varied input, they should be best placed to develop successful
regulatory provisions\textsuperscript{141}. The Taskforce however, does not regularly monitor ISP application of their guidelines, an issue noted of the self-regulation system in the advertising chapter\textsuperscript{142}. In 2004, they commissioned research to decipher how the industry had responded to their 2003 guidance, but since then, despite confirming in 2006 that a further evaluation would be conducted, this has not yet happened (Williams, 2006). Even if monitoring was in existence, this could be regarded as pointless, as no mechanism is in place to penalise those in breach of the code (Williams, 2006). Whether this is a satisfactory approach will be examined in the analysis section.

Another element of their operations that could jeopardise the adequacy of their regulatory provisions, is the lack of a dedicated secretariat and that the members’ other work commitments often take precedence. The NCH concluded that these factors ‘are a deadly and threatening combination’ (CHIS, n.d.). Work commitments also affect the Taskforce’s annual meetings. They should meet quarterly, however Jon Williams (former employee of the Home Office Computer Crime Team) confirmed this was not definite, instead meetings revolved around Ministers diaries’ or occurred on a business-need basis (Williams, 2008). The Byron report (2008) also observed the lack of a secretariat and noted further implications: 1) they have no strategic plan, instead they are driven by the latest concern; 2) no mechanisms exist to develop robust evidence, e.g. research to inform policy and for evaluating the effectiveness of their work. Nevertheless, it was acknowledged that their strength lies in the way the Taskforce brings together the government, industry, law enforcement and the third sector (Byron, 2008: 67).

In the advertising chapter, the funding of the regulators was examined due to queries over impartiality, as half of the system was industry led. As the Taskforce operates a self-regulatory system, their funding will also be considered. The Taskforce has no dedicated budget, instead members contribute on a ‘as needed’ basis (Hansard, 2008). It is not known if this is sufficient to meet their needs, as a breakdown is not publicly available. Without a breakdown it is difficult to determine how independent

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\textsuperscript{141} A benefit afforded of self-regulation is the ability for the industry to formulate more informed regulation than if it was just formed by a public body – see the development of regulation section in the advertising chapter.

\textsuperscript{142} Monitoring by Clearcast and the ASA.
the Taskforce is, as if they received substantial money for one sector than another, this could influence their regulatory decisions.

**Conclusion**

The moral panic section demonstrated a quandary for regulation due to a variety of factors. By tracking how regulation has developed, it appears the government have attempted to address this by formulating a co-regulatory system, a combination of state regulation via the Sexual Offences Act (2004) and self-regulation via the Taskforce guidelines. This seems a fair approach considering the current regulatory climate (lack of valid evidence, negative connotations associated with state regulation and children’s rights). In addition was the formation of other bodies and media literacy campaigns. Due to the continued effort by the government, this suggests commitment and that they have been reactive to concerns. By doing so, (as suggested previously) to an extent moral entrepreneurial concerns appear genuine. But is their apprehension over the inadequacy of the regulation system valid? Has the government’s balance of factors led to loopholes? On face value if the system works as purported, it should address concerns as it attempts to stem risk of grooming via the 2004 Act and industry codes. Moreover, the regulators commitment to media literacy should address concerns over parental responsibility and children placing themselves at risk. Despite these positives, whether the self-regulatory side of the system works is dependent on industry willingness as no mechanisms are in place to guarantee this. Moreover, by having multiple bodies in place i.e. CEOP and the Taskforce, will these work in combination to form a robust approach? In order to answer such questions and to see if concerns are substantiated and if the co-regulatory approach has led to loopholes, an analysis of the system in practice is required.
Evaluation of Regulation

The previous section showed that the government has attempted to tackle online grooming via a combination of state and self-regulation. Will this work in practice? This will be dependent on a number of factors, all of which will be debated under the following headings:

1) Self-regulation - Taskforce guidelines, their suitability and industry adherence
2) Media literacy – knowledge and application by parents and children
3) State regulation - the adequacy of the Sexual Offences Act
4) Other regulatory bodies – the success of CEOP and VGT.

Scope of the analysis

It must be noted that chat-rooms form the focus of this case study, but it is acknowledged that networking sites like Bebo may increase the probability of grooming offences. Moreover, due to the vastness of media literacy initiatives these cannot be scrutinized in depth. In addition the role of the police enforcement in assisting regulation has been excluded, as such information is not readily available as operations could be compromised. Nevertheless, a Metropolitan Police Service publication stated that police cannot cope with the huge rise in cyber-crime (online grooming is quoted), hence not all allegations can be investigated (Bennetto, 2007). A report entitled ‘Current Practice and Research into Internet Sex Offending’ concludes similarly: ‘It is alarming that members of police have expressed concern that the current community monitoring arrangements were inadequate and under-resourced. As an increasing number of cases involving the on-line grooming of children are being brought under the Sexual Offences Act 2003, these findings show much more needs to be done’ (Wmin, 2007).

1) Self-regulation

Part of the Home Office Taskforce role is to develop safeguards. They have produced two pieces of guidance. The first in 2003 was a general guide and the 2005
publication advised on moderation. Both are voluntary, thus industry adherence is not mandatory. Will one of the proposed benefits of self-regulation apply here - is the industry voluntarily adhering to prevent further regulation or as moral entrepreneurs suggest are they unwilling? The success of their implementation will be determined in 2 stages i) industry commitment and ii) competency of guidance content.

Throughout these 2 sections, reference will be given to 2 studies that had similar aims:


The latter is important, as it was commissioned by the Home Office to establish the extent of industry response to the guidelines. As noted in the previous section, this is the only time industry application has been monitored. The purpose of the other review was to present a ‘snapshot’ of how ISP’s were ‘rising to the challenge of protecting children’ (Thompson & Andrew, 2003: 1). No direct comparisons with my study can be made, as the chat-rooms utilised within their samples are unknown.

i. Industry commitment

Industry dedication was examined via analysis of a cross-section of chat-rooms between March-May 2006. In terms of establishing adherence, sites were analysed via a desk based audit to see how they are applying the guidance. Please see the

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143 Please see appendix C p.280 for the sample. Where accessible the bigger portals were included. The sample was selected via a search for child and teen chat-rooms. On hindsight only those offering services aimed at children under 16 were going to be included due to the nature of paedophilia. Nonetheless, after consideration it was felt sites aimed at 16-19 year-olds was necessary due to their appeal and scope. The Guidelines acknowledged this, that if an organisation provides a service ‘aimed at or likely to attract children’ they should ‘assess the potential risk to children to decipher what aspects of the guidance is applicable’ (Home, 2003: 3).
appendix D (p.281-287) for a full breakdown of the results. The analysis considered key aspects of the guidance:

- Safety advice
- Product (Moderation)
- Reporting abuse

Safety Advice

The incorporation of safety advice would help stem the concern over children’s lack of awareness\(^\text{144}\). The Taskforce advises this information should be ‘clear, prominent and accessible’ and ‘be present on front pages and in chat rooms themselves’ (Home 2005: 13). Have the industry followed this guidance? Thompson’s study suggested not, as only 5 out of 17 sites adhered (Thompson & Andrew, 2003: 1). Sheridan and Boon’s findings were more positive, with 10 out of 15 complying (Sheridan & Boon, 2004: 138). This study observed similarly (9 out of 12 either supplying information on their homepage or providing a link to another page), thus suggesting industry commitment.

As parents play a pivotal role in aiding protection, the Taskforce also requested educational materials focus here (Home, 2005: 13). Analysis of the 12 sites revealed only 6 acknowledgements. As a result, in terms of safety messages, industry willingness to comply voluntarily with the guidelines is debatable.

Product (moderation)

Another element deemed important is moderation. If a risk was present, this method should either act as a deterrent to paedophiles or should help intervene in the event of grooming. As a result the Taskforce recommended:

Providers of public interactive communication services should provide clear and prominent information to users about the kind of service

\(^{144}\) See the moral panic section p.120.
offered, for example is the chat room moderated or un-moderated? If moderated, what form of moderation is used i.e. technical or human moderation and how does it work (Home, 2005: 13).

In terms of the industry clarifying utilisation of moderation, previous research demonstrated little adherence as in 2004 8 out of 15 stated embracement. The other 7 stated they had no plans to adapt their sites, therefore highlighting a significant unwillingness to self-regulate. (Sheridan & Boon, 2004: 15). However, this analysis found that hosts were obliging with 11 out of 12 confirming.

The above statistics are promising; however, it is extremely easy for a site to claim they use moderation. Clarification of methods utilised would provide confirmation. Figures are positive with 10 out of the 11 (those who proclaim to moderate) affording ratification. Nevertheless, observation of moderation in practice may prove otherwise. Prior to this it is useful to establish moderation methods available as there are pros and cons of each, therefore the adequacy of regulation may also depend on which are utilised.

One way of moderating is human moderation. There is no widely agreed definition of this, thus the role taken may vary. The Guidelines distinguish between a moderator and a host:

<table>
<thead>
<tr>
<th>Moderator</th>
<th>Host</th>
</tr>
</thead>
<tbody>
<tr>
<td>‘...an individual who has a clear and defined role to monitor and filter ..and who will intervene where interactions break the “house rules” or cause concern.......Moderators may therefore have a position of trust and authority over a child user’ (Home, 2005: 11).</td>
<td>‘.......their role is simply to meet and greet new members and offer information about the interactive service and respond to questions from the new user.....They may or may not have authority over a child user’ (Home, 2005: 11).</td>
</tr>
</tbody>
</table>

Another type of moderation is technical. Predominantly this involves filtering software that endeavours to recognise key terminology that has been programmed by
the user e.g. e-mail addresses and telephone numbers (Home, 2005: 10). When such instances occur they can be blocked or used to alert human moderators (IRC, 2001: 18).

Out of the 2 types, human moderation is acknowledged as the most reliable due to inherent flaws associated with filters. The major flaw is the complexity of deriving an accurate list of keywords (IRC, 2001: 18). Additionally, the Home Office observes they can be ‘outwitted’ by the ‘creative use of combinations of numbers, letters and punctuation marks’ (Home, 2005: 10). Filters can also overlook the ‘subtleties of “grooming”, as they find it arduous to pinpoint and decipher the context of personal communication’ (Home, 2005: 10). Nonetheless, human moderation is not full-proof. The main problem is deciphering when an innocent conversation becomes dubious and warrants action (IRC, 2001: 18). Therefore, the obvious route to comprehensive protection would be a collaboration of both approaches. The Taskforce has acknowledged this by providing guidance on how to incorporate both types of moderation.

In terms of filtering, portals are advised to ‘deploy and give prominence’, which should ‘prevent children giving out their email address’ (Home, 2005: 14). This is crucial, as the disclosure of such details could allow paedophiles to continue chat in private, unmediated spaces. On the other hand, alert facilities (a button that provides access to a human moderator i.e. help room) are crucial to provide access to a human moderator. The Guidelines ask for these functions to be made prominent (Home, 2005: 15).

Detailed analysis of each provider was conducted to establish if the industry voluntarily took these recommendations on board\textsuperscript{145}.

\textsuperscript{145} These findings are based on actual usage of chat. As moderation can occur in the background, these instances could have been missed. In terms of hosts and moderators, their presence should be obvious to provide reassurance, but to also deter paedophiles. Moreover, technical filters should also be clear, as if working, entry of telephone numbers and e-mail addresses should be blocked.
The table below shows if the main mechanisms were evident.

<table>
<thead>
<tr>
<th>Chat Provider</th>
<th>Host</th>
<th>Moderator</th>
<th>Technical Filter</th>
<th>Alert</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Yes</td>
<td>No</td>
<td>Not clear</td>
<td>Yes</td>
</tr>
<tr>
<td>GYC</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Teen Today</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Teenspot</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Teensay</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Lunarstorm</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Chatterbox</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Mad Dog</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Habbo Hotel</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Tiscali</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Wanadoo</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Trouble</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Lycos/Yahoo</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

**Key**
- ‘Yes’ – analysis of site suggests this mechanism is in place
- ‘No’ – analysis suggests this mechanism is not in place
- ‘Not clear’ – analysis could not confirm if this mechanism was in place.

Each mechanism will be briefly discussed.

**Hosts** – Only one of the sites utilised ‘hosts’. Based on the Taskforce’s definition, the rejection of this method is positive as hosts afford less protection.

**Moderator** - Human moderation was witnessed clearly on 7 sites. Despite this, the identity of moderators was not always obvious. This is important so that a child would know who to speak to if help was required. Moderator presence was also not always guaranteed. An ISP Manager in Sheridan’s report suggested finance as a factor: ‘If we are going to have 24 hours, seven days a week Moderators, then there’s

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146 In some cases ‘%’ or ‘@’ was used before usernames and in the case of Lycos a picture of a ship anchor. Would children know this?
147 Lycos provides exemplification. Out of 3 visits, only once was a navigator available.
going to be cost implications' (Sheridan & Boon, 2004: 100). This implies that the industry may put profit before protection. Wandaoo suggested that the nature of chat is the issue; they cannot monitor all conversations (Wanadoo, n.d.). In both cases, this could lead to regulatory loopholes.

Alert buttons - As mentioned earlier, this is a key feature for allowing children direct access to a moderator. Analysis was positive with 8 out of 12 applying. This is an improvement based on previous figures, as in 2004 5 out of 15 applied this function. Current figures are however deceiving, as although the function is evident, following application moderators were not accessible. For example, no moderators were present on Habbo’s site. They provided defence: ‘Moderators try to answer as many calls for help as they can, but when the Hotel gets full, there can be lots of calls’ (Habbo, 2006). This questions whether staffing levels are sufficient to deal with the level of chat activity. Finance may again be an issue.

Filters – Whether filters were acting efficiently was based on their ability to block e-mail addresses and telephone numbers. Out of the 12 sites only 4 appeared to apply this successfully. The issue of the complexity of chat was applicable here. For example, Mad Dog and Lunarstorm filters permitted e-mail addresses. Habbo hotel’s restricted e-mail addresses but failed to detect home addresses. This emphasises that filtering should not be used in isolation. Since this analysis was conducted, the Taskforce has produced a filter handbook, this could improve the adoption and success rate.

Similarly to application of safety messages, the industry appears inconsistent in their commitment to voluntarily applying moderation.

Reporting of Abuse

The last key element of the guidance is the facility to report abuse. This is important as it lies at the heart of the regulatory process, as if grooming incidents are not reported this may prevent prosecution under the Sexual Offences Act. Therefore, for

148 A flaw associated with filtering, see p. 140.
the co-regulatory system to be successful, the voluntary system needs to work hand in
hand with the statutory side.

The 2003 Guidelines stipulate how the reporting mechanism should feature:

Service providers should employ and give prominence to a system of
receiving and responding appropriately to report of incidents. The
reporting mechanism should be clear and accessible (Home, 2005b: 15).

In 2004 12 out of 14 providers permitted incident reporting compared to 11 out of 17
in 2003 (Sherdian, 2004: 141 & Thompson & Andrew, 2003: 3). Figures from this
study remained relatively consistent: 9 out of 12. These statistics infer voluntary
application. Nevertheless, many failed to do so clearly and accessibly. In October
2006 Jim Gamble (CEOP) affirmed its importance, that every social networking site
where children converge should incorporate a VGT “report abuse” button (link to
VGT site) (Prigg, 2006: 8). Due to its importance the sample was consulted again in
April 2007. Only 2 sites provided the VGT link. As VGT is the main portal for
reporting abuse, lack of industry commitment may undermine the adequacy of the co-
regulatory framework.

Overall observations of ISP application

The analysis suggests that the Guidelines are either being ignored by some of the
industry or are being applied in a haphazard manner. Even if providers have
accommodated some of the key functions, they are either not clearly promoted or do
do not operate as intended. Cost was afforded as an explanation, thus inferring the
industry may put profit before protecting children. As a result, moral entrepreneurial
concerns over industry willingness to voluntarily act appear valid, thus querying the
effectiveness of self-regulation. An outcome that is not dissimilar to that in the
advertising chapter (see p.103).

149 four permitted direct access from chat, a place where inclusion makes sense, as this is where abuse
would occur. Others did not make the function ‘accessible’, various pages/documents had to be
navigated.
The lack of industry application might be because the Taskforce has no strategic approach to monitoring industry application, or penalties to prevent such breaches\textsuperscript{150}. Therefore, this could be regarded as a regulatory flaw.

Even if the industry did self-regulate and apply the Guidelines, they could be undermined by children’s ignorance. Sheridan’s study asked children to rate how useful they found certain techniques. These percentages indicate those who stated ‘don’t understand’:

Moderators - 80%
Alert features – 90%
Advice on handling abuse – 84%
Links to online safety guides – 84% (Sheridan & Boon, 2004: 61).

These figures may have improved following subsequent media literacy campaigns. The effectiveness of these campaigns will be considered shortly.

\textbf{ii. Guideline Adequacy}

The success of the self-regulation is also dependent on the sufficiency of the guidelines. As if they are not adequate, this could provide a further reason for the industry’s disjointed application. Following analysis of both documents, the latter appears applicable, with lack of clarity being the biggest issue. Sheridan’s (2004) evaluation raised this. Out of 15 managers interviewed, 7 deemed the level of content ‘satisfactory’, hence more than a half contended contrarily. Examples provide reinforcement. For example, the 2003 document advises that the relevance of recommendations will depend on the ‘scale and nature of the service offered’. No further explanation is given, therefore, portals may comprehend differently what safety measures are relevant. As a result, vital measures may be omitted. Another example is the scarcity of detail. Despite suggesting integration of filtering mechanisms, ignore buttons and alert buttons, they fail to advise how this can be achieved (Home, 2005b: 14).

\textsuperscript{150}See the development of regulation section see p124.
It is also worth considering comments made within the Sheridan report: two ISP representatives believed they had been unsuccessful and another concluded they ‘.....do very little to actually protect children’ (Sheridan & Boon, 2004: 109). A ISP manager suggested the following reason for the flaws: ‘The agenda that were behind the creation of the Taskforce models were wrong-headed....the way this whole process is being conducted is very much a PR exercise driven by the children’s charities and politicians and in effect, not actually improving safety for children at all’ (Sheridan & Boon, 2004: 109). This suggests that regulatory action may have been to stem concern rather than to address the issue. However, ongoing governmental commitment suggested otherwise151, thus, regulatory flaws may have more likely resulted from the reliance on the industry to self-regulate.

In spite of the above, it must be acknowledged that the UK seems ahead in terms of chat-room regulation. Other countries have attempted similar and have not surpassed the UK’s efforts. Research conducted by Livingstone et al (2008: 88) affirms that other EC countries are not as advanced as UK in terms of safety and awareness provision.

2) Media literacy

The previous sections have raised the importance of media literacy to the robustness of the system – to equip parents so they can aid the process of keeping children safe on-line and to educate children of the risks. How much the Taskforce and CEOP152 have invested in this area further affirms its significance. But how successful have these campaigns been? This sub-section will examine this by looking at how parental and child awareness has increased over the years.

In 2003 a Home Office study suggested that their 2001-2002 initiatives had been successful, with an 11% increase in child awareness and a 12% increase in parental knowledge of safety measures (Thompson, 2003: 20). No benchmark statistics were provided to reinforce this improvement. Research over the last few years fails to

151 See the development of regulation section.
152 Both bodies have been involved in forming and distributing media literacy – see the development section p.131-132.
support this, thus querying the success of campaigns. This will be broken down into parental and child awareness:

**Parental awareness**

The parental awareness statistics raised in the moral panic section were varied (see p. 119). As a result it is difficult to reach an affirmative conclusion on their effectiveness, particularly when children’s answers contradict parental viewpoint. Nevertheless, although some research indicates parents are attempting to regulate their children’s on-line activity, other research suggests more needs to be done, therefore questioning if previous campaigns were targeted appropriately. For example, Livingstone (2005: 24) concluded: ‘A clear need to improve and extend the reach of awareness and internet literacy initiatives’. Ofcom (2008b: 8) observed similarly: ‘The evidence clearly points to a need to help parents...to manage the potential or actual risks of going online by improving their media literacy skills’.

**Children’s awareness**

In terms of improving children’s knowledge, the success of initiatives is again debatable. For example, Sheridan’s findings (p.138) suggested that campaigns prior to 2004 did not aid children’s knowledge of chat mechanisms. A report by the Cyber Research Unit in the same year found similar, that more chat users in 2003, compared to 2002, reported being unaware of key safety guidelines, (O’Connell et al, 2004: 6). In addition, the statistics quoted in the moral panic section infer that despite awareness children disregard advice. These examples question whether campaigns have been targeted appropriately.

Current statistics though, suggest a slight improvement. In 2004 Livingstone found that 51% of children had disclosed personal information online, in 2008 Ofcom’s research implied a decline with 36% (Ofcom, 2008a: 29). Nonetheless, as each study would have utilised a different sample, drawing a conclusion would be problematic.

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153 See the moral panics section p.119-120.
154 57% of parents do not know where to go to get information about how to protect their children online (Ofcom, 2008b: 6). 4 in 10 do not know who to report inappropriate behaviour to. Only 1% had visited CEOP, and 1% VGT.
This is not aided by the fact that there has been no dedicated recent research into children’s awareness. The Ofcom 2008 study quoted focused on parental responsibility.

In terms of both children and parents, the Byron report criticised efforts: ‘...while there are some examples of strategic partnership approaches to promoting e-safety, I have found that overall, performance is patchy. The result is that efforts to improve online safety can be undermined’ (Byron, 2008:116). This suggests that CEOP and the Taskforce may not be working together to formulate comprehensive campaigns, thus questioning the adequacy of the current regulatory framework.

3) State regulation

As highlighted in the moral panic section the internet poses problems for regulation. Therefore, to tackle this, the protection of children has to be a combined effort by the regulators, children, parents and the industry. Based on the above findings, safeguarding does not appear to be guaranteed. Does the state element of the regulation process help here?

The Sexual Offences Act plays a key role in combating on-line grooming by criminalising the offence. Whether the Act has been successful is difficult to determine, as conviction rates are not publicly available. However, its scope particularly in relation to online grooming has been deemed advantageous. For example, Craven et al (2007: 63-65) acknowledged it permits police to be proactive as they can play on the anonymity the internet affords. On the other hand, legislation is not just applicable to online grooming but all acts of grooming, thus its scope may be limited. A definitive legal definition of what constitutes grooming is also omitted, thus leaving it open to interpretation. As a result, transgressors might escape conviction.

There are other issues with definition. How do you prove sexual intention? When does a conversation become illegal? Ofcom has raised this issue: ‘....the courts have encountered difficulties establishing intent to commit criminal offence, and law enforcement services have faced ethical dilemmas when considering whether to allow
a meeting between a potential paedophile and a child to take place’ (Ofcom, 2006c: 61). The reduction of Graham Barnett’s conviction highlights this loophole. Barnett was convicted following an attempted to groom what he though was a 13 year-old on the net, in fact she was a reporter from the Sunday People. He was given a 30 month jail term. In July 2007 his sentence was cut to 18 months, the reasoning: that he had suffered humiliation before the nation and that no child was involved (Barnes, 2007). This is not surprising as the law only states prosecution is still likely if a police officer has impersonated a child, no reference is given to reporters.

One further issue that may affect the effectiveness of the Act was noted earlier, that groomers may escape prosecution due to the lack of industry adoption of reporting mechanisms. The self-regulatory aspect of the system could therefore undermine the statutory part of the co-regulatory partnership.

Despite the above issues, Livingstone’s (2008: 88) study suggests that the UK is ahead of other EC countries as they are only just considering grooming laws. This obviously displays governmental commitment to protecting children, but the issues raised suggest loopholes may also exist in the state side of the co-regulatory system.

The success of the Act is also dependent on the operations of CEOP and VGT, due to their role in helping catch prospective paedophiles.

4) Other regulatory bodies

A significant amount of this section has focused on the operations of the Taskforce. However, as stated in the development section, there are other bodies fundamental to the regulatory process: CEOP and VGT. Unfortunately, due to their set-up and the fact a major part of their work revolves around law enforcement, analysis of all their operations is impossible. In spite of this, some information was obtained.

155 See the development of regulation section p.128.
156 See the development of regulation section p.133.
As CEOP has only been in existence since 2006 it is difficult to establish their effectiveness. This would be problematic anyway due to lack of current research on parental and child awareness and publication of crime figures. Nevertheless, their 2007 annual figures suggest the centre is working. They have arrested 83 sex offenders and have received 2500 reports (CEOP, 2007d). It is not known how this relates to online grooming (they also deal with pornography), but it does infer they are attempting to fulfil their aim of collaborating with law enforcements\textsuperscript{157}.

They also claim to having delivered education training to 750,000 school children and that 1 million would have attended by the end of the 2007 academic year (CEOP, 2007a). In addition, they have been involved in a number of media literacy campaigns\textsuperscript{158}. This infers commitment to their pledge to support parents but as mentioned earlier based on previous awareness statistics, it is debatable how successful they have been.

\textit{VGT}

Similarly to CEOP, statistics propose that their website’s reporting tool has been a success. An E-Bulletin produced by CEOP in August 2006 stated that since Jan 2005 VGT’s site had received nearly 550,000 visits (over 25 million hits). They regarded this as ‘incredible number of people logging on’. (CEOP, 2006: 4). Nonetheless, this figure could be higher if their reporting tool was visible in all chat facilities\textsuperscript{159}. The inadequacy of previous media literacy campaigns may also affect VGT’s effectiveness\textsuperscript{160}. This demonstrates that protection of children could be hindered due to reliance on a number of bodies under the co-regulatory framework.

Even if VGT did receive all reports of grooming, whether they adequately respond is unknown. For example, it is not publicised how they investigate cases and how long

\textsuperscript{157} See the development of regulation section p.129.
\textsuperscript{158} See the development of regulation section p. 131-132.
\textsuperscript{159} See analysis of industry commitment p.143.
\textsuperscript{160} Ofcom’s research found that only 1% of parents had visited VGT’s site, see p. 146.
they should take to respond to reports (this information is not publicly available). This raises issues of transparency and if their actions should be independently reviewed.

Based on the limited amount of information available on the operations of CEOP and VGT, it is difficult to conclude how well they contribute to the regulatory process. Based on the criticisms afforded of the self-regulatory efforts, even if these two bodies operated successfully, the industry’s sporadic voluntary efforts could undermine their operations.

**Conclusion**

Although this chapter has noted some positive attempts to address the risk posed by on-line chat-rooms, it appears that the decision to adopt a co-regulatory framework has led to various flaws that may affect the adequacy of the system. The biggest issue is the reliance on the industry to self-regulate, as they appear unwilling to voluntarily act. There are two potential ramifications of this. Firstly, this may do little to prevent risk of grooming in chat-rooms. Secondly, as shown, it could undermine the statutory side of the system. The success of the system could be further flawed by the statutory side due to issues over definition. Consequently, both sides of the co-regulatory system are open to abuse. This is not aided by statistics failing to confirm that media literacy initiatives have addressed concern over children’s awareness of on-line risks. Moreover, it appears they have failed to educate parents on how to be the first line of defence.

Overall, although a co-regulation system appeared to be a good solution to the problem of regulating in today’s climate, as shown this system is not working effectively. Moreover, whilst co-regulation acknowledges children’s right to access chat-rooms, by the system not functioning as it should, arguably the other side of children’s rights is not guaranteed - protection from harm\(^\text{161}\). But how do you balance this? This chapter has shown the complexity of achieving this. However, if the system worked as it should, then the government may have achieved this balance. Therefore, modifications are required to improve the robustness of the system.

\(^{161}\) See the media effects chapter p. 58.
**Recommendations**

One of the key trends evident throughout this chapter is that the co-regulatory system is not functioning as it should, particularly due to reliance on the industry to self-regulate and that the legislative side of the system is open to abuse. It was also evident, that in addition to the industry and the government, a number of bodies (CEOP, VGT and the Home Office Taskforce) and individuals (children and parents) are crucial for the system to operate successfully. The previous two sections have highlighted a number of issues that may affect the successfulness of this combined effort. Many of these have revolved around the self-regulatory aspect of the system and the Home Office Taskforce’s operations:

- Reliance on the industry to self-regulate
- No mechanism to monitor industry application
- Inadequate Guidelines

Another shortfall was inappropriately targeted media literacy campaigns. Consequently, there appears to be room for improvement. Based on the above criteria, the concluding part of this chapter will consider possible alternatives and remedies.

1) **Industry Commitment**

The analysis revealed that due to the voluntary nature of the Home Office Guidelines, some of the industry has expressed an unwillingness to act or has been applying the guidance sporadically. In order to improve compliance and prevent the voluntary system undermining the statutory side, a number of modifications are required and are detailed in the below recommendations.

Recommendation 1 – Restrictions of chat services to children. This would be an obvious solution, as it would obliterate the need for application of the Guidelines and voluntary industry action. This could involve obligatory codes, where breaches to restrict access would result in fines or the closure of chat facilities. This could solve the problem, but would it be a feasible recommendation? Based on the criticisms
MSN received in October 2003 following their voluntary withdrawal of their chat services, this may not be the ideal solution. The concern being, it might force paedophiles to seek alternative mechanisms to contact children (Gibson, 2003).

Another issue would be freedom of expression and information. For instance, it could impact on adults, as the closure of sites may affect their access. Children’s freedoms would also be violated due to the educational benefits of the internet. Based on the inconclusive evidence of the extent of risk, radically restricting children and adults rights would be difficult to justify anyway. Moreover, the industry could be affected i.e. advertising revenue.

Such a move would also be impossible to police due to the expansiveness of the net, and that UK legislation would not apply to worldwide sites (Gibson, 2003). Moreover, how could you prevent children from logging on? How could age verification be proved?

Therefore, bearing in mind the positives associated with self-regulation and the quandary faced by the government on how to regulate, it seems more logical to improve the current co-regulatory system. If the industry continues to display a lack of commitment, this approach may have to be reconsidered.

Recommendation 2 – Improve the current self-regulatory side of the system. Tanya Byron (following her analysis of the system) has proposed a solution here. She recommended that the current guidelines continue, but the Taskforce could operate a system similar to that applied in the video game industry – PEGI On-line. They embrace a voluntary code of conduct that the industry signs up to. Signatories are rewarded by being allowed to display a logo that affirms commitment. Although it is acknowledged that this may prompt industry ‘buy-in’ (accreditation of the site may attract visitors, thus more advertising revenue), based on the extent of

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162 See the effects chapter p.54.
163 See the moral panics section p.118.
164 See the moral panics section p.124.
165 See the video games chapter p.184.
166 Parents may allow children to use these sites as they would be regarded as safe.
unwillingness demonstrated\textsuperscript{167}, it is recommended that this option is not adopted. The main reason, if the industry were not willing to voluntarily act to prevent further regulation, will they be willing to sign-up, particularly as this may result in a cost incurrence\textsuperscript{168}?

Alternatively, in order to guarantee compliance, it is recommended that the guidelines remain (changes required – see below) but non-compliance is punished with fines or closure of chat-rooms. This could resemble the framework recommended in the advertising chapter\textsuperscript{169}, which was also suggested due to issues surrounding self-regulation. Consequently, the penalties would need to be mandatory and require state intervention. The system could remain to an extent self-regulatory by the industry being involved in the guideline formation as part their Taskforce membership\textsuperscript{170}.

For this recommendation to be achievable, a provision of monitoring would be required (something the Taskforce does not currently conduct). This would again help address the problem of industry application. Who would conduct this task? It is recommended this is performed by an independent body. As the Taskforce includes representatitives of the industry, this responsibility should be transferred elsewhere. Tanya Byron (2008) recommended Ofcom should take on this role. This is a good choice considering they already have experience of administering penalties\textsuperscript{171}, but would they have the dedicated time and effort to take on this additional burden? If responsibility was passed here, thought would have to be given to additional resources, particularly due to the scale of the internet.

It must be noted that even if the above recommendations are adopted, it would not solve the problem of the world wide nature of the internet. Children would still be able to gain access to sites where UK legislation is not enforceable. This would be an impossible task to address unless worldwide regulators decided to work in unison. However, at least via the recommendations raised throughout this section, children may be afforded greater protection in the UK.

\textsuperscript{167} See the analysis section p.143.
\textsuperscript{168} The need to adopt provisions to comply i.e. moderation.
\textsuperscript{169} See p.105.
\textsuperscript{170} The industry is regarded as best placed to inform codes – see the advertising chapter p.78.
\textsuperscript{171} They are responsible for penalties and revoking licenses for advertising regulation - see the advertising chapter p.81.
2) Guideline inadequacies

The analysis suggested that industry application of the Guidelines may have been hindered due to their inadequacy; the main problem being the lack of information. To prevent misinterpretation and to encourage application, it is recommended that the Guidelines are revised. Whilst it is acknowledged that guidance needs to be simplistic to prevent confusion, in some cases further clarity would be beneficial. For instance, portals are asked to display safety messages, but what this constitutes is omitted. In order to guarantee consistency, it is recommended that further clarification is given. This level of detail could be supplemented by a Taskforce industry helpline, where in an event of a query further help could be sought e.g. what filters to employ. This service would be dependent on funding and resourcing. The fact that there are two Guidance documents could also be confusing. Therefore, it is recommended that they are merged.

To further improve robustness, the Taskforce should obtain feedback from the industry and their members. By including them in the revision process, this may also encourage industry ‘buy in’.

3) Dedicated secretariat and funding

In order to effectively produce Guidelines and to take on board additional roles noted in the above recommendations, the Taskforce would require a devoted secretariat and regular funding (an issue pinpointed in the development of regulation section). Their current set-up revolves around quarterly meetings with members to pool resources and discuss strategy. It is recommended this continues, as to effectively tackle grooming input is required from all sectors. However, if the Taskforce’s role was expanded to offer an industry help-line, it is further recommended that the Taskforce is manned full-time. A concrete budget is pivotal here, as ad hoc funding would not suffice. Funding could stem from the industry and from the Home Office. Transparency would be required, to prevent bias. Consequently, an independent body is necessary to review their operation. Ofcom would again be a solid contender due to their experience of supporting, developing and reviewing self-regulatory codes (Byron, 2008: 74).
5) Media Literacy

This chapter has demonstrated that children and parents are important to the process of tackling online grooming. Awareness of risk and how to stay protected on-line is fundamental here. Statistics suggested that media literacy campaigns have not aided this. One criticism was the absence of a strategic approach, as more than one body has produced campaigns. Consequently, it is recommended that media literacy becomes the responsibility of one body. As this is already part of the Taskforce’s remit, and as they have an experienced membership base, they are probably best placed to co-ordinate campaigns. As stated earlier, further funding and a dedicated secretariat would be crucial to support this. Alternatively, similarly to the recommendation made in the advertising chapter, responsibility could be passed to Ofcom, due to their statutory responsibility for media literacy.\(^{172}\)

The analysis further inferred that campaigns may have not been targeted efficiently. Therefore, in order to determine where efforts should be channelled, it is recommended that regular research is conducted into the success of previous campaigns.

In addition to the above, tailored recommendations are required due to the differing nature and requirements of each audience:

Parental awareness

The analysis revealed that many parents do not know how to keep their children safe or where to report abuse.\(^{173}\) The next three suggestions attempt to address this:

- **Portals to give prominence to safety information for parents** – The examination of chat-rooms revealed that only half of the sample provided parental help information, hence, more prominence is required. As this is already a part of the

\(^{172}\) See the recommendation section of the advertising chapter p.110.

\(^{173}\) See the moral panics section p.118.
current Home Office guidance, the previous recommendations on mandatory compliance and more detailed guidance should address this.

- **Family learning courses** - The Byron report (2008) recommends that Betca (lead government agency on ICT in education) encourages and supports schools to offer family learning courses in e-safety (Byron, 2008: 9). This might be a more successful option, as parents might learn more via interactive learning, as written guidance for some might be complicated.

- **A National campaign** – In order to reach high number of parents, a national campaign combining a number of different media’s might be useful. For example, a television advert scheduled to coincide with when parents are likely to be watching e.g. during popular shows like *Coronation Street*. Another method could be the distribution of leaflets/pamphlets in schools. Adverts in the press and parenting publications could also be useful. All methods should direct parents to the main information portals e.g. Thinkuknow and CEOP as both have dedicated parental web pages.

*Children’s comprehension*

One of the main issues concerning children and media literacy was their disregard of advice\(^{174}\). The Ippr have suggested a way to counteract this: young people giving help and advice (Ippr, 2008: 62). This might be a more powerful approach as children and young people may be more inclined to listen to their peers. For this to be successful, reach is equally important. This leads to a further recommendation: the inclusion of web safety in the national curriculum. Currently, it is not comprehensively integrated, instead it is up to individual schools to partake. Jim Gamble (CEOP) provides affirmation: ‘It is not sufficiently well indoctrinated into the National Curriculum’

\(^{174}\) See the moral panic section p.119.
Various ongoing strategies may improve this. CEOP are working on a secondary programme which targets children aged 11-12 and 15-16 (Gamble, 2007:32). As this campaign is ongoing, its success is hard to determine. However, they confirmed that in 2007 over 1 million children aged 11-15 attended in-school sessions (CEOP2, 2007). But what about primary school children? This is an important observation, as Ofcom’s (2008) research found that more than a quarter of 8-11 year-olds use social networking sites (Castle, 2008). Therefore, it is recommended that CEOP extends their provisions.

A proposal by Byron (2008) may aid the integration of the above suggestions: the requirement for Ofsted by 2011 to evaluate the extent to which schools have implemented e-safety and media literacy. This will form part of their inspection assessments on performance (Byron, 2008: 78). However, unless the approach to media literacy changes (to tackle children’s ignorance of messages, see above recommendation on peers), despite their reach, campaigns may continue to be unsuccessful.

Joint approach

To address both parents and children’s awareness, it is recommended that a one-stop shop website for safety information is created (the Byron Report suggested similarly, Byron, 2008: 125) This would provide a basis for links to useful sites that already exist. This could prevent parental confusion over where to seek advice as publicity would direct them to one site rather than many (CEOP, VGT). In line with my above recommendation, due to the Taskforce’s remit they could provide this service. This site could also be utilised to help industry application of the guidelines e.g. frequently asked questions. Pegal Online\textsuperscript{175} encompasses something similar, with industry material password protected.

\textsuperscript{175} Voluntary video game regulator.
5) Further research

The moral panic section highlighted that video game consoles which enable internet play could also be used for grooming. As this was not analysed within this case study and as no other research has been conducted, further research is required to ascertain the level of danger, parental awareness and the availability and success of safety mechanisms.

6) A new regulatory body: UK Council on Child Internet Safety

In relation to the voluntary codes and media literacy, Byron (2008) has recommended that the Taskforce be replaced by a UK Council on Child Internet Safety. This body would be established by and report to the Prime Minister. The Council would continue to focus on the same objectives as the Taskforce: voluntary codes and education. Similarly to the recommendation above, the council would also have a resourced secretariat (Byron, 2008: 6). Despite acknowledging the benefits of the Taskforce e.g. experienced membership and governmental involvement, Byron felt that a new body was required to build on many of the weaknesses highlighted and should be in place by Spring 2009 (Byron, 2008: 78). It is recommended that this proposal is not adopted and instead the Taskforce remain and the weaknesses are dealt with via recommendations made throughout this section. The reason being, surely it would be best to improve and build on the Taskforce’s existing strengths and their links with the other bodies, rather than start from scratch?

7) Sexual Offences Act

The evaluation section revealed potential loopholes in the Sexual Offences Act. These could lead to groomers evading prosecution. One issue was the lack of definition. In order to combat this, it is recommended that further clarity is provided. For instance, what constitutes grooming? When does on-line behaviour over-step the mark? Moreover, should sting operations be permitted to personnel other than the police (e.g. press) to ensnare paedophiles? If so the definition of intent needs to be reformulated.
Another recommendation might be to extend the maximum penalty. Under the Sexual Offences Act this currently stands at 10 years. In the USA they criminalise ‘the use of any means in interstate commerce to induce or entice a child (under 18) to engage in sexual activity’ with a maximum penalty of 15 years (Humer, 2008). How successful their law has been in comparison to the UK would be difficult to determine. Nonetheless, increasing the limit could act as a deterrent.
Chapter 5

Video Games and Violence

Over the years video games have periodically been subjected to condemnation for their supposed negative impact on society. This concern developed as the industry evolved, but gained momentum following various violent crimes. Games have been increasingly targeted for their juxtaposition of player interactivity and violent content, alongside progressively photo-realistic graphics and their popularity amongst young people. The first half of this chapter demonstrates how the panic over games has gained momentum and if regulation has developed as a result. Consideration will be given to those involved in regulation formation and how the system balances the needs of all concerned parties i.e. the industry, parents, moral entrepreneurs and children. Whether or not this works in practice will be the focus of the later parts of the chapter.
Moral Panic

In order to understand how the moral panic over games has developed and whether it has influenced the development of regulation, this section will track how concern has evolved over the years. Reference will be made to key factors alongside players deemed pivotal to the development of a moral panic: the media, parents, moral entrepreneurs, the government and regulators.

Key instigating factors

i. Violent content

Although concerns aired in the previous case studies revolved around consumer culture and paedophilia, media related panics in the past have tended to focus on violent content and the negative influence this may have on children176. This preoccupation continues with video games, content that could be regarded as more extreme due to interactivity - game play that rewards killing177. The British Board of Film Classification’s (BBFC) decision to ban Manhunt 2 exemplifies this, as the BBFC rarely refuses classification (this is the first ban since 1997). Their reasoning is that the game is:

........distinguishable from recent high-end video games by its unremitting bleakness and callousness of tone in an overall game context which constantly encourages visceral killing with exceptionally little alleviation or distancing. There is sustained and cumulative casual sadism in the way in which these killings are committed and encouraged in the game (BBC, 2007d).

In fact many of the games censured are those which contain high levels of violence (these will be discussed throughout this section). However, moral entrepreneurial criticism often overlooks that only a small percentage of games are deemed violent

176 See the moral panics chapter p.25-28.
177 In the Punisher you can control the level of torture inflicted on your victim.
enough to warrant a BBFC ‘18’ certificate\textsuperscript{178}, hence querying the validity of their concern.

\textit{ii. Technological development and interactivity}

As already highlighted, the interactive nature of games could stimulate concern. It is this production of an interactive experience compared to traditional media (television) that has afforded special attention. For example, Jack Thompson, a Miami attorney and a supporter of increased regulation, argues: ‘...to act out virtual violence in a virtual setting is far more damaging than just viewing it. You enter into the violence, you become the protagonist’ (Vitka, 2005). Dave Grossman contends similarly: ‘children don’t naturally kill; they learn it from violence in the home and....from violence as entertainment in television, movies and interactive video games’ (Kline, 1999: 10-11). Like all effects debates, such hypotheses remain unproven\textsuperscript{179}. Regardless of this, they remain at the heart of the debate.

Technological developments over the years have played a fundamental role in the generation of such thinking. The emergence of first person perspective games placed the player at the centre of the action. Other advances include: hearing your characters heartbeat and shaking controllers. This increasingly subjective world fuels concern. New Zealand’s Office of Film and Literature Classification (OFLC) objected to \textit{Manhunt} on the following grounds:

......PlayStation 2 is a state of the art gaming format that provides high quality images and sound. Unlike more passive media – such as film and video recordings – the console game medium allows the player to interact with the images on screen directly and to control the actions of a character, in effect translating viewer actions and choices into onscreen action. This is particularly relevant to \textit{Manhunt} which does not offer the player a choice as to whether or not to kill, but instead only offers a choice as to how brutal the kill is to be. Another

\textsuperscript{178} Between January 2003 and July 2004, only 16 out of 1208 games were classified ‘18’ (Hermida, 2005).
\textsuperscript{179} See the effects chapter p.41.
factor in relation to the impact of the console medium is the fact that the player can use a USB microphone headset in conjunction with the PlayStation 2 console. Use of the headset in this way reinforces the ability of the player to identify himself as Cash because the player hears in his own ear Starkweather’s instructions to make the murders ever more gruesome. (DIJ, 2003: 10).

New generation consoles like the Wii further intensify the experience via a controller attached to our hand which allows you to replicate the movement. In Call of Duty 3 you can aim a rifle by lifting the controller, and throw grenades by imitating a throwing movement. Nintendo has advertised this heightened involvement: ‘video games have a part of you, now you get to be part of them’ (Nintendo, 2007). As apprehension often coincides with technological change, censure may eventually follow.

Interactivity is not the only element that warrants attention. Technological advancement from the 2-dimentional graphics in the 1960’s, to today’s almost photorealistic imagery, has played a significant role in the creation of concern. The below illustrations exemplify the progression:

*Space War (1960)*

*Custer’s Revenge (1983)*
Apprehension over contemporary examples has been acknowledged in the press:

While no one really worried too much about shooting a Space Invader in the Seventies because it looked like a glowing green pixel, what happens when you are encouraged to shoot someone indistinguishable from a human being pleading for their life? (Jagasia, 2004: 17).
Chris Deering, former head of Sony Europe has also commented: ‘...the advent of high definition gaming and photo-real graphics where the virtual real are almost indistinguishable on the TV screen could spark more concerns’ (Water, 2006).

Similarly to the preceding chapters, another technological advancement that has received attention is the internet. In this case, concern revolves around on-line play and the down loading of games. The key issue here is that UK regulation does not apply to downloading, a parallel with the advertising chapter – lack of applicable regulation. The internet further undermines regulation due to its breadth, making it impossible to monitor the application of certificates and under age selling. Please see the development of regulation and analysis sections for further detail.

iii. Incidents

The moral panic chapter highlighted that threat in the past has focused on the media’s negative influence on children. As already stated, such a link is unproven. Despite this, over the years video games have been linked to various crimes:

<table>
<thead>
<tr>
<th>Date</th>
<th>Incident</th>
<th>Game/s implicated</th>
<th>Country of origin</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>14-year-old Michael Carneal entered his school in Puduch Kentucky and shot 8 students, 3 died. The victim’s parents attempted action against the games manufacturers. (Kent, 2001: 544). The Judge concluded: ‘It appears simply impossible to predict that these games, movie and internet sites (alone or in what combinations) would incite a young person to violence’ (Clarke, 2005: 2).</td>
<td>Doom, Quake &amp; Resident Evil</td>
<td>USA</td>
</tr>
<tr>
<td>1998</td>
<td>13-year-old Mitchell Johnson and 11-year-old</td>
<td>Goldeneye 007</td>
<td>USA</td>
</tr>
</tbody>
</table>

180 See p. 67.
Andrew Golden triggered the fire alarm at a school in Jonesboro, Arkansas. They proceeded to fire from a nearby wood at students and teachers (Kent, 2001: 544).

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
<th>Game</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>The Columbine massacre - two 18-year-olds, Eric Harris and Dylan Klebold of Littleton, Colorado shot dead 12 students and a teacher, and then turned the guns on themselves at Columbine High School. 23 others were injured. Evidence existed insinuating the games involvement: 1) Harris had produced a customised version of <em>Doom</em> (Connor, 2003: 13) and 2) they had reportedly taped themselves discussing their plans with reference to the game (Kent, 2001: 545). The link was not proven.</td>
<td><em>Doom</em></td>
<td>USA</td>
</tr>
<tr>
<td>2002</td>
<td>Robert Steinhaueser, slaughtered 16 people in a Gutenberg school. He was said to have spent hours playing brutally violent games (Conner, 2003: 13).</td>
<td><em>Counterstrike</em></td>
<td>Erfurt, Germany</td>
</tr>
<tr>
<td>2003</td>
<td>William Buckner, 16 and his step-brother Joshua, 14 randomly fired at traffic on the Interstate 40, Tennessee. They seriously injured Kimberley Bede and shot dead Aaron Hammed (BBC, 2004b).</td>
<td><em>Grand Theft Auto</em></td>
<td>USA</td>
</tr>
<tr>
<td>2004</td>
<td>Stefan Pakeerah was murdered by his friend Warren Leblanc, who stabbed and repeatedly beat him with a hammer. Due to the style of his killing and the speculation Warren was obsessed with this game, <em>Manhunt</em> provided a scapegoat. The conclusion of Warren Leblanc's murder diminished any link between the game and the killing. Instead the</td>
<td><em>Manhunt</em></td>
<td>UK</td>
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</table>
police claimed robbery as the primary motive. (BBC, 2004a).

<table>
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<tr>
<th>Year</th>
<th>Event Description</th>
<th>Location</th>
<th>Notes</th>
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<tbody>
<tr>
<td>2006</td>
<td>Alvaro Castillo was involved in a shooting at his North Carolina school and murdered his father. Campaigner Jack Thompson believed violent games influenced the incident (Register, 2006).</td>
<td>USA</td>
<td>N/A</td>
</tr>
<tr>
<td>2006</td>
<td>Sebastian Bosse shooting at a high school left 11 students injured.</td>
<td>Germany</td>
<td>“Killer games” were denounced as the cause (Johnston, 2006: 24).</td>
</tr>
<tr>
<td>2006</td>
<td>A boy of 13 shot his cousin in the face after allegedly playing (McGurran, 2006: 31).</td>
<td>UK</td>
<td>GTA: San Andreas</td>
</tr>
<tr>
<td>2006</td>
<td>Kimveer Gill killed 1 person and injured 19 at Montreal’s Dawson College</td>
<td>Canada</td>
<td>Super Columbine Massacre, an internet based game that simulated the 1999 massacre (Mail, 2006b).</td>
</tr>
</tbody>
</table>

As evidenced above, very few of the incidents have occurred in the UK. In the moral panic section it was assumed that regulatory intervention would only occur if there was a significant risk. Have the government and regulators regarded this as a substantial threat?

iv. Parental responsibility and regulation

As with the previous case studies, the success of regulation is ultimately dependent on parents, a reliance that generates concern due to parental ignorance. This apprehension dates back to the early 1990’s: ‘.......Video and computer games are unique in that, unlike previous generations’ toys, parents tend to find them complex and inaccessible’ (Lister, 2004: 10). In 1997, Sanger et al (1997: 89) discovered

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181 Regulation for games exists but ultimately it is parental purchases that determine the success of classifications.
parents 'professed total ignorance of the games and were clearly not interested in becoming more closely accounted'. Research in 2002 produced analogous results. An ITC report entitled ‘Striking a Balance’ detailed: ‘games consoles were in general very much the children’s world’, whereby parents displayed naivety of the technology and content. This consequently affected the games they purchased and also the lack of control exerted (Hanley, 2002: 45-46). No improvement was noted in the 2004 programme Tonight with Trevor McDonald\textsuperscript{182}. Therefore, lack of parental awareness has been an issue for over a decade and appears to be continuing. This suggests that little has been done by the regulators to combat this, an issue that will require examination in the analysis section.

v. Industry appeal

Another potential contributor to a panic is the industry’s appeal to young people\textsuperscript{183}. In 1999 research revealed 64% of young people aged 6-17 played video games (Livingstone, 1999: 21). Mintel in 2004 estimated even higher penetration with 87% of all children aged 7-10 saying they played, a figure that rose to 87% for the 11-14 bracket (Mintel, 2004: 3-4). Despite such statistics industry figures claim that the average age of gamers is 28, but highlighted that 77% of 10-15 year-old males are active gamers (Pratchett, 2005: 17). Games are undoubtedly played by huge numbers of children.

vi. Inadequate regulation

One of the later stages of a moral panic is the requirement for further regulation\textsuperscript{184}. In the case of video games, following the murder of Stefan Pakeerah investigations into the system raised various inadequacies. An episode of ‘Tonight with Trevor McDonald’ (1\textsuperscript{st} November 2004) which was dedicated to game content and regulation revealed:

\textsuperscript{182} Many parents displayed lack of awareness and were surprised at the levels of content. Children’s playing habits added further fortification, whereby 63% of 11-14 year-olds had played an adult rated game. This increased to 87% in those aged 13-14. In addition, 27% of the 11-14’s had played Manhunt.

\textsuperscript{183} See the moral panics chapter p.15.

\textsuperscript{184} See the moral panics chapter p.21.
1) Access of underage children to adult rated games
2) Lack of parental knowledge
3) Retailers neglecting to implement the law

Analysis of the above is required to see if these concerns are genuine.

vii. Regulator and government impartiality

The fear over regulator bias featured in both of the case studies analysed so far. Such concerns are also apparent here. A report conducted by the Programme in Comparative Law and Policy (PCMLP) which compared the UK regulators stated: ‘They are all independent, non-profit organizations; they are founded by the industry and put a high priority on protecting industry interests’ (PCMLP, 2004: 52). In addition is the importance of the video game industry to the UK economy and if this influences the level of governmental involvement. Whether these relationships impact on the effectiveness of the regulation will be considered in the analysis section, however in both cases it would be problematic to prove.

viii. Moral entrepreneur and press response

Over the years the various factors mentioned above may have influenced response by the press and moral entrepreneurs.

<table>
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<tr>
<th>Year</th>
<th>Factor</th>
<th>Response</th>
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<tr>
<td>1993</td>
<td>Violence in Mortal Kombat and Night Trap</td>
<td>The Daily Mail branded Night Trap as ‘The Sega Sickner’. Valerie Riches of Family Youth Concern branded the games as ‘evil’, ‘a symptom of a very sick society’. Tory MP, Dame Jill Knight commented: ‘....We should consider legislation against such games because they encourage people to maim, mutilate and murder’ (Harding, 1993: 9). With</td>
</tr>
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185 See the thesis introduction p.3.
regard to *Mortal Kombat*, the press described it as: ‘offering children exciting new ways to maim, dismember, and murder unsavoury opponents in sadistic martial-arts tournament...it is considered a mark of success to rip the head and spine out of an opponent and wave it in the air while the blood flows to the ground’ (Gagne, 2001: 26).

| 1999 | Columbine killings – game involved *Doom* | The Denver Press quoted that as a consequence of games: ‘It is guaranteed that more monsters will be created and more school killings will occur’ (Gagne, 2001: 27). Attorney Jack Thompson stated it was ‘the Pearl Harbor of America’s culture war’ (Gagne, 2001: 28). The English press retaliated. The Guardian condemned E3 (an exhibition) as having ‘a reputation of delivering amoral, violent self-gratification to disturbed kids’ (Gagne, 2001: 29). |

Various newspapers responded: the *Daily Mail* - ‘Ban these Evil Games’, ‘Murder by PlayStation’ (Taylor & Dolan, 2004b: 1), ‘The Killing Game’ (Mail, 2004: 14). *The Express* followed suit with: ‘Why we must Ban these Murderous Video Games’. As a result, various retailers withdrew the game\(^{187}\). |

Moral entrepreneurs including MediaWatch\(^{188}\) and

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\(^{186}\) New Zealand’s classification body has banned various titles: Postal 2 and Manhunt. In terms of Postal 2, it was ‘likely to be injurious to the public good’ (Nixson, 2004: 49).

\(^{187}\) Dixon’s, Curry’s, Game, PC World and Virgin.

\(^{188}\) John Beyer, Media Watch stated: ‘...The only way to avoid subjecting children to violence is not to permit brutally violent games in the first place. The whole mindset of the people who produce
Keith Vaz, Leicester MP have campaigned for the withdrawal of violent games. Vaz took a Private Members Bill to Parliament (2005). The requirements were for all games to fall under the VRA (Video Recordings Act), accompanied by the introduction of a more informative labelling system and greater enforcement at the retail level (Mercury, 2005: 8). The Bill was unsuccessful and again in 2006.

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<tr>
<th>Year</th>
<th>Event</th>
<th>Details</th>
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<tr>
<td>2006</td>
<td>UK shooting – game involved</td>
<td>Unlike the <em>Manhunt</em> controversy, this occurrence warranted little attention. Chris Deering, former head of Sony Europe, suggested a reason, that the debate around games and violence has become more ‘logical and less frenzied’ (Waters, 2006). The combination of the industry and government action over Warren’s death and continual unproven effects research may have played a role. Nonetheless, Keith Vaz responded to the shooting: ‘Those who believe playing violent games has no effect on the person playing are ignoring the facts’ (McGurran, 2006: 31).</td>
</tr>
<tr>
<td>2006</td>
<td>Violence in <em>Reservoir Dogs</em> and <em>Bully</em></td>
<td>Keith Vaz presented two early day motions. The first requested the banning of <em>Reservoir Dogs</em> due to its ‘infliction of extreme violence and cruelty’ (Edmi, 2007). The games publisher defended its release saying it would not be sold to anyone under the age of 18 (Norfolk, 2006). The second was against <em>Bully</em> (known as <em>Canis Canem Edit</em> in the UK) which allows the protagonist to use dustbin lids and baseball bats to hit children. The publisher again, this time Rockstar, provided justification, that it was ‘entertainment’ and was ‘out of the reach of people these games is wrong. There is enough disorder and delinquency in society already and I believe the manufacturers of violent games are encouraging society to move in the wrong direction’ (Beyer, 2005: 3).</td>
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who are unable to draw a distinction between what’s real and fantasy’ (BBC, 2006b).

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<tr>
<th>Year</th>
<th>Event</th>
<th>Source</th>
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<tr>
<td>2006</td>
<td>Bullying in Rule of Rose(^{189})</td>
<td>Liz Carnell, the director of Bullying Online stated: ‘This isn’t the sort of game that should be released in the UK’ (Reilly, 2006). The game sparked calls for an EU-wide crackdown. EU Justice Commissioner Franco Frattini urged EU governments to tighten controls on games that glorify violence. He was quoted as being shocked by the content and branded such games as: ‘.....dreadful examples for our children and may provoke or encourage violence or bully behaviour by children, or suggest this is normal behaviour’ (Daily, 2007).</td>
</tr>
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</table>

The above responses reinforce that violent content lies at the heart of moral entrepreneurial concern. It also emphasises that despite unproven effects, they continue to contend that games influence children. Will the government and regulators therefore respond to this concern?

ix. Government response

A crucial element of the moral panic cycle is coping and resolution – the requirement for modification or further regulation\(^{190}\). This section has highlighted that concern has enveloped gaming since the early 1990’s. Despite this, the government refrained from intervening (except modifications to the VRA, but these were not a direct response to games but to videos\(^{191}\)) until the Pakeerah murder in 2004. There are two possible reasons for this. The first is that incidents prior to then were isolated to the USA and Germany. The second is that media effects have remained unproven\(^{192}\). Consequently, moral entrepreneurial concerns may not have been regarded as valid enough to warrant action.

\(^{189}\) The player is a teenage girl who is beaten, bound, gagged, doused in fluids, buried alive and thrown in the ‘filth room’.

\(^{190}\) See the moral panics chapter p.21.

\(^{191}\) See development of regulation section p.172.

\(^{192}\) See the effects chapter.
Tessa Jowell, Culture Secretary at the time, confirmed why intervention was required in 2004: ‘Parents need to know what games children are playing. Not all parents have grown up playing computer games and it can be difficult to understand you might be allowing your child to play the interactive equivalent of Kill Bill’ (Milner, 2005: 2). The outcome, the state did not directly intervene, instead industry chiefs voluntarily agreed to double the size of age symbols and content details on packaging (Blackman, 2005: 2). The lack of direct action infers the risk posed by games was not substantial enough. On the other hand, a response infers that an element of moral entrepreneurial concern was genuine. This decision also represents a shift in regulatory practice, as previously the government sought to stem media related panics via direct intervention (this is a similar regulatory response to those documented in both the previous case studies). Possible reasoning for such a transition was afforded in the effects chapter i.e. inconclusive effects, adults and children’s rights, varying maturity levels. As queried in the thesis introduction, has the balance of these factors in combination with moral entrepreneurial concerns resulted in adequate regulation?

If this voluntary action works in practice, Jowell’s statement suggests this response may tackle the concerns over parental knowledge and responsibility. Whether this is true will be analysed shortly. However, despite the change, MP Keith Vaz contended: ‘…..despite recent voluntary steps, this aspect of children’s entertainment is highly under regulated. Moreover, the regulation that does exist is barely enforced’ (Hansard, 2006).

In 2007 the government acted again. Prime Minister Gordon Brown launched a national consultation on children’s policy in September. This involved a review by Dr Tanya Byron on whether new controls were needed for violent, sexual and other unsuitable images on the internet and in games (Meikle & Branigan, 2007). The Conservative party proposed a explanation: a ‘broken society’ following a spate of shootings and stabbings of young people (Meikle & Branigan, 2007) Although these incidents have not directly implicated games, this decision highlights that concern over games and violent content continues. Another explanation could be the threat of

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193 See moral panic chapter p.164-167.
194 See development of regulation section p.175.
195 See p.3-4.
technological change to regulation, as the review focused on digital media. This again suggests the role of technological development in moral panics. As a result of this report it appears that modifications to video game regulation will occur (see the recommendations section). The fact Byron recommends regulatory changes suggests that regulation may be inadequate and in need of modification. This infers that moral entrepreneurial concerns mentioned earlier over the adequacy of the system (p.168) may be genuine (the analysis section will examine this matter).

x. Regulator response

Response by the regulators also forms part of the coping and resolution stage\textsuperscript{196} of the moral panic cycle. Since the 1980’s regulation has been established to classify game content, but has remained relatively untouched in terms of more stringent regulation (this will be demonstrated in the next section). Similarly to government reaction, lack of incidents may provide reasoning.

Unlike the government’s response to the Pakeerah incident, regulatory modification was absent. However, they did respond to the follow-up of the game implicated in the murder: \textit{Manhunt 2} which was banned in 2007 by the BBFC. It is hard to know whether the previous wave of panic surrounding its predecessor, combined with Keith Vaz’s continual lobbying impacted here\textsuperscript{197}.

Conclusion

This section demonstrates that a number of factors may have resulted in moral entrepreneurial concern about games. Over the years this has predominantly revolved around their violent content, which has been intensified by technological development and the interactive nature of the media. Other issues include the ability for parents to enforce classifications and queries over regulator impartiality. However, the government refrained from acting until a violent incident occurred in this country. The sudden need to act suggested that an element of moral

\textsuperscript{196} Due to the confinements of the thesis and the review of UK regulation, reference will only be given to the UK regulator response.

\textsuperscript{197} Vaz instigated a petition requesting the banning of the game, it received 3000 signatures (Mitchell, 2007:3).
entrepreneurial concern must have been genuine for them to have intervened. However, this did not involve direct government interference; instead it relied on a voluntary alliance with the industry. This decision may have been influenced by the various issues mentioned in the effects chapter (unproven effects, children’s rights etc). By attempting to balance these factors with moral entrepreneurial concern, has a robust system developed? Keith Vaz contended otherwise, that such modifications failed to improve the system. Whether Vaz’s point is valid will form the basis of the analysis section.

The section has also revealed that regulatory reviews coincide with waves of panic over violent incidents; therefore prior to Manhunt, UK regulatory reaction was minimal. Gordon Brown’s intervention in 2007 suggests conversely as no incidents occurred in this year. Due to the report’s focus on digital media, this also affirms the importance of new media to moral panics and regulation. Additionally, the need for this report poses questions about the adequacy of regulation, thus suggesting that Vaz’s concerns about the system were justified. In order to establish this, the formation and practice of the UK regulation system will be examined.

198 See p.172
Development of Regulation

Before analysis of the system can begin to examine the weight of Vaz’s concerns and to see if regulation has been balanced successfully, it is important to determine how regulation has developed and how it should work in practice. As will be shown, currently video games in the UK are regulated by two separate systems, mandatory certificates under the BBFC and voluntary classifications under PEGI (Pan-European Games Information). This section aims to 1) highlight how and why these 2 systems have emerged and 2) discuss current governance, guidelines and procedures.

The History of Regulation

The table below provides a brief indication of the main regulatory developments and the reasoning behind them up until the 21st century. Subsequent developments will be considered in greater detail separately, as these are regarded as current regulatory practices.

<table>
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<tr>
<th>Year</th>
<th>Action/regulation</th>
<th>Reason</th>
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<tbody>
<tr>
<td>1984</td>
<td>Video Recordings Act (VRA). Although the moral panic surrounded videos, the Act stipulated that ‘video work’ or ‘video recording’ covered computer and video games. As a result it was mandatory to apply the BBFC classification. However, not all games fell under the remit of the Act, only those that depicted human sexual activity, gross violence or other areas of concern. All other games were exempt and did not require legal classification. Under the Act it is up to the Board to decide if a game is exempt. Those granted the BBFC classifications were subject to legalities - , it was a criminal Moral panic over unsavoury video recordings deemed as ‘video nasties’ i.e. The Driller Killer and Cannibal Holocaust and the industries unwillingness to submit titles to the Board (SBBFC, 2007: 25).</td>
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offence to supply these games to children (BBFC, n.d.c). The Act also states conditions for labelling, that the rating symbol must appear on the front of packaging and must also feature on the back with accompanying advice (VSC, 2005: 15).

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
<th>Notes</th>
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<tbody>
<tr>
<td>1989</td>
<td>The UK industry body ELSPA (Entertainment and Leisure Software Publishers Association) established voluntary ratings to cover all those exempt from legal certification. The system was administrated by the Video Standards Council (VSC) and utilised the following ratings: ‘3+’, ‘11+’, ‘15+’ (ELSPA, 2005b).</td>
<td></td>
</tr>
<tr>
<td>1993</td>
<td>The result was two pronged. Firstly, the VRA was slightly amended in July 1993. The changes included increased penalties for breaches to the supply of video games to minors and a defence for retailers (these will be considered below under current regulatory practices). Secondly, the VRA was further modified via the 1994 Criminal Justice and Public Order Act. The purpose was to redefine the nature of video work in order to more clearly include video games (SBBFC, 2007). In addition, new criteria for classification was established, special regard had to be given to harm by considering the depiction of criminal behaviour, illegal drugs, violent and horrific behaviour (VSC, 1995: 6).</td>
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Fear of further government regulation

Moral panic over *Child’s Play 3* - the murder of toddler Jamie Bulger. Concern again revolved around violent videos, not games. Games were possibly included due to their violent content and the fact it was a new technology.⁹⁹

⁹⁹ See the moral panic section (p.1-18) – key factors in the development of a panic and subsequent regulation.
The above brief history shows that in order to stem concern the government has in the past directly acted to restrict children’s access to violent content. Has the government continued to act?

Current Regulation

As indicated in the introduction, the current system is two-pronged, a combination of co-regulation and voluntary regulation. The previous two case studies revealed that reliance on these types of regulation resulted in various flaws. Will the same issues apply to this system? Before this can be analysed, the foundations and practice of each system requires elaboration.

1) The Voluntary System

The regulators

In 2003 ELSPA was superseded by PEGI, but its operations were not dissimilar except for changes to the age ratings and the introduction of content descriptors. Unlike ELSPA, this is a European system which is utilised in 16 countries. The ratings are owned by the Interactive Software Federation of Europe (ISFE), of which NICAM (Netherlands Institute for the Classification of Audiovisual Media) administers on their behalf, except for in the UK where the Video Standards Council (VSC) acts as NICAM’s agent. As will be demonstrated, due to the set-up of both ISFE and the VSC, the PEGI system in the UK is voluntary and industry led.

In terms of the ISFE, their Board of Directors predominantly emanate from the industry e.g. Ubisoft, EA, Microsoft, Nintendo, Take 2, ELSPA. The Chairman Jon Brunning is an employee of Sony. They are also reliant on industry funding, whereby the publishers pay for a licence to display the PEGI rating. The ISFE then compensates NICAM and the VSC for the games rated. Additionally, the VSC is subsidized by industry membership fees, but claims to be independent as they are a ‘non-profit making company’, whose paramount purpose is to ‘develop and administer a Code of Practice which has been designed to promote high standards within the video industry’ (VSC, 2005: 1).
In addition to administering the PEGI ratings, as mentioned above, the VSC, (a body established in 1989 to represent the interests of the industry) has also formed a code of practice. This was designed to promote high standards within the industry. They represent over 10,000 video and game retailers and help them observe the law by providing training materials and guidance. For example, they provide display materials highlighting classifications, information that should be: ‘prominently displayed in the games section’ and at the counters of video game only stores (VSC, 2003: 12-16)

The previous two case studies both raised queries over the practicality of industry led systems. Moreover, the moral panics section raised queries of regulator impartiality. The evaluation of regulation section will examine if such contentions are valid.

*The system*

The main motivation behind the transfer to a European system will be briefly considered, as this further infers PEGI as an industry regulator. Industry expenditure has been aired as reasoning, as a European system meant that multiple versions of packaging would no longer be required, thus making selling across territories easier (VSC, 2005: 3). Nonetheless, PEGI claims its aim is: ‘....to assist consumers to make appropriate purchasing decisions. The basic purpose is for products designed and meant for adults to be clearly identified from those which are suitable for children and young people throughout Europe’ (VSC, 2005: 2). Whether PEGI can balance industry commitments with responsibilities to parents and children will be analysed in the evaluation of regulation section.

The PEGI age ratings are: ‘3+’, ‘7+’, ‘12+’, ‘16+’ and ‘18+'. The latter rating is not applicable in the UK, as any games requiring an adult certificate fall under the BBFC’s remit (see mandatory system) (VSC, 2005: 3). In terms of how these games

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200 The possibility for regulator bias due to industry funding and issues over industry willingness to self-regulate.
are rated, publishers primarily rate their own games through an online form\textsuperscript{201}. Once the VSC receives the suggested rating the publisher has to await confirmation before being granted a licence. For perspective ‘16’ and ‘18’ rated games, the VSC used to examine all of them to guarantee the correct certificate had been assigned and if exemption is unlikely. Since the Manhunt incident, this arrangement has changed slightly as all PEGI ‘18’s’ now necessitate BBFC examination. It must also be noted that the VSC only examines ‘16’ games, they do not inspect any other games. Those rated lower are the responsibility of NICAM who are required to view all ‘12+’ games and a random sample of ‘3+’ and ‘7+’ (VSC, 2005: 8).

\textit{Monitoring and reinforcement of regulation}

As PEGI classifications are voluntary they hold no legal ramifications. Consequently, no law exists to prevent underage selling, instead it is up to retailers conscience and sense of social responsibility. This is vital as a high percentage of games fall under PEGI’s remit. Between 1994 and 2002 the BBFC rated around 5\% of all games, a figure which is said to have dropped to 4\% (ELSPA, n.d). Therefore, unless retailers’ are acting sensibly, this could be a major flaw in the adequacy of the system. This system is similar to that applied to on-line chat-rooms\textsuperscript{202}; voluntary regulation that proved to be deficient. It will be interesting to see if this apples to the PEGI system.

PEGI have defined criterion that obliges ratings to be clearly displayed on packaging\textsuperscript{203}, this should assist retailer compliance. Similar rules have been established for advertising: adverts for ‘16+’ games must not be placed in publications where 50\% or more of the targeted audience are under 16 (PEGI, 2004:23). Again due to the lack of legality, the industry is not bound to adhere. In the internet chat-room chapter the industry had similar guidelines, but again voluntary compliance was debatable\textsuperscript{204}. Nonetheless, the video games industry may be more inclined to act, particularly in terms of packaging as PEGI could withdraw their

\textsuperscript{201} The form firstly determines if legal classification is required; if exemption is likely the coder decides which PEGI rating is applicable. If a publisher ticks a box in either the BBFC section or PEGI ‘16+’ the system automatically freezes and is forwarded to the VSC for confirmation (VSC interview).
\textsuperscript{202} See p. 136.
\textsuperscript{203} Age ratings should appear on the front on the packaging and on the back, accompanied by content descriptors. (PEGI, 2004:13).
\textsuperscript{204} See p. 142.
licence/certification. This would prevent the game from entering the market, as all games must either have a PEGI or BBFC classification. This will require examination in the analysis.

In addition to ratings, PEGI applies content descriptors. This could be regarded as a form of media literacy as the descriptors aim to provide the consumer with an idea of content (the meaning of each is stated below, but only the pictures feature on packaging):

Violence  Swearing  Fear  Sex  Drugs  Discrimination  Gambling

If these work in practice they should address some of the concerns raised about parental responsibility and regulation\(^\text{205}\). However, as the PEGI system is not mandatory, they are reliant on the game distributors to supply this information on packaging and promotional material.

Since 2003 the above procedures have changed very little, the only advancement being the formation of the PEGI Online Project in 2005. This initiative sought to combat the constraints of regulating online games via the following aims:

1) ‘Secure a higher level of protection of minors in a context that proves elusive to most parents’

2) ‘Educate parents with respect to the risks and potential harms specific to the online gaming environment’ (Europa, 2007)

\(^{205}\) See the video game moral panics section p.163-164.
They hope to achieve these with the PEGI Online Safety Code, where all signatories pledge to take measures to ensure appropriate behaviour amongst its users. Another requirement will be to register games. As a result they will be authorised to display a PEGI online label. In terms of the second aim, a website with guides on content and online gaming has been established. Such a move should combat concerns over parents, but also the threat of technology undermining regulation. Compared to the other case studies this proposes dedication to tackling convergence.

2) The Mandatory System

The regulator

The BBFC was originally established to regulate film. As stated in the history of regulation table, following the passing of the VRA, the BBFC attained responsibility for certifying games not exempt from the Act. Despite this government intervention, the BBFC are not a state body, instead they promote their independence (see the 12A section for further details, p.229-230). The main reason for this is that the certificates are mandatory, but anything else produced by the Board is not covered under the VRA i.e. consumer advice (see below). As a result they are regarded as a co-regulatory body. This is further clarified by their funding, instead of being reliant on the government, similarly to PEGI they are dependent on industry funding. As a result their impartiality has been questioned, an issue raised in the moral panics section. This issue was also present in both the other case studies.

The system

The BBFC’s operations have remained relatively stable. They continue to utilise criteria established by the VRA to judge games exempt from legal certification:

a) human sexual activity or acts of force or restraint associated with such activity
b) mutilation or torture of, or other of/or other acts of gross violence towards humans or animals

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206 See the 12A chapter p.229-229.
207 Combination of state and voluntary regulation
c) human genital organs or human urinary or excretory functions
d) techniques likely to be useful in the commission of offences (VSC, 2005: 3).

Those games that utilise any of the above are granted either a ‘15’ or ‘18’ certificate, or, although unlikely, certification can be refused.

The classification guidelines utilised for film regulation also apply, therefore under each age rating regard is given to levels of sex, violence, horror, drugs and bad language. (BBFC, 2005c: 5).

**Monitoring and reinforcement of regulation**

Similarly to PEGI, in addition to the rating the BBFC provides consumer content information (media literacy), but instead of utilising pictures the advice is in a written format. For example: ‘strong language’, ‘moderate bloody violence’, ‘moderate sex and sexual voyeurism’. This is known as consumer advice (CA). As already stated, this is not a prerequisite under the VRA, therefore application by the industry is not mandatory. However, following the *Manhunt* hysteria in 2004, it was agreed that BBFC games rated ‘15’ and ‘18’ would carry advice on packaging and that ages ratings would double in size. This does not mean they are mandatory, instead the manufacturers and ELSPA agreed to voluntarily oblige (GNN, 2005). Again the issue raised earlier about industry compliance is applicable here.

The above agreement with the industry was the only regulatory change to emerge after the *Manhunt* incident. This represents a different approach, as previous panics resulted in the government choosing to directly intervene. As stated in the introduction to this thesis, this change in approach appeared to be a result of the balance of unproven risk with children’s and adults’ rights. The benefit of games to children’s development and industry needs were also quoted as potential factors. When taking all of this into question it was queried whether this would strengthen the

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208 See p.172.
209 See the video game history table p.23.
210 See p.52.
system and quash moral entrepreneurial concerns. This will need to be considered in the analysis.

In addition to the increased labelling size, the BBFC in October 2007 introduced the pbbfc website to aid parental regulation. This could be regarded (in addition to the CA) as an attempt to embrace media literacy initiatives in order to deal with the problematic nature of regulating. Moreover, it could address concerns raised in the moral panic section about parental responsibility. The site designed for parents and guardians seeks to provide information on media classified by the BBFC (another form of media literacy):

By providing parents with more information they will be in a better position to make informed choices about what their children watch and play. This is particularly relevant in the area of video games, where not all parents are technology literate as their children they can look at the new website and see what the game contains and why it got the rating it did (BBFC, 2007b).

They also recognised that CA had been helpful, but that it could not provide the detailed information parents find useful. Consequently, the pbbfc site features ‘extended consumer advice’, information on why a rating was given, a synopsis of plot, significant plot detail and how it might affect young children (BBFC, 2007b). This information is limited to the site and is not available on games packaging.

The above has focused on efforts to aid parental regulation. In addition are mechanisms to prevent underage selling by retailers: penalties for contraventions. These are sanctioned under the VRA and permit either a £5000 fine or up to 6 months imprisonment. However, this is not administrated by the BBFC, instead under The Criminal Justice Act 1988 (subsection 16A), enforcement at retail level lies with Trading Standards Officers (VSC, n.d.: 11). They are responsible for monitoring adherence and prosecution. Within the other two case studies either monitoring was non-existent or not comprehensive. This will need to be analysed to see if this applies.

\[211\] See the effects chapter p.59.
\[212\] See p.166.
In order to address concerns over under age purchases following the *Manhunt* incident, it is vital that the above process works in practice. This is important, as if this stage fails the statutory part of co-regulation could undermine the BBFC’s efforts. This was evident in the chat-room chapter\(^{213}\), will this be evident here?

If Trading Standards finds a contravening retailer, the Act stipulates a possible defence:

The ‘due diligence’ defence means that it is a defence for a person charged with an offence to prove that all reasonable precautions were taken and all due diligence was exercised to avoid the commission of the offence by the person accused or a person under that person’s control. This defence does not however reduce the effectiveness of the law and does not enable retailers to avoid their legal responsibilities. It is not a soft option (VSC, 1995: 12).

Basically, if retailers can prove they had mechanisms in place to prevent such sales e.g. staff training, proof of age and display of certificates, this defence might be applicable.

In 2007, the BBFC recognised a further requirement for action, intervention measures to counteract the undermining of regulation by the internet. This was firstly addressed in 2006 when they hosted a joint industry forum with the British Video Association. This resulted in the establishment of a working party to develop working models for online classification (BBFC, 2007a: 11). One solution was the formation of the ‘BBFC Online’ project (similar to PEGI Online), membership to the scheme would carry an obligation to display classification details (BBFC, 2007b). Again this demonstrates the commitment of video game regulators to addressing convergence.

One last point in relation to both the systems is the examination process. Neither bodies view games in their entirety. For example, the BBFC’s examination process takes approximately 5 to 6 hours. The VSC did not reveal the time they dedicate, but

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\(^{213}\) See p.147.
stated they operate a stricter system (VSC interview). Instead both rely heavily on the industry to reveal contentious scenes and supply cheats to reveal hidden and extreme content.

**Conclusion**

This section has revealed that despite various moral entrepreneurial concerns over the years\(^{214}\) very little changes have been made to the regulation system, thus querying the influence of panics on regulatory development. Nevertheless, the fact they responded to the Pakereeh incident suggests to an extent concerns were genuine. Conversely to previous reactions, the government did not directly respond instead the industry volunteered to act. This represented a shift in regulatory practice. It was suggested that this response may have been influenced by a multitude of factors, thus the BBFC had to attempt to balance them. Has this strengthened the system and addressed concerns? This section revealed a further issue that may have played a role – industry influence, whereby PEGI is completely industry led and the BBFC is industry funded. As a result can both regulators remain impartial and the systems operate as professed?

As the regulatory changes following *Manhunt* were minor and the set-up of the regulatory bodies remained untouched, the system continues to be run by two different bodies, a voluntary regulator and a co-regulator. Due to the mandatory element of the BBFC one would presume this would function as a more robust system\(^{215}\). Despite this regulatory difference, similarities between PEGI and the BBFC exist i.e. reliance on parents and retailers to enforce classifications and reliance on industry commitment to display consumer advice/descriptors. When there are so many individuals pivotal to the system’s success, will it work in practice? Moreover, media literacy tools have been implemented by both regulators, will these complement the lighter touch approach adopted by regulators\(^{216}\) and afford a more robust system?

\(^{214}\) See the moral panics section p.168.
\(^{215}\) Legislation and enforcement available to prevent violations.
\(^{216}\) Media literacy was proposed as a good solution to the problems faced by regulators – see the media effects chapter p.59.
Consideration of both systems also revealed, that despite the VRA, to an extent the BBFC\textsuperscript{217} operates a voluntary system. Therefore, in combination with PEGI, a significant proportion of this system could be regarded as voluntary. Based on concerns about voluntary regulation raised previously, will these same flaws be present here e.g. lack of parental knowledge, varying levels of industry commitment and queries over the adequacy of regulator guidelines/codes? However, even if this side of the system is working adequately, this could potentially be undermined by the statutory side and retailer commitment, thus Trading Standards operations are also vital to the system. Despite this, it appears regulators have mechanisms in place that may address many of the concerns raised in the moral panics section i.e. threat of the internet (PEGI and BBFC Online), parental responsibility (Consumer advice/descriptors), retail adherence (VRA). As a result this queries the extent of concerns raised by moral entrepreneurs, particularly those of Keith Vaz. To investigate this and all the above observations, analysis of both systems in practice is required.

\textsuperscript{217} CA is not mandatory and they are industry funded. All statutory power lies with trading standards.
Evaluation of Regulation

As previously stated, this chapter will be to examine whether regulation has addressed previous concerns, and by doing so and balancing regulation, an adequate system has resulted. If the analysis verifies this, then subsequent censures by Keith Vaz would be unfounded. In order to achieve this, the main issues evident in the previous sections (the adequacy of a combined approach: co-regulation and self-regulation, regulator impartiality, industry commitment and parental responsibility), will be considered under the following headings:

1) The regulatory process
2) Retailer adherence
3) Parental comprehension/media literacy

I) The Regulatory Process

i. Legal classification and definition

A key part of both systems is the clarification of which games warrant mandatory classification. This is essential, for if incorrectly applied, a game could escape BBFC certification. Thus, the violent games that moral entrepreneurs are concerned about could be more accessible to children. As will be shown, a potential flaw exists due to the differentiation of what constitutes legal regulation. The Hitman series provides illustration. The second instalment 'Silent Assassin' was branded by the Daily Mirror in July 2004 as one of the most violent games on the market (McComish, 2004: 8-9). Of the nine games featured, Hitman was the only game not certified by the BBFC, instead it bears a PEGI '16+'. Considering the BBFC can grant a '15' cert, this seems puzzling. When questioned about the difference between BBFC '15' and PEGI '16+', Sue Clark, BBFC Spokeswoman clarified: "It comes down to the definition of what constitutes gross violence" (Interview). As the regulatory bodies' definitions lack correspondence this could be problematic: "We have a legal definition and they have a definition". Consequently, games could escape legal classification.

218 No law exists to prevent underage selling of PEGI games – see p.178.
Interpretation of the legal definition could also be problematic. When asked if it was easy to determine gross violence, Clark professed: "well it ought to be" (Clark interview). The VSC’s document ‘The Law Explained’ discusses interpretation: ‘A great deal of common sense and caution must be applied...if a wrong decision is made and exemption for a video work is wrongly claimed this may result in a prosecution’ (VSC, 2005: 15). This may act as a deterrent to publishers, but would a regulator necessarily admit fault? The same document affirms: ‘Ultimately only a court of law can decide whether a video work has wrongly claimed exemption from legal classification’ (VSC, 2005: 5). What is the likelihood of this and how would breaches emerge?

Even if both regulators applied the same definition, the PCMLP has questioned the VSC’s impartiality: ‘.....the VSC represents the interests of the industry before the BBFC and has in the past argued against imposing stricter rating or censorship’ (PCMLP, 2004: 70). The VSC have responded: “We are not trying to out rank the law. If we generally believe that something has lost exemption then it goes to the BBFC” (VSC interview).

Bearing in mind the above, it appears definition is open to abuse and as a result the system may not be functioning as stated. Moreover, it emphasises the problematic nature of having two regulators working in tandem.

ii. Incorrect classification

In addition to lack of definition, there are other procedural issues that could lead to incorrect certifications. The first is reliance on publishers for content details and cheat codes219. The BBFC have acknowledged this as a problem: “We can’t guarantee to catch everything in a game, but we believe we can catch enough to get an appropriate rating” (Clark interview). This infers their system is not fool-proof. An incident involving GTA: San Andreas in the US illustrates the possibility of this. In 2005 hidden sexually explicit material became accessible following the download of an online patch entitled ‘Hot Coffee’. The content was originally programmed by

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219 The BBFC do not play the whole game – see p.185.
Rockstar but was never intended for player accessibility, therefore this was not made accessible to the ESRB (Entertainment Software Rating Board – US regulator) during the classification process. The consequences were the re-rating of the game from ‘M’ to ‘Adults Only’ (Outlaw, 2005). This raises issues not only about the regulatory process, but also about industry responsibility. Moreover, it affirms the threat the internet poses and how this can undermine regulation\textsuperscript{220}.

A second issue is with the PEGI system and NICAM’s procedure on sampling games rated ‘3+’ or ‘7+\textsuperscript{221}. When asked if this had resulted in games being removed from the market, the VSC verified instances but would not provide examples: “It is probably best we do not disclose that” (VSC interview). PEGI’s Annual Report demonstrated actualities. A complaint from a UK consumer suggested that due to violence, \textit{Atlantis III: The New World} was more suited to a ‘12+’ than ‘3+’. As a result, it was recommended the game should be a ‘12+’ (PEGI, 2007: 9). Another UK complainant felt \textit{Trauma Center: Under the Knife} should be ‘12+’ rather than ‘7+’. Due to bad language the rating was changed accordingly (PEGI, 2007: 9). Notwithstanding such examples, they claim that the PEGI system is: ‘…..one of the most robust in Europe and in terms of rating criteria, is the strictest’ (PEGI, 2007: 9).

The fact the PEGI system allows publishers to initially rate their own games could aid this problem\textsuperscript{222}. In order to widen their potential audience publishers could take advantage and submit a lower rating. This is dismissed by the VSC, as they contend publishers are over-zealous. Paul Darby (VSC) confirmed they witness more changes from ‘16’ to ‘12’ than ‘16’ to ‘18’ (VSC interview). Profit provides further motivation: “The publishers do not want the aggravation of an incorrect rating as it can cost them money, because they might have to take it off the shelves and re-label. They are also jeopardising their contract with PEGI” (VSC interview). The latter point is important, as the VSC regard the power to withdraw a licence as an “incentive to not abuse the system”, therefore in a sense “it is voluntary but it is not” (VSC interview).

\textsuperscript{220} See the moral panics section p.160.
\textsuperscript{221} See the development of regulation section p.164.
\textsuperscript{222} See the development of regulation section p.164.
Reference has already been made to how the internet can aid mis-classification due to hidden content. There is another way the internet can undermine certifications, the accessibility to download demos. A demo of *Doom 3* (the first level of the game), a game rated BBFC ‘18’ and billed as ‘the most frightening game ever created’ (Glendinning, 2004), was downloadable by entering your date of birth. Arguably this is something a child could manipulate. The BBFC confirmed: “There is nothing we can do about that” (Clark interview). Activision, the publisher was also consulted, but they directed me to those who created the site, thus denying responsibility. The VSC acknowledged that such instances are: “impossible to stop” (VSC interview). This infers that concerns afforded in the moral panics section are reality. It also parallels with flaws revealed in the preceding case studies. As highlighted in the development section, the BBFC developed an on-line code to prevent such instances. However, this code would not work in all instances due to the global nature of the net. The BBFC’s voluntary code will only be relevant to UK based websites, therefore convergence still poses a problem despite efforts. Nonetheless, compared to advertising regulators, the BBFC should be applauded as they have at least attempted to tackle this.

Another concern is that online games can be downloaded via debit cards, a payment method that can be legally owned by a 16-year-old. Consequently, this could permit underage purchases of ‘18’ rated games (this would also apply to games purchased from on-line retailers). 13-year-olds can also possess ‘solo’ cards. In most cases when purchasing, all the child needs to do is tick a box to confirm they are of legal age. Furthermore, if a parent is willing to part with their money over the counter arguably they will also on-line. Prof. Mark Griffiths, head of Psychology at Nottingham Trent, recognises this: ‘Credit card checks aren’t good enough because parents let their children subscribe using their cards’ (cited in Vickers, 2004: 23). Further research by Griffiths in 2006 confirmed some teenagers are playing on-line games following

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223 Broadcasting regulations for advertising were undermined by the industry advertising on the internet.

224 See the advertising and obesity chapter p.77.
parental subscription (Hale, 2006). This links to concerns raised about parental responsibility and their undermining of the certification process.\textsuperscript{225}

One of the main reasons why the internet is open to abuse is outdated law - the VRA has not been updated to accommodate technological change. The integral loophole is the failure to extend the law to cover downloadable content.\textsuperscript{226} The BBFC’s decision to ban \textit{Manhunt 2} is an example. Although the ban made it illegal to sell the physical game in shops and online, it is not unlawful to download the product from the internet. The BBFC confirmed this: ‘….that would be legal and not contravening the Video Recordings Act’, however, they contend that most developers opt for classifications because the selling of a physical product is more profitable’ (Sherwood, 2007). Following examination of the internet, this appears true, as very few sites offer the facility to download full titles. Moreover, downloading can be cumbersome with lengthy download times. As technology progresses this may become a preferred option, particularly when you consider how popular downloadable music has become. Consequently, this is an area of regulation in need of development.

BBFC’s on-line code has already been mentioned. This requires further consideration, as in combination with PEGI’s similar approach, they could combat some of the above issues. As already acknowledged, these seem positive responses. Nevertheless, as both are voluntary schemes and carry no legal weight, there is no obligation for the industry to supply classification details. Moreover, this will only deal with the purchasing and downloading of items, it will not counteract the likelihood of new material and patches. It will also not address the potential for underage buying with solo and debit cards. Due to time constraints, whether these schemes have been successful falls outside of this analysis.

\textbf{2) Retailer Adherence}

In the moral panics section, concerns were raised over the ability of children to purchase games from retailers illegally. Vaz’s criticism over regulation being ‘barely

\textsuperscript{225} See moral panics section p.160.
\textsuperscript{226} The Act only covers physical products.
enforced' is also relevant here. Are these concerns valid? This section will be divided into two parts to demonstrate that at retail level the regulation process is flawed in terms of monitoring, compliance and retailer commitment.

- Monitoring and compliance

Discussion of the internet demonstrated a regulatory loophole – the potential for under age purchases. This is not restricted to the internet, it is also possible in-store. This was evidenced on the Tonight with Trevor McDonald programme, where 2 youths aged 12 and 14 were shown purchasing ‘18’ rated games from major retail stores. This demonstrates lack of commitment by the industry to comply and that prosecution under the VRA failed to act as a deterrent to the retailers (a purported benefit of co-regulation). In addition, at the time Keith Vaz disclosed (January 2005) that the retailers implicated had yet to be prosecuted. His suggested reasoning was: ‘.....because the action was recorded (for television) people should not be liable for prosecution’ (Hansard, 2005: 3). How Trading Standards investigates breaches provides another possible reason for the absence of prosecution. They undertake a number of steps prior to deciding whether to prosecute e.g. a re-visit to see if sales happen again, warnings and educational sessions. This is apparent following Durham’s Trading Standards 2006 targeting of 10 retailers. They used undercover 13-year-olds who attempted to purchase ‘15’ and ‘18’ games. Successful purchases were made in 5 out of 10 shops (Evening, 2006). Durham conducted follow-up test purchases in 2007 and found no breaches, consequently none were prosecuted (Baker interview).

A further issue is no national strategy exists for Trading Standards Officers to conduct test purchases. The instances in Durham were only a result of a Trading Standards Officer’s training. Thus, without selecting this area this research may not have been conducted. Without such tests the success of the regulatory system would arguably be unknown. This was noted during a parliamentary debate in January 2005: ‘It is the easiest thing in the world to have legislation, but unless trading standards people treat the matter as a priority nothing will change’ (Hansard, 2005) Following my

227 See p. 172.
228 See p. 82.
communication with a sample of Trading Standard offices, some have never performed tests\(^{229}\), the justification - lack of public complaints.

Even if prosecutions were likely, would penalties act as a deterrent? Consideration of the New Zealand system (they operate a similar system to UK - fines and a prison sentence) suggests not. In March 2007 Target (a television programme) found nearly 70% of stores offered to sell restricted games to a 15-year-old. In another sting, over half offered to sell items to a 13-year-old (Savage, 2007). This suggests that repercussions fail to deter a significant proportion of retailers in New Zealand, hence questioning if the same would apply in the UK. It must be noted that the jail sentence is 3 months more in the UK, but without further industry research its effectiveness is unknown.

The above analysis suggests the mandatory system is flawed in terms of monitoring and enforcing compliance. Therefore, it is plausible that the mandatory side of the system is undermining the BBFC's work. Will the voluntary system fare any better?

The likelihood of under age selling is arguably higher for PEGI games due to its voluntary nature - a retailer would escape prosecution for selling a PEGI '16' to a child. Would a retailer function in the name of profit or responsibility? When consulted the VSC contended retailers treat PEGI and BBFC games equally (VSC interview). A report by Durham Trading standards suggested otherwise, that 100% of retailers surveyed did not restrict sales (Baker, 2007: 33). Consideration of the US ESRB system also suggests the potential inadequacy of PEGI, as their system is also not binding. Adrian Fenty, member of Washington DC City Council has commented on the US regulation: 'It's a rating system without any penalties....It's like any other law that doesn't have teeth - it just does not accomplish what it is supposed to do' (Outlaw, 2005: 3). Statistics released by The National Institute of Media and the Family provides confirmation: 87% of pre-teen boys having played ‘M’ (adult) rated games (Illinois, 2005: 2). The Federal Trade Commission (FTC) also found that 69% of teenagers were able to purchase these games (Illinois, 2007: 2). Whether or not the

\(^{229}\) Gloucestershire (Gardiner, 2007), Leicester (Fox, 2007), Birmingham (Castle, 2007), Manchester (Shaw, 2007), Northamptonshire (Borealis, 2007) and Rochdale (Teinert, 2007) all verified this area takes little precedence.
UK system is comparable is unknown, as no research has been conducted to assess its effectiveness. This again suggests that Vaz’s concern over the adequacy of the system may be valid.

- Retailer commitment

The ability for regulation to be undermined by retailers has already been discussed (underage selling). This is aided by inadequate display of age ratings, which emphasises lack of industry commitment to educate parents and prevent inappropriate buying. For example, the VSC requires: ‘Details of the classification symbols and their meaning should be prominently displayed in all video/game retail outlets’ (VSC, 2005: 4). The key point is this is not mandatory even for BBFC material, but stores do generally comply. The signs that should be displayed:

Most stores display these posters behind the counter. Does this equate to ‘prominent’ display and would parents necessarily notice them there\textsuperscript{230}? In addition, this positioning appears absurd as surely parents would have already decided to purchase the item before approaching the check-out? Nevertheless, retailers are fulfilling

\textsuperscript{230} They are either A4 in size (poster) or 30cm x 2.5cm (strips).
requirements. The VSC’s guidelines state: ‘the details should be prominently displayed at the video/games counter or check-out desk’ (VSC, 2005: 15). But does this adequately satisfy the VSC’s aim to: ‘...endeavour to ensure that customers (particularly parents) are made aware of the legal and voluntary measures in place for video and games at every step of the way’ (VSC, 2005: 6). Consequently, the VSC’s guidelines may require modification, a recommendation that was also made in the chat-room study\textsuperscript{231}.

Internet retailers are arguably worse, as unlike in store purchases where the ratings and consumer advice are prominently visible on the packaging, on internet sites they are less legible. Dixon’s site illustrates this:

\begin{verbatim}
ACTIVISION YAKUZA
Playstation 2

\begin{center}
\begin{tabular}{|c|c|}
\hline
\textbf{Price} & £29.99 \\
\hline
\textbf{Item(s) added to product} & None \\
\textbf{Standard Delivery} & £4.99 \\
\hline
\end{tabular}
\end{center}

There is a facility to enlarge the image, whereby the rating becomes increasingly visible. However, if raising awareness was Dixon’s key aim, surely greater prominence would be given and consumer advice would also be present? This questions the industry’s commitment to display larger classifications, one of the main regulatory responses following the Manhunt incident. PC World’s application is similar. Other sites demonstrate greater commitment. GAME states rating information separately and even pictures PEGI content descriptors. Nonetheless, BBFC CA is omitted. Woolworths site goes one step further, not only is the BBFC rating visible,
\end{verbatim}

\textsuperscript{231} See p.153.
there is also a facility to view the back cover where CA is displayed. These examples reveal inconsistency. Therefore greater adherence is required to encourage parental awareness of age ratings and content.

More controversial is the possibility for a game to be advertised without the appropriate rating, meaning that a parent or child could purchase a completely inappropriate game. The below examples were retrieved off HMV’s online site:

According to the VRA this retailer would be in breach of: ‘Supplying or offering to supply a falsely labelled video or game’ (VSC, 1995: 11). This again displays instances where the internet can undermine regulation, particularly as there is no procedure for monitoring online content.²³²

²³² The VRA does not cover digital media therefore Trading Standards are not obliged to monitor retailer compliance on the internet, see p.192.
3) Parental Comprehension/Media Literacy

The above analysis infers that retailers could improve efforts to aid parental comprehension. As previously stated, parental awareness and responsibility is vital as their purchasing could undermine regulator certifications. How knowledgeable are parents and are industry bodies aiding their understanding through utilisation of media literacy?

- Parental awareness

In 2004 the ISFE (Interactive Software Federation of Europe) released complementary findings: 71% of UK respondents said they were aware of the PEGI system (ISFE, 2004: 3). This appears promising for a system that has only been in operation for a few years, but it is unclear how representative parents were in the sample. The methodology revealed that respondents were required to have played games at least once a week and have purchased a game in the last 6 months (ISFE, 2004: 4). What is the likelihood of parents fulfilling this quota? Moreover, the age range of the respondents utilised in the sample was 16-39, this could have restricted parental involvement.

2006 findings were not so favourable. For example, lack of awareness of the regulatory bodies is stressed, leading Modulum (the survey provider) to conclude: ‘PEGI has not been established as a brand’ (Modulum, 2007: 15). The below graph demonstrates this:

![Graph showing awareness of regulatory bodies](image)

(Modulum, 2007: 15).
1 in 5 participants were also unable to name age limits (Modulum, 2007: 11). Moreover, when asked if they were aware of the age label on the game they had purchased, 37% said ‘no’ (Modulum, 2007: 9).

The same study revealed parents misunderstood the purpose of age ratings: ‘Many parents clearly perceive age restrictions as a guide and not as a definitive prohibition’ (Modulum, 2007: 24). Furthermore, despite viewing games and being concerned with the content, they still permitted access. (Modulum, 2007: 21). They also displayed more concern about the amount of time played rather than the content of the game itself (Modulum, 2007: 20). Such statistics would do little to stem concerns over parental responsibility.

As a result of the Modulum research, the industry felt obliged to act and launched www.askaboutgames.com in December 2005. Its purpose was to answer parental questions about PEGI ratings, to explain their importance and how they work. Its success will be dependent on how well it was publicised. The VSC stated it received ‘considerable media attention, including national television coverage’ (Purdy, 2005: 19). ELSPA were contacted to determine how this campaign was executed. They stated they achieved this via in-store leaflets, publisher marketing materials, websites, product packaging and user guides (Rawlinson, 2007). Following visits to the major retailer websites233, none advertised the site, neither did high streets stores. Games packaging was also considered and again nothing featured. Based on this it is questionable how aware parents are of this aid. No official research has been conducted to ascertain its success.

Arguably a site like the above is vital, as other media literacy initiatives could be regarded as uninformative and open to interpretation. For example, PEGI’s utilisation of pictorial descriptors. Would people necessarily understand that a picture of a spider denotes ‘fear’ and that the descriptor containing 3 people connotes ‘discrimination’? The Australian regulator OFLC (Office of Film and Literature Classification) recognised this in their decision to opt out of a similar system:

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233 GAME, Dixons, PC World, Woolworths, HMW and Virgin.
The Pictogram Model may be confusing and relies on a level of understanding that is not necessarily clear within the community. Although elements of pictures can be universal, it was largely felt that pictures could hold very different meaning for different people, and that some content may be difficult to represent by pictures (OFLC, 2005: 11).

Consequently, parents may not be aware of all potential content. This is emphasised by comparing PEGI's descriptor application, to other countries consumer advice for the same films. PEGI granted Pariah a violence descriptor, whereas ESRB stated: 'blood and gore, strong language and violence' and New Zealand OFLC: ‘Contains violence and offensive language’. For Hitman Contracts PEGI gave violence and language, whereas ESRB: ‘Blood and gore, intense violence, strong language, strong sexual content, use of drugs’. The VSC contends they cannot use words due to the European nature of the market (VSC interview), an indication that consumer needs may be sacrificed for industry needs. This links to fears expressed in the moral panic section over regulatory impartiality.

Research conducted by the ISFE in 2004 to determine the usefulness of the descriptors, confirms their unhelpfulness. Over half of the sample (35% not very clear and 21% not at all clear) felt the meaning of the descriptors was unclear. Moreover, 52% deemed them ‘not very useful’ or ‘not at all useful’ (ISFE, 2004: 9). The same research also highlighted that even if they were useful, only 4 in 10 had witnessed them. Despite these findings and their own recommendation that ‘the presentation of the game descriptors requires attention’, as of November 2008 no changes have resulted (ISFE, 2004: 11). These statistics are based on European figures, so how applicable they are to the UK is unclear, but only 4 countries were consulted: France, Spain, UK and Italy. Regardless of this, based on the above evidence, this media literacy tool does not appear to be aiding the regulatory process.

The BBFC’s CA could also be regarded as confusing. What constitutes ‘moderate scary scenes’? How do you interpret ‘strong language, moderate violence and brief nudity’? Another noticeable problem is that not all content issues are disclosed in the concise CA featured on games packaging. On the BBFC’s website under each game...
the main issues are highlighted, but these are not all divulged within the CA. For example, the advice for *NARC* states ‘contains drug use and references’, whereas their site states ‘it contains frequent and strong violence and bad language’. Thompson and Haniger’s (2001) analysis of the US system revealed similar findings for ‘E’ and ‘T’ rated games. Approximately 44% of ‘E’/s’ and 48% of ‘T’/s’ contained content not listed on the game cover (Kirsh, 2006: 317). Consequently, parents could potentially be misinformed.

Similarly to PEGI, the BBFC has launched a parental site: pbbfc. This could counteract the above issues by offering extended consumer advice (ECA). The concise CA for *Manhunt* was ‘Contains strong bloody violence’. The ECA offers a greater insight:

![Manhunt Game Cover](image)

**MANHUNT (2003)**

*Shoot-'em-up*
*Released: Nov 2003*
*Consoles: PlayStation 2*

**Consumer Advice**
Contains strong bloody violence

**Summary**
*Manhunt* is a third person running and shooting game. Players take on the role of a felon. Cash who has to fight for his life while being hunted by street gangs. He has to kill all of the gang members for survival.

**Extended Consumer Advice**
*Manhunt* was passed 18 for strong bloody violence. Cash has a number of weapons made available to him that include items such as a plastic bag (for suffocation), wire, glass shard, crow bar, nail gun, baseball bat, revolver, shotgun, meat cleaver and chainsaw. The game playing here does allow for extended bouts of gory violence that include severing a head with a machete, hammer beating with crunchy sound effects and execution with a baseball bat. The bloody effects involve the use of cartoonish blood which often sprays onto the screen and the dark, urban atmosphere of the game’s setting is amplified, for example, by the sight of headless corpses hanging in a meat factory. There is no opportunity in this game to deliver violence to innocents – all characters are enemies of the player. Given the strong potential for players to deliver frequent, extended bouts of strong bloody violence with resultant gory images, *Manhunt* was given an ‘18’ certificate.

The game also contains frequent aggressive uses of strong and very strong language (eg ‘f**ker’ and ‘mother f**ker’).

'18' means suitable for adults only. No one younger than 18 may rent or buy an '18' rated video game.

The usefulness of this will again depend on parental awareness of the site. The BBFC were approached about publicity and confirmed the site had been advertised on their main website and literature had been sent to a number of parenting publications. They
further confirmed no advertising budget had been allocated to this. Nevertheless, they revealed 4940 unique visitors had visited the site in its first month, but it is unknown how many were parents (Clark, 2007).

Even if the site was utilised by parents, very few games appear on the site. Following a month of its launch, only 6 ‘18’ rated games featured on the site, 8 ‘15’’s and 6 ‘12’’s. The BBFC provided justification that only games classified since August 2007 have been incorporated, alongside games of interest e.g. *Manhunt* and the *GTA* series (Clark, 2007). Is this a valid excuse bearing in mind a parent could be asked to purchase games released prior to August 2007? Furthermore, not all controversial titles feature on the site e.g. *The Punisher, Doom 3* and *Bully*.

Regardless of comprehension of ratings and content indicators, parental understanding could be stifled due to the unavailability of this information on advertising. In terms of BBFC rated games, the publishers generally seem to comply and display symbols but not CA. This is not surprising considering the legal ratifications of the certificates. Again due to the voluntary nature of PEGI, the industry is not so obliging. Even the certificate is often omitted (see appendix E, p284-285). Application of descriptors is also infrequent. When questioned about this the VSC implied industry motivation for profit often takes precedence over consumer empowerment: “The advertising must be done at an early stage. Very often and in most cases that will have to be done prior to submission being made. You can’t say to the publishers you cannot advertise until you have got them (rating)” (VSC interview). This again raises the issue of regulator impartiality.

The inconsistent application and incoherence of media literacy devices (CA and descriptors) resembles issues highlighted within the previous case studies. However, unlike the other two media systems, the video game regulators have demonstrated efforts to improve awareness, but as shown improvements are required.

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234 See p. 103-4 and 144.
Conclusion

The above analysis suggests that although the risk presented by games is debatable, Vaz’s concern about the inadequacy of the current system is valid, as flaws are apparent throughout the regulatory process of both systems. The main flaws being:

- Holes in the classification process which can lead to mis-classification
- Inadequate monitoring at retail level
- The VRA appears to do little to prevent retailer contraventions and thus undermines the voluntary side of the system
- Industry unwillingness to voluntary regulation
- Queries over regulator impartiality
- Queries over parental regulation
- Inadequate provision of media literacy
- The ability for the internet to undermine classifications

As evidenced in the moral panic section, some of these issues surfaced following the Manhunt incident but little was done to combat them. Voluntary action occurred to increase labels sizes, but as shown despite this change the system remains riddled with loopholes. Therefore, it appears that attempts to balance the interests of the industry, moral entrepreneurs and children with unproven effects, has resulted in a response that has done little to improve the system. The main problem appears to be the voluntary element of the system, as it does not appear to be working in practice (observations not dissimilar to those in the other case studies). It was proposed that the mandatory aspect of the BBFC would provide robustness, but this equally appears to be defective, particularly as it is outdated, lacks definition and fails to prevent underage selling.

Based on the above, by operating a two-pronged system to balance all the needs of the industry, the result is an ineffective system. This is not added by the potential for parents and the internet (patches, selling and downloading of games) to undermine certifications.
Recommendations

The analysis of the two systems has presented a number of issues that may affect the adequacy of regulatory provision within the UK. Consequently, there appears to be room for improvement. Hence, based on the above criteria, the concluding part of this chapter will propose possible alternatives and advancements.

First acknowledgement needs to be made to a report quoted in the moral panics section - Tanya Byron’s ‘Safer Children in a Digital World’. The importance of this report is that it was requested by Gordon Brown and reviewed the adequacy of video game regulation. Various recommendations were made and should be implemented by 2009. These recommendations may address some of the issues highlighted throughout this chapter, therefore, where appropriate they will be incorporated to analyse their efficiency, particularly as they may address Vaz’s concern’s.

A unified system

The most obvious recommendation is a unified system bound by the VRA. This would eliminate the voluntary PEGI certificates and transfer all classification to the BBFC. There are advantages of adopting such an approach:

1) It would reduce parental confusion, as they would only have to be accustomed to one set of classifications.

2) This would eradicate the use of ineffectual PEGI content descriptors

3) All games would be bound by law, hence reducing the possibility of underage selling

4) Mis-classification of ‘gross violence’ may diminish, as the BBFC should consistently apply the law.
Applying certification in this manner would solve many of the issues rasied throughout this chapter. However, as highlighted the BBFC system is not un tarnished. Therefore, improvements are necessary and will be considered throughout this section.

Considering Keith Vaz was unsuccessful in parliament with The Video Games Bill\textsuperscript{235} (this requested the voluntary side of the system was abolished - PEGI), the probability of a unified system looks slim. Nevertheless, recommendations by Byron infer a move to a greater mandatory system - all games other than PEGI ‘3+’ and ‘7+’ will necessitate mandatory certification. Although this would mean games with more adult material (12 rated)\textsuperscript{236} would be covered by the BBFC and VRA, there would still be the requirement for two regulators. Byron calls this a hybrid system, and to prevent confusion over the two systems she recommends that all BBFC logos appear on the front of the games\textsuperscript{237}, while PEGI’s equivalent logos across all age ranges will appear on the back (Byron, 2008: 20). What is the point of this? The reasoning behind PEGI was to prevent the industry having to produce different packaging to accommodate different regulatory systems. Byron’s justification, due to the cross boundary nature of the net the consumer could increasingly face PEGI ratings (Byron, 2008: 172). This is a valid point, but could further confuse parents by combining both sets of ratings and consumer advice. Moreover, in addition to PEGI and BBFC ratings, as shown\textsuperscript{238} the consumer can be faced with a multitude of different ratings i.e. ESRB (USA system). Therefore, on this point alone, the hybrid system appears pointless. Instead it is recommended that media literacy campaigns warn parents of the potential for different classification systems and to direct them to the pbbfc website to obtain the equivalent UK rating.

Another reason given by Byron was that the BBFC could undermine the existence of PEGI in Europe\textsuperscript{239} (Byron, 2007: 170). This infers the continued need to balance the

\textsuperscript{235} See p. 170.
\textsuperscript{236} Games rated as 3 or 7 are regarded as having less content issues or are deemed less relevant, therefore PEGI system would be most appropriate (Byron, 2007: 172).
\textsuperscript{237} The PEGI ratings will have to be translated into BBFC symbols and descriptors. BBFC and PEGI will have to work together to align criteria between PEGI ‘3+’ and ‘7+’ and BBFC ‘U’ and ‘PG’ (Byron, 2008: 172).
\textsuperscript{238} Analysis of retail adherence – the appearance of ESRB rating see p.193.
\textsuperscript{239} The dominance of the UK in the European market could lead to the collapse of PEGI.
needs of the industry and as shown this has led to loopholes. It must be acknowledged however, that despite this recommendation, Byron accepts there are other solutions and therefore recommends a public consultation. Based on the criticisms aimed at Byron’s recommendations, due to the pros of a unified system, it is recommended that this should be considered as an option in the consultation process.

The Internet

The analysis highlighted that the internet can undermine the system in a number of ways: 1) the ability for content to reach the public that has not been regulated\(^{240}\). 2) The potential for minors to purchase and download unsuitable content. 3) Inadequate display of ratings by retailers. In terms of the first 2 issues, both regulators have sought to tackle this by establishing voluntary online projects. Due to time constraints these were not analysed, therefore it is recommended that research is conducted to determine their success. Nonetheless, based on observations of the inability of the industry to self-regulate, it is unlikely all will oblige. In fact counteractive mechanisms will generally be fruitless in this environment, due to the sheer scale of the internet. One step forward could be to update the VRA to cover downloadable material, thus acting as a deterrent, but how would breaches be sought? The role of an online regulatory officer could be established, their job being to monitor online gaming. Nonetheless, due the vastness of the medium, contraventions might be missed.

In terms of addressing patches, the US ESRB system has required that games state: ‘Game experience may change during online play’. Jim Cliff has recognised this is not an ideal solution, but due to the problematic nature of regulating the net, ‘it may be the best solution that can currently be applied by the industry’ (NMK, 2006). The UK could apply this, but concurrent with many of the other online solutions, this is again reliant on industry commitment.

Another way some of the internet issues could be combated is via parents, as they are best placed to gate-keep their children’s online activities. The importance of parents

\(^{240}\) Hot coffee incident, see p.188.
to the regulatory process was raised by the Select Committee on Culture, Media and Sport in their report ‘Regulation of Content on New Media’: ‘the fundamental message is that the primary responsibility in so many of these environments will lie with the consumer’ and that ‘it is our opportunity to educate them and to make sure they have the tools available to them to make sure they know what is there’ (SCCMS, 2007). As demonstrated, parental awareness levels and media literacy tools are arguably inadequate (this will be generally contemplated below). Nonetheless, in terms of the net alone, this should involve education on the content of games and how the classification system works. In addition, they should be given general tips on net safety, for example, supervision and application of filtering software. Most of these tips feature on the PEGI On-line website. This is also supplemented by a facility to report inappropriate material, a mechanism that could help combat illegal and unregulated material (if downloadable content was added to the VRA). The PEGI-Online site is therefore a useful facility in aiding parents and ultimately the functionality of game regulation. Nevertheless, it is unknown how widely publicised and used the site is. Consequently, research should be conducted to determine the successfullness of the site. It must be noted that the BBFC’s parent’s site pbbfe fails to encompass any information on online gaming, therefore in order to combat convergence they should learn from PEGI.

In relation to the third internet issue (retailer application of certificates), this could also be tackled by the employment of monitoring officers. Due to the current remit of Trading Standards Officers, it would seem appropriate to extend their jurisdiction to cover on-line retailers.

Will Byron’s recommendations aid the above? The consultation following Byron’s report will involve DCMS (Department for Culture, Media and Sport). They will work with the game regulators to agree a way forward for classifying on-line games. It is unknown whether these will combat issues raised, as no further detail is afforded (Byron, 2008: 19).
Retailer adherence

The analysis demonstrated that both regulatory systems could be undermined by underage selling. Due to the voluntary nature of PEGI certificates, arguably they are open to greater abuse. Consequently, if all games were subject to the VRA and its fines and prison sentence, the likelihood should be reduced. As indicated though, the mandatory element of the system has not prevented instances of underage selling of BBFC games. A review of how the Act is administered is therefore required, particularly the fines applicable and the responsibilities of Trading Standards.

To deter breaches, the first recommendation would be to increase fines and to lengthen the prison sentence. For instance, Germany’s fine is nearly seven times higher than the UK’s £5000 (50000 euros, approx £34342 in 2003) (Saffering, 2003: 5). It is unknown how effective their system is, but raising fines could deter smaller independent outlets. In addition, punishments will only act as a deterrent if they are applied, something that may be unlikely considering the various follow-up visits conducted and the availability of the due diligence defence. Consequently, this defence requires evaluation to determine its appropriateness. In addition, breaches will only surface if retailers are monitored. It is proposed that the VRA is updated to make mystery shopping a requirement, hence a national level should be set for Trading Standards Offices. Byron recommended similarly (Byron, 2008: 23).

If a unified system was not adopted, further action would be essential for PEGI games. The UK could learn from the America’s ESRB voluntary system. They established the ERC (ESRB Retail Council) in November 2005 to ensure retailer compliance. Their ‘Commitment to Parents Code’ requires enforcement to prevent sales of ‘M’ and ‘AO’ rated games to children. Another criterion is at least two “mystery shopper” audits a year. A system that appears successful. The FTC (Federal Trade Commission) found that national retailers refused to sell M-rated games to minors 65% of the time (ESRB, n.d.). Due to the VSC’s responsibility for PEGI, they should be committed to implementing something similar.

241 See p.192.
Parental awareness and media literacy

The analysis revealed lack of parental knowledge of the regulators and certificates and therefore queried the adequacy of media literacy initiatives. Due to the weight parents have on the successfullness of the system, improvement is required. The information they need to be aware of is two-fold: 1) how the classification system works and 2) content awareness.

1) Classification system

As already mentioned, this could partially be dealt with via a unified system as they would only need to be knowledgeable of one system. Further advancements can be introduced to enhance this. For example, the regulators and the industry have produced a number of useful sites that aid comprehension. To improve awareness and utilisation of these, all relevant bodies should conduct extensive promotional campaigns. This could involve the targeting of publications read by parents e.g. parenting magazines; advertisements in the press and television commercials during prime time viewing. Moreover, the amount of information available in retail stores could be extended and made more widely visible.

With reference to the last point, the previous section showed the varying signage available to the retailers. It appeared that many were displaying the material, but no process existed to monitor its appearance. In the US, the ESRB audits retailers to guarantee signage is displayed (ESRB, n.d.). Arguably, this is vital, as such information is pivotal for parental literacy. Therefore, it is recommended the UK adopts something comparable. The VRA could be extended to make this a criterion for Trading Standards.

To further improve awareness and prevent misinformed purchases, the UK could again learn from the American regulator. In the Fall of 1999 they released a national campaign urging parents to “Check the rating”. This involved Tiger Woods in a television announcement, national print adverts and brochures and posters for use by retailers (ESRB, 2000). In 2003 they established “OK to Play”. This was aimed primarily at women aged 30-46 and utilised print adverts, public service
announcements, newspaper inserts, the internet, other consumer marketing channels and in-store signage (ESRB, 2004). With regard the latter, 13 of 14 national retailers were said to be using the material:

ESRB research suggests such campaigns are working: 78% were aware of the system, 70% checked ratings and 61% were aware of CA (ESRB, 2006a). Despite complimentary figures, the ESRB continues such campaigns.\(^\text{242}\)

New Zealand's body, the OFLC has also embraced various measures:

- Information sheets to all retailers reminding staff and parents about ratings;
- Arrangement of magazine features on game classification;
- Consultation with schools and community groups;
- Providing resources for teachers on classification decisions (Wilson, 2007b).

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\(^{242}\) In 2006 US Senators Hillary Clinton and Joseph Lieberman were involved in a television campaign (ESRB, 2006b).
Consequently, it appears in terms of media literacy initiatives, the UK is far behind its peers, hence significant attention is required.

Parents could be further empowered by classification information on advertisements, details that are not consistently applied. The OFLC attempts to monitor this by conducting yearly surveys. Results of their 2005 survey (the sample was based on Melbourne) were as follows:

- 16 breaches relating to games with incorrect or out of date markings;
- 38 breaches relating to advertisements on websites;
- 29 breaches relating to the display of classification notices (OFLC, 2005: 4).

How the OFLC utilises this information and whether it improves the system is unknown. Nonetheless, it is another procedure worthy of consideration.

Recommendations made by Byron may address the above proposals:

- ‘DCMS and BERR (The Department for Business, Enterprise and Regulatory Reform) will work with the industry and regulators, to create a comprehensive awareness campaign of the new classification system’

- DCSM and BERR will ‘work with the retail industry to work towards an agreed set of standards for in-store information’

- The Advertising Standards Authority will assess the compliance of video games advertisers with the current regulations and BCAP and CAP will review regulatory provisions (Byron, 2008:23).

As Byron has not elaborated how the above will be achieved, it is problematic to conclude if they will deal with all the issues highlighted. Consideration should be given to the operations of BCAP and CAP.

243 See the advertising and obesity chapter for concerns over BCAP and CAP.
2) Content awareness

In order for parents to make appropriate purchases they need to have an understanding of game content. As shown the PEGI descriptors and the BBFC CA require improvement to aid parental literacy.

In terms of CA this could be improved via more information - the inclusion of more words. Whether the industry would be willing to sacrifice their attractive packaging for more regulatory information might be an issue. When comparing UK CA with other countries, it appears UK consumers are less informed. The below table highlights in red additional information given:

<table>
<thead>
<tr>
<th>Film</th>
<th>BBFC</th>
<th>ESRB</th>
<th>OFLC (NZ)</th>
<th>OFLC (Aus)</th>
</tr>
</thead>
<tbody>
<tr>
<td>NARC</td>
<td>Contains drug use and references</td>
<td>Blood and gore, intense violence, strong language and use of drugs</td>
<td>Contains violence, offensive language and drug use</td>
<td>N/A Refused Classification</td>
</tr>
<tr>
<td>Cold Winter</td>
<td>Contains strong violence</td>
<td>Blood and gore, intense violence, strong language</td>
<td>Graphic violence and offensive language</td>
<td>Medium level animated violence</td>
</tr>
<tr>
<td>The Punisher</td>
<td>Contains frequent bloody violence</td>
<td>Blood and gore, drug references and intense violence</td>
<td>Contains violence and offensive language</td>
<td>High level animated violence, Medium level coarse language</td>
</tr>
<tr>
<td>Blood Rayne 2</td>
<td>Contains strong violence and gore</td>
<td>Blood and gore, intense violence, sexual themes, strong language</td>
<td>No certificate on site</td>
<td>High level animated violence</td>
</tr>
</tbody>
</table>

Undoubtedly cultural differences will play a role in how countries regard certain content and whether the issue should be highlighted. The BBFC have attempted to
solve this via their pbbfc site which includes extended consumer advice. This is informative, but would be dependent on parental awareness and utilisation of the site.

Moving on to PEGI, the pictorial descriptors would be difficult to improve. The only real advancement would be to utilise words, but as pictures were adopted to reduce the costs of selling games across territories, the likelihood of this might be small. Obviously a complete move to the BBFC certifications would solve this, but if Byron’s hybrid system is adopted this will continue to be an issue. Moreover, although Byron’s recommendations tackle media literacy (see p.205), improvement to CA and descriptors is not directly addressed. Therefore, it is recommended that consideration is given to improving or replacing the pictorial descriptors.

*Regulators funded by the industry*

Both of the regulators are primarily funded by the industry. Although industry influence could never be proven, at present both systems appear to function in the interests of the industry. Ideally, both systems should be independent, but where else could funding stem? Complete government funding may not be a suitable option due to issues of state censorship and a nanny state. One idea is to leave funding as it currently stands, but have an independent body to review both of the regulators decision making processes. This proposal is currently being aired (just for the BBFC system) within a Private Members Bill entitled ‘BBFC Parliamentary Accountability and Appeals Bill’. Proposed by Julian Brazier MP (Canterbury) it would give powers to the Parliamentary Home Affairs Committee to veto BBFC decisions and to contribute to the Board’s Guidelines. The plans would further establish an independent appeals process for those questioning classifications decisions (Groves, 2007). This would make the system more accountable. Nonetheless, no indication is given as to where this responsibly would lie. Furthermore, it only focuses on the legal system. If Byron’s hybrid system emerges, a similar system to monitor PEGI’s operations would be required.
Chapter 6

Cinema Regulation – the 12A Classification

This case study has purposefully been left to the end to highlight how the formation of film regulation differs from the regulatory systems already considered. A key common denominator in all three of these case studies has been the emergence of a moral panic and the subsequent pressure for further regulation or modifications. The exception of film regulation lies here, whereby the British Board of Film Classification (BBFC) chose to liberalise children’s access to film rather than strengthen regulatory provisions. The move to the ‘12A’ classification in August 2002 opened up ‘12’ rated films to children under 12 if accompanied by an adult (films that had previously been restricted to those aged 12 and over). To investigate why the BBFC adopted a different approach and whether this has impacted on the adequacy of the system, this chapter will follow the format used in the other chapters. This structure will aid the portrayal of differences, but also reveal similarities between film regulation and the other regulatory systems.
Moral Panic

From the outset\textsuperscript{244}, the BBFC's role was one of moral guardianship, protecting society from varying types and levels of film content. Over the years this has revolved around depictions of sex, violence, horror, drug use and bad language. Changes in regulation have centred around two audiences: adults and children, who have warranted varying levels of protection. Progressively, the issue of freedom of speech has paved the way for greater freedom for adults, whilst on the other hand, the BBFC paternally sought to safeguard children. To an extent this ideology shifted in August 2002 following the introduction of the '12A' classification. By permitting children's access to a wider range of more mature material, the BBFC had arguably taken a liberalised perspective towards regulation and children. This approach separates film regulation from the other regulatory systems analysed, as they attempted to strengthen regulation following various moral panics.

In order to assess whether the absence of moral panic has played a significant role in the liberalisation of film regulation, this section will look back historically at concerns, fears and anxious responses to film content and development. It will do so in two ways: by examining reaction to film prior to 2000, and reaction to film since the turn of the millennium ('12A' emerged in 2002). This will show how attitudes to film regulation have changed, and highlight the significance of moral panics and subsequent action.

Reaction to film pre-2000

Since the evolution of film various factors have played a role in stimulating panic and response by lobby groups, the BBFC and the government. These will be briefly outlined.

\textsuperscript{244} The BBFC was set-up in 1912 (BBFC, n.d.a: 1)
**Violent content**

Similarly to video games, the primary concern over film was that violent content may incite children and young people to imitate actions depicted. Due to the long history of cinema, a few key examples will be used to demonstrate this hypothetical link.

<table>
<thead>
<tr>
<th>Date</th>
<th>Concern</th>
</tr>
</thead>
<tbody>
<tr>
<td>1916</td>
<td>The Home Secretary Herbert Samuel stated: ‘I have lately obtained the opinion of a number of Chief Constables, who declare with almost complete unanimity that the recent great increase in juvenile delinquency is, to a considerable extent, due to demoralizing cinematograph films’ (Smith, 2005: 29).</td>
</tr>
<tr>
<td>1950’s</td>
<td>Anxiety revolved around teenagers constituting a substantial part of the cinema audience – youth appeal being a component associated with media-related moral panics (see p.12). This generated fears of teenage crime, particularly as films in this decade dealt with anti-social behaviour and teenage violence&lt;sup&gt;245&lt;/sup&gt;.</td>
</tr>
<tr>
<td>1964</td>
<td><em>Lady in a Cage</em> was rejected on the grounds it could ‘invite and stimulate juvenile violence and anti-social behaviour by young people’ (BBFC, n.d.a: 9).</td>
</tr>
</tbody>
</table>
| 1980’s | Advent of the video recorder was associated with two episodes of panics, both of which have been deemed as strikingly similar<sup>246</sup>.  

1<sup>st</sup> panic 1982-1984 - this focused on ‘video nasties’ i.e. *I Spit on your Grave* and *Driller Killer*. These were linked to escalating crime rates (Springhall, 1998: 148). Press and lobby groups campaigned for an outright ban<sup>247</sup>. The government reacted and under the Video Recordings Act 1984, the BBFC were permitted to certify videos (Springhall, 1998: 148). |

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<sup>245</sup> Rebel Without a Cause (1955), The Wild One (1954) and The Blackboard Jungle (1955) (BBFC, 2006: 5).  
<sup>246</sup> Critcher (2008: 64) termed the two episodes a ‘double panic’.  
<sup>247</sup> The Daily Mail ran a campaign entitled ‘Ban the Sadist Videos’. Mary Whitehouse fought the same crusade through the NVALA (Critcher, 2003: 65).
2nd panic 1993-1994 – This was the result of the killing of a 2-year-old James Bulger by two 10-year-old boys (Springhall, 1998: 1). The trial judge provided a scapegoat, *Childs Play* 3. The press responded, *The Sun* campaigned: ‘For the Sake of our Kids Burn your Video Nasty’ (Critcher, 2003: 68). The then Prime Minister and the Home Secretary also made speeches (Critcher, 203: 67). Despite this, there was no proof that either of them had seen the film. To stem the panic, the 1984 legislation was extended under the Criminal Justice and Public Order Act, 1994.

### i. Technological development

As mentioned above, the introduction of the VCR played a role in two panics. In both episodes, concern revolved around children’s access to violent content within the home (Buckingham, 2000: 84). In reference to the first wave of panic, the response by the then Home Secretary, Leon Brittan, highlights this: ‘The video becomes a problem not because it lures the young people away from the home, but because it implants outrage directly into the home’ (Barker, 1984: 102).

As already shown, the cinema was also censured in its primitive days when it was a new technology. A similar occurrence happened when ‘Talkies’ emerged in 1927. In 1931 Compton MacKenzie (novelist) acknowledged this: ‘It was bad enough before Talkies became the rule, and when only the eyes of children were offended. It is worse now’ (Smith, 2005: 46-47). Another point was that this new technology posed problems for regulation. In 1929 the BBFC stated: ‘The introduction of sound films have unquestionably raised new problems from the point of view of censorship’ (Smith, 2005: 47). These instances of technological development and condemnation affirm observations made in the first chapter on the link between technology and panics.

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248 He speculated that: ‘It is not for me to pass judgement on their upbringing but I suspect violent video films may in part be an explanation’. He further noted that Childs Play 3 bore ‘striking similarities to the manner of the attack on James Bulger’ (Critcher, 2003: 67).

249 Penalties against shop owners supplying adult films to minors were increased and the BBFC were also told to consider how videos dealt with adult content (Springhall, 1998: 149).

250 See the moral panics chapter p.18.
ii. Parental responsibility and regulation

Anxiety in the 1930’s focused on the Board’s decision to place responsibility for children’s viewing of ‘A’ rated films with the parents. They recommended that only children accompanied by a parent or bona fide guardian would be admitted to these films. As a result, it was reported the certificate was abused by working class families, who due to child-care problems, took their children regardless of potentially unsuitable content (Smith, 2005: 62-63). This questioned the suitability of parents to self-regulate their child’s viewing. Welfare bodies also provided criticism. They claimed that the requirement for accompaniment prompted children to loiter outside cinemas, seeking strangers to escort them to the films (Kuhn, 2002: 198).

iii. Moral entrepreneur response

As a result of the above issues, many groups since the evolution of cinema have campaigned for greater regulation for children. In 1924 the National Council of Women called for films to be restricted to the under 16’s. In 1926 representatives from the National Association of Head Teachers, the London Public Morality Council and the LCC, alongside many other local councils, also called for such restrictions. These pleas were said to be fuelled by the talkies (Smith, 2005: 33).

In the 1930’s lobbying revolved around horror films. The Order of the Child campaigned for the exclusion of children from *Frankenstein* on the grounds that it was ‘too thrilling for children to see’ (Smith, 2005: 70). As a result they called for a third certificate to prohibit children, as they felt the BBFC’s ‘Horrific’ label (Smith, 2005: 70) was an unsuitable compromise; it signified the films inappropriateness, but still permitted access. Local councils contended similarly and applied independent action - St Helens and Birmingham banned children from performances (Smith, 2005: 71).

Probably one of the most widely quoted pressure groups is the NVALA (now known as MediaWatch). Previously led by Mary Whitehouse, they have condemned violent
content over the years. As already cited, they contributed to the early video nasty panic. In the 60's, alongside the press and various politicians, they accused the cinema of being the sole cause of moral decline and increased violence levels (BBFC, n.d.: 10).

In the 1970's following the release of *Clockwork Orange*, calls for censorship continued. Labour MP Maurice Edelman stated: ‘When Clockwork Orange is released it will lead to a Clockwork cult which will magnify teenage violence’ (Barker, 2001: 176). Apprehension intensified following the murder of a tramp by a 16-year-old, James Palmer. Despite no proof of the link and the fact the boy had not seen the film, many groups reacted\(^\text{251}\) (Bugge, n.d.: 8).

The above concerns verify the observation made earlier about violent content being a key instigating factor of concern and thus panic.

### iv. Regulator response

Since its formation, the BBFC has introduced a number of certificates to 1) restrict access and to 2) indicate the potential unsuitability of certain films (see the Development of Regulation section or Appendix F, p.286-287). Based on the above concerns, these may have played a role in influencing the Board’s regulatory decisions – this can only be hypothesised as the Board is said to be driven by public opinion (see p. 230).

In addition to these certificates, the cutting and banning of films exemplifies how the Board has reacted to safeguard children. There are many examples, but due to the restrictions of this chapter, only a few will be mentioned here:

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\(^{251}\) Reverent John Lambert, former chaplain at Pinewood studios declared: ‘I am utterly convinced in my own mind – and from talking to many young people – that this celluloid cesspool has done damage to more young people than just the boy [James Palmer].’ Mary Whitehouse also appealed for a ban: ‘Since it has been shown we have witnessed muggings and the start of a dreadful gang bang syndrome’. (Bugge, 2008: 8).
<table>
<thead>
<tr>
<th>Date</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1920’s</td>
<td>Films that were thought to teach ‘children methods of crime’ were subject to cuts (Smith, 2005: 31).</td>
</tr>
<tr>
<td>1940’s</td>
<td>Under the ‘A’ classification, if films did not make allowances for the presence of a child they faced cuts (Terramedia, 2003: 1). Terms of reference for censoring were developed. One revolved entirely around children: ‘what effect would it have on children?’ (BBFC, n.d.: 4).</td>
</tr>
<tr>
<td>1975</td>
<td>James Ferman, BBFC Secretary in 1975 stated ‘My instinct is still to reduce the level of violence in action adventure films….. Too often in my view it functions like a drug, like the pounding of rock music which keeps the serotonian levels up. I worry that violence has so little meaning, that younger cinemagoers take the view that violence is cool’ (Travis, 2000: 276).</td>
</tr>
</tbody>
</table>

Since the 1970’s the Board ethos appears to have changed slightly; they wished to refrain from cutting and banning films. This was reflected in their 1984 name change from British Board of Film Censors to British Board of Film Classification. A possible reason for this was lobby groups transferred their attention to the liberalisation of adult content. Another reason could have been the shift in effects research. Despite this, the BBFC continued to give reference to child protection in their classification criteria. This arguably continues to the present day via guidelines on imitable techniques and violence.

Overall, the above demonstrates a number of concerns that can stimulate a media moral panic i.e. violent content, new technology and moral entrepreneurial response. The fact the BBFC since the beginning of film deemed it necessary to protect children from violent content infers a response to these concerns, thus fulfilling one of the final components of a panic – reaction. The government's decision to intervene over both the video nasty panics also plays a role. As a result it appears that cinema pre-2000 has experienced episodes of panic. However, as highlighted, since the 1970’s concern and reaction appears to have subsided.

252 Moral entrepreneurial concern over pornography and that adults should be able to view almost anything, with exceptions for extreme sexual violence and anything illegal (Screenonline, n.d)
253 See the effects chapter – the appearance of active audience theory.
254 See the moral panic chapter p.21.
Reaction to film post-2000

The preceding section suggested that pre-2000, (similarly to other regulatory systems) moral panics appeared to influence regulatory action. Has this continued and are the same concerns still apparent? Has the 1970’s lapse in reaction continued? These questions are vital, for the absence of a moral panic may have provided the arena for liberalisation to occur. Alternatively, as suggested in the introduction to this chapter, the appearance of the advisory category may have generated a moral panic255. In order to clarify this, the same factors contemplated in the pre-2000 section will be explored.

i. Violent content

Since the establishment of ‘12A’, periodically the BBFC has come under fire for the inappropriateness of certain films for children, due to their violence levels. For example, the first film granted a ‘12A’ warranted controversy - *The Bourne Identity*. Matt Damon, the leading actor, classed the film as unsuitable for children: ‘I would urge parents to be very mindful, and maybe go see the movie before they let a 12-year-old see it’. The BBFC upheld their decision: ‘We didn’t think this film had the sort of violence that was a concern for this category’ (Telegraph, 2002).

In 2003 the BBFC received a number of complaints about the ‘inappropriateness’ of certain films for young children: *Pirates of the Caribbean, Hulk* and *X-Men 2* (BBFC, 2003: 19). Similar concerns arouse in 2005 over *War of the Worlds*. The press provided coverage: *The Times* - ‘Spielberg’s alien attack too scary for children’ (Malvern, 2005: 11). *The Daily Mail* took a similar stance: ‘Will War of the Worlds Damage our Children?’ (Greenhill, 2005). Pressure groups also responded. Chris Cloke, NSPCC stated: ‘Violent images can be extremely disturbing to children and the impact of these can be long lasting. We would urge parents to take care before exposing children to images which are unsuitable for their age’ (Greenhill, 2005). The BBFC also received 63 complaints from the public, but refuted their importance as they stemmed from a press stimulated panic (BBFC, 2006: 6).

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255 This is based on the premise that panics and greater calls for regulation often emerge following regulatory relaxation (Killingbeck, 2001: 3).
In 2007 the BBFC’s decision to grant *Beowulf* ‘12A’ attracted more complaints than any other film that year. The Board defended their decision by clarifying most of the violence occurred off screen and that the film was fantastical. Angelina Jolie who starred in the film contended otherwise, that due to violence levels it was ‘remarkable’ what rating it had received (BBCb, 2007).

By mid 2008 two films have been criticised. In April, the *Birmingham Mail* claimed *Iron Man* was too violent for children and should have been a ‘15’ (Young, 2008). In May the Labour MP Keith Vaz proclaimed that children under 15 should be banned from the Batman movie *The Dark Knight* (Mirror, 2008).

As noted earlier, the pre-occupation of moral entrepreneurs with violence was also evidenced in the video games chapter. However, unlike video games256, there have been no violent incidents that could have been associated with ‘12A’ films or any film in fact. This may have an impact on whether such concerns have been taken seriously. This will be discussed later as a reason for liberalisation.

**ii. Technological development**

Within the other three case studies, a common concern and possible panic stimulator, was the internet and its threat to regulation. In terms of film this threat is in existence – the facility to download films online and bypass the age verification process. Despite this, press and lobby groups have not provided comment. The BBFC recognised this as a problem (their ratings did not apply on-line) and in 2005 conducted research to determine whether intervention was required. It revealed that 74% of parents were concerned, of which 91% felt that BBFC’s classifications should apply. As a result BBFC.online257 was launched, a voluntary system to which the industry signs up and pledges to display certificates and consumer advice (BBFC, 2008a).

256 See the moral panic section in the video games chapter p.165-167.
257 The same code utilised to tackle convergence in the video games chapter p.184.
iii. Parental responsibility and regulation

Similarly to the 1930’s, concerns have been raised about parental responsibility and parents abusing their new role (Gibbings, 2003: 10). In terms of the first point, this is a concern evidenced in all the systems analysed.

iv. Moral Entrepreneur response

Since the introduction of ‘12A’, criticism aimed at the BBFC has been two-fold. 1) The unsuitability of these films for children and 2) regulator impartiality. In terms of the first point this relates to content, particularly violence. John Beyer of MediaWatch regarded the move as a ‘step in the wrong direction’ and that it is ‘unacceptable’ to allow children to view violence (Miller, 2002: 3). Valerie Richard of Family and Youth Concern also provided comment: ‘It is rather alarming that things are being abandoned at a point where it seems films are becoming more violent and overtly sexual’ (Cohen, 2002: 31). Lastly, the NSPCC warned that young people needed to be protected from sexual or violent images and that ‘the responsibility can’t just lie with the parents’ (Atik, 2001: 33).

With regard to the second concern, some have queried the Board’s motivations. Have they succumbed to industry pressure? Sarah Gibbings, Herald Express, suggested this: ‘It appears the only people to gain from the 12A certificate are the film makers and distributors; it means more bums on seats and more advertising….Arguably 12A panders to commercialism while at the same time palming too much responsibility onto the parents’ (Gibbings, 2003: 10). John Beyer believed similarly:

I think the reasoning was to extend the market for films ….. That’s it, it is to make money at the box office and you know the little kids who want to see those films badger their parents and they say well you can take me to see this 12A. So obviously more people went to see it than would have otherwise have done. So the film industry is happy, the Board is happy with their fee for the classification and the marketers are happy with their toys (Beyer interview).
Beyer has further suggested that the BBFC has always bowed to the wishes of the film industry and that ‘12A’ is just another example of such behaviour (Miller, 2002: 3). All the above comments query regulator impartiality - another criticism evidenced in all the preceding case studies.

v. *Regulator response*

Despite post-2000 concern being remarkably similar to pre-2000, the Board has ignored the above and their regulatory regime has remained untouched. This demonstrates a slightly different approach, as previously they sought to develop regulation to safeguard children. As no further regulation has occurred, the prerequisites for a moral panic have not been fulfilled despite moral entrepreneurial and press response. It is the absence of a full-scale panic that demonstrates the exception of ‘12A’. This is interesting considering that film appears to have generated similar concerns to all the other 3 systems (violent content, parental responsibility, internet access). So why do these concerns differ from other panics that have necessitated examination of regulatory practices? Why have the BBFC/government chosen not to react? The table below provides possible reasoning:

<table>
<thead>
<tr>
<th>Why no Full Circle Panic – Hypothesised Reasoning</th>
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<tbody>
<tr>
<td><strong>No</strong></td>
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<td>1</td>
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<td>2</td>
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<td>5</td>
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<td>6</td>
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</table>
Whether awareness is reality, will be debated in the analysis.

Advisory category was desirable
Purported public desire for the category will feature in the development section.

Other regulatory systems have moved to self/co-regulation
See the development section p.228.

Expert/academic input absent
Expert opinion can either ignite or stem a panic (see p. 20). As no independent study on the success of ‘12A’ has been conducted it is unknown if the certificate is functioning accordingly. Moreover, the other three case studies revealed the requirement for expert research i.e. Byron (video games and internet), Livingstone (Advertising). As such research is lacking for ‘12A’, this further infers that a moral panic has not occurred.

Press response
Coverage has been given to the potential inappropriateness of certain films. The BBFC classed the response to War of the Worlds as a ‘press stimulated panic’ (see p.221). This infers this element of panic formation was fulfilled, but as no regulatory action followed this supports the notion that media campaigns alone cannot fuel a panic²⁵⁸.

Conclusion

The analysis of concerns associated with film over the years reveals that these are not dissimilar to those raised over other media regulatory systems. Despite this, film regulation has not warranted a full-scale moral panic and has been liberalised. Based on moral panic theory and regulatory response in the other three case studies, it appears the absence of a moral panic may have provided the opportunity for

²⁵⁸ Jenkins 1992 – see the moral panics chapter.
liberalisation and also prevented subsequent restrictions/modifications. Various reasons were offered as to why a panic was absent and why the Board chose to relax rather than strengthen regulation. These however are only hypothetical and so require further exploration. For example, what was the Board’s reasoning behind the change? Criticism from moral entrepreneurs inferred industry pressure and regulatory impartiality may have played a role. Considering the lack of sustained lobby group campaigns and other elements pivotal to panics and subsequent regulatory change, the industry may have been well placed to influence and obtain more favourable regulation. Examination of the development of ‘12A’ will seek to address such queries.
Development of Regulation

The previous section showed that although concern about children's access to 'unsuitable' content has continued and concern has been expressed about the Board's motivations, the BBFC chose to relax the '12' classification. In order to understand why the Board adopted this route, exploration of the development of the '12A' category is required. This will involve justification offered by the BBFC i.e. public consultation and children's maturity levels. Industry gain will also be considered due to questions over the BBFC's independence and further examination will be provided via a section on how the Board operates. Where appropriate, reference will be given to the other case studies to demonstrate the distinctive nature of how film regulation has developed.

History of regulation in terms of children

Since the Board's commencement, via a number of actions documented in the moral panic section, the BBFC has paternally sought to protect children. The development of various classifications by the Board provides further emphasis (see appendix F p.286-288 for a breakdown of categories) Smith (2005: 76) has observed that: 'British cinema regulation has consistently been driven by issues relating to the child'. However, the table suggests that from 1970 onwards, without abandoning protectionism altogether, the Board has acknowledged the range of children's maturity levels. Acceptance of this appears to have been one of the main driving forces behind the '12A' certification. Therefore, lack of evidence of effects may have been a factor here, as maturity levels feature in this debate259.

The development of '12A'

'12A' replaces '12' but continues to follow the same guideline criteria. The major difference is the category is now advisory, meaning any child under twelve can gain admittance providing an adult (over eighteen) is present. The Board has indicated that the change was to accommodate 10-11 year-olds, the age group considered most

259 See the effects chapter p.51.
likely to be affected by varying levels of development (BBFC, 2003: 46). Alongside accompaniment is the appearance of consumer advice, written short guidance on the main content issues of the film (Chrisafis, 2002). The latter is a form of media literacy, similar initiatives to that evidenced in the video games chapter. It is worth noting that cinema regulation is regulated by the same regulator of the video games mandatory system – the BBFC. Consequently, it will be interesting to see if the same flaws evident in the video games system will apply here.

This transition to a more liberalised system could be regarded as appropriate considering the flawed effects tradition and the fact parents are arguably best placed to gauge their child’s maturity. Moreover, it also falls in line with other media regulation - the transition to greater self-regulation and media literacy (see the other case studies). These factors emphasise parallels between the BBFC and other media regulators rather than differences. Will this result in similar regulatory loopholes? Nonetheless, in order to fully capture the development of regulation, factors which may have influenced the BBFC’s decision, require consideration.

12A influencing factors

1) Maturity Levels

One of the main reasons given for the move to 12A is children’s maturity, as it is believed this varies considerably in children aged 12 and under. Parents were therefore contended as those most equipped to decide a film’s suitability (BBC, 2002). The argument that levels of maturity are not age determined appears widely accepted (Gunter, 2005, Strasburger & Wilson, 2002, Van de Voort, 1986). Also, this would work in favour of children’s rights, as rigid regulation could stifle children’s development. However, the success of this is dependent on parental responsibility (see the CCA comprehension and accompaniment sub-sections in the evaluation section).
2) Parental pressure

The maturity argument plays a role in a further justification - parental pressure. The Board stated receipt of letters from parents requesting a transferral of responsibility\textsuperscript{260}. They claim this established the requirement for further research and ultimately change. In the Sunday Herald, the level of letters received was revealed: ‘12A was only conceived in response to massive public pressure from parents wanting to take children under 12 to the latest James Bond movies’ (Bruce, 2004). The employment of ‘massive’ implies huge public support. When questioned on the amount received, Sue Clark (BBFC Spokeswoman) confirmed: “it was a steady stream of letters over the years” (Bruce, 2004). This implies the amount may not have been as significant. No actual figures exist to substantiate the extent of parental pressure.

Parental viewpoint also leads to issues of the legitimacy of public opinion; who is to say their assertions are accurate and sound? Stuart Jeffries (Guardian journalist) questioned their judgement: ‘Parents aren’t just asserting their purported rights against bothersome bureaucrats. ..........Rather, parents chiefly took to the multiplexes to demand a fulfilment to the inexorable capitalist logic of spidermania laid out for them by the Sony corporation’ (Jeffries, 2002). This quotation was made with reference to the film Spider-Man. What Jeffries speculates is that commercial influences may have pressurised parents into exerting on their behalf, a form of indirect pressure on to the BBFC. In fact Spider-Man, was linked to ‘12A’s’ implementation. Controversy erupted when the film was originally granted a ‘12’, resulting in uproar across the country from parents questioning why children could not witness a film that had been heavily marketed to them (Jeffries, 2002). Based on the above, it is debatable whether the BBFC should have used parental viewpoint as a driving force. However, the outcome of the BBFC’s public consultation is more pivotal, as this determined the viability of the advisory certificate.

\textsuperscript{260} Sue Clark (BBFC spokeswoman) confirmed the receipt of letters: “The Board was aware for some time that parents were complaining on a regular basis about certain films which they wanted to take younger children to” (Clark interview).
3) Public opinion

Prior to the consultation process, it is worth considering that the advisory certificate was debated in the Board’s 2000 guideline consultation. One of the main findings was the public’s desire for the ‘12’ certificate to remain mandatory. Robin Duval (former BBFC Secretary) confirmed: ‘You are probably aware that the mandatory nature of 12, 15 and 18 is not the norm in Europe or in the United States. However, the public’s response to this, by a substantial majority was that they did require them to continue to be mandatory’ (BBFC, 2000: 2). Regardless of the soundness of public opinion (see p.224), considering the Board purports to move with societal opinion, their decision to pursue ‘12A’ went against these 2000 findings. Therefore, it will be interesting to see how they conducted and responded to the PG-12 (12A) research.

The PG-12 consultation in 2001 involved a number of qualitative and quantitative surveys with parents and cinema staff. This was conducted on behalf of the BBFC by IPSOS, an independent company whose focus is survey-based research. The main objectives were to measure attitudes towards PG-12 and to discover the possible impact this may have. The results reported were reasonably positive - 70% of the public were in favour based on two conditions, parental accompaniment and consumer advice (IPSOS, 2002: 3). On the grounds of this figure, it could be regarded that the BBFC’s move to ‘12A’ was justified. However, following contemplation of the research, their findings are questionable.

<table>
<thead>
<tr>
<th>Research</th>
<th>Outcome</th>
<th>Issues</th>
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<tbody>
<tr>
<td>In-street interviews</td>
<td>70% initially in agreement. This rose to 90%, after those who initially said ‘no’, were then happy to accept the change if consumer advice, adult accompaniment or both were applied (Porksen, 2002: 37).</td>
<td>Restricted sample - the sample of parents consisted mostly of those who had children within the 12-14 age group (28%), 10-11 (23%), 8-9 (24%) (IPSOS, 2001: 3). Considering the importance of 10-11 year-olds as the primary target age group for ‘12A’ should parents with children of this age have figured more? Secondly, as the ‘12A’ certificate potentially opens films to all children under 12, should parents with children under 8 have been contemplated?</td>
</tr>
<tr>
<td>Mid/post interviews</td>
<td>70% were initially in agreement. This amplified to 333 responses to the questionnaire were attained, but only 132 of these were with parents whose children were in attendance (Porksen, 2002:</td>
<td></td>
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tested peoples reactions after seeing 12A's | 85% following the acceptance of consumer advice and adult accompaniment (Porksen, 2002:54)
---|---
11. To establish the suitability of these films for children, surely this figure should have been greater?

Even if more parents had been present, the answers provided may be biased as you would presume those bringing their children must be in agreement anyway. Consequently, bringing into rebut the claim that 83% of those with children present were in favour (Porksen, 2002: 52).

### National Survey

| Initially only 37% of the population were in agreement (Ipsos, 2002: 4). |

The BBFC report states that of those who initially stated ‘no’, 43% went on to agree with the certification if parental accompaniment and advice was in place (BBFC, 2002: 4). The two sets of statistics were then some how combined. The outcome being that overall 70% were in agreement (BBFC, 2002: 4).

What is not clear, neither in the report nor within the raw data, is how 70% was calculated. The main issue is how Ipsos weighted the respondent’s answers.

The initial sample was 3750, out of which 1597 answered ‘no’. This does equate to 43%. However, when those who said ‘no’ were further questioned, the sample rose to 2121, a rise in 524 people. Researchers therefore had more figures to manipulate to establish support. Their justification: figures can be adapted to make the sample demographically representative (Gale, 2004).

The table below shows the figures utilised:

| Question: Do you think the 12 rating should be made advisory? |
|---|---|
| Unweighted sample | 5729 |
| Weighted sample | 3750 |
| Yes | 1387 (37%) |
| No | 1597 (43%) |

| Question: Which if any of the following conditions would make you most happy to see the 12 rating become advisory? Base: All who don’t think the 12 rating should be advisory |
|---|---|
| Unweighted sample | 3369 |
| Weighted sample | 2121 |
| Consumer advice | 222 (10%) |
| Adult accompaniment | 198 (9%) |
| Both of the above | 213 (24%) |
| Opinion would not change | 1188 (56%) |

Taking into account the issues highlighted in the table, the validity of the 70% statistic is questionable.
The table also highlights the importance of the two conditions, that without them only 34% would have been in agreement. Consequently, if these components are not being adhered to, there is no significant validation for the category. This will be debated in the analysis section.

One final point, unlike the advertising system\textsuperscript{261}, instead of consulting to see if further regulation was required, the purpose of the BBFC’s research was to justify liberalisation. The absence of a moral panic may again provide reasoning. This provides further evidence of the BBFC’s exceptional criterion.

4) Other regulatory systems

Duval’s 2000 quote suggested that other countries adoption of the advisory certificate may have provided influence. This infers that the UK system may have been outdated and in need of revision\textsuperscript{262}. Moreover, as already stated, it aligned film regulation with self-regulation approaches adopted by the other regulatory systems analysed.

5) Industry gain

Considering the accusations in the moral panic section over impartiality, analysis of how the industry sought to gain from ‘12A’ is required. This is particularly crucial, as the sudden emergence of ‘12A’ was speculated (by the press, see p.225) to have been as a result of pressure to open up Spiderman’s to under 12’s. Not long after ‘12A’ emerged, Spiderman was released under the new category. The BBFC were keen to quash industry pressure rumours, Sue Clark, BBFC Spokeswoman confirmed: “Now I won’t say that the industry did not want it as well, but the fact is we would not have done it because the industry wanted it, it had to be public pressure and that is why we consulted the public. If we had only consulted the industry they would have said years ago go down the 12A route” (Clark interview). The point is valid, as they did consult a year before Spiderman’s release, but timing may have been of the essence for

\textsuperscript{261} Ofcom’s consultation, see p.86.

\textsuperscript{262} The regulation system had remained unchanged since 1989 - see the development of classifications tables (Appendix F 289).
societal approval and Spiderman's commercial enterprise provided a perfect arena for its emergence.\(^{263}\)

It would be problematic to conclude that industry pressure was a primary motivator. Nevertheless, it is worth discussing how they sought to capitalise from the change. The key element is '12A' opens up the film market, as potentially all children can witness these films, the result being an increase in revenue. In 2002 the certificate grossed £296,035,935, compared to £321,327,200 in 2003 (FDA, 2003).

The commercial success of '12A' is further illustrated by yearly top 20 films charts. In 2004 seven '12A's' featured within the chart compared to four 'U's', five '15's', three 'PG's' and one '18' (Film council, 2005: 16). This amount increased to eight in 2005. Therefore, the BBFC regarded the certificate as 'lucrative' (SBBFC, 2006). Despite these figures, the Film Council revealed in 2003, that the amount of 7-14's visiting the cinemas dropped to 13.5% compared to 20.9% in 2002 (Filmcouncil, 2005: 39) The BBFC's 2005 Annual Report also challenged children's influence on '12A's' success, that initial figures indicated that under 12's only accounted for a small proportion of the audience - 15% of the total audience (Clark, 2006). Despite this, as shown there are obviously benefits of '12A' to the industry, a facet evident in all the other case studies that regulation appears to work in favour of the industry. Therefore, another similarity between the case studies is regulator impartiality.

**Regulator**

The issue of impartiality will now be explored. The first stage of this is to establish when and why the BBFC emerged. The Board was formed in 1913 to deliver consistency to the industry. Under the 1909 Act, local authorities were imposing varying levels of censorship and an independent body was required to provide decisions which would be widely accepted (BBFC, 2004: 2). This statutory power remains with local councils until this very day, granting them authority to overrule

\(^{263}\) Stuart Jeffries (Journalist) in the Guardian: 'These parents weren't clamouring for their kids to be admitted to the revival of Jules Dassin's film Rififi which, like Spiderman, was given a 12 certificate. That French jewel – heist flick was re-released without any allied merchandising. Rather, parents chiefly took to the multiplexes to demand a fulfilment to the inexorable capitalist logic of spidermania laid out for them by the Sony corporation' (Jeffries, 2002).
any of the Board’s decisions, but since 1920 onwards their classifications have rarely been disputed (Freespace, 2004). It was in fact local councils that originally requested the establishment of a state censorship body. To counteract this 13 manufacturers and exhibitors proposed a self-governing system overseen by a Home Office approved President and administrated and funded by the industry (BBFC, n.d.a). The bid was successful and represents to an extent how the Board functions today – a co-regulatory system.

The issue is not so much the Board’s links with the councils, instead it is their total reliance on industry funding (another similarity with the other case studies264), whereby they receive a film certificate in return for a sum of money:

.....The fact that it continues to be funded by the film industry leads to a perception that the Board is less than objective in its decisions. So far as the outside observer can judge the Board remains closed to any influence other than that coming from the industry (Beyer interview).

Jill Nelmes has contended similarly by querying how the Board can remain independent considering their relationship with the government. This resulted in the question ‘whose interests does the BBFC represent?’ (Nelmes, 1996: 42). To counteract such criticism the Board promotes that they aim: ‘To ensure a sound financial base for the Board’s work and to preserve its independence and integrity’ (BBFC, 2003: 102). In addition they profess their system is not organised for profit, that their fees only cover its costs (BBFC, n.d.b). Nonetheless, there is a lack of democratic accountability, as the public neither funds nor elects this regulative body. There is also no independent body to review its operations (Clarke, 2002). This might be also required to monitor the state’s involvement, as it is the Home Secretary who elects the Board’s President. The Board however, portrays itself as independent. One of their main roles is: ‘To be accessible and responsive to the public and its representatives’ and that: ‘It is vital for the classification process to be independent, fair and open’ (BBFC, 2003: 15).

264 All the regulators examined in this thesis are reliant on industry funding see p. 84, 134, 178.
Another way the Board pledges autonomy is by proclaiming to move with ‘contemporary public opinion’ (BBFC, 2003: 102). As already highlighted this was a key component behind the justification for ‘12A’. But should the BBFC base policy changes on societal opinion? Based on concerns rasied\(^{265}\), this might not be the most suitable approach, as they might not foresee the possibility of long-term effects and wider social implications. Furthermore, society is made up of varying groups who possess differing outlooks. Due to the complexity of society, can the BBFC possibly seek to be representative?

Another contention is if the BBFC are shifting with public opinion, are they actually fulfilling their responsibility as a moral guardian? Surely it would be very difficult to preserve a balance between being a protector and a democratic regulator.

**Conclusion**

Consideration of industry gain has called into question the Board’s autonomy from the industry. The Board’s reliance on public opinion has also been questioned, as has the viability of parental pressure. However, bearing in mind self-regulation appears to be the framework adopted by other media regulators, if the regulation works in practice, the Board could justify liberalisation. Moreover, based on the above instigating factors, it appears that ‘12A’ would on face value keep all those concerned happy; children’s maturity levels would not be stifled, parents would have flexibility and the industry would have wider profit potential. Attempting to balance all these needs may lead to regulatory loopholes, particularly as the other case studies demonstrated the difficulty of balancing protection with liberalisation.

This section additionally emphasised the uniqueness of the BBFC’s system, but equally similarities with other media systems have been observed i.e. reliance on parental responsibility and media literacy. As a result it will be interesting to see if the BBFC’s application is also flawed in these areas.

\(^{265}\) See p.55 and 86.
Evaluation of Regulation

Based on the observations made in the previous section, analysis of how ‘12A’ is functioning is required to ascertain if this more liberalised approach works in practice. This is particularly pertinent bearing in mind the flaws noted in the other case studies where regulators embody a lighter touch approach and a move to media literacy and parental responsibility. As already highlighted, the BBFC now embodies similar strategies via ‘12A’ s’ reliance on cinema consumer advice (CCA) and adult accompaniment - two conditions that validate the certificate’s presence. Consequently, to determine if the certificate is performing, how these two prerequisites are being executed is pivotal and thus requires analysis. Other issues that may affect the process will also be raised: borderline ‘15’ films and marketing strategies.

The success of the conditions and arguably the certificate as a whole, is dependent on a number of individuals. Due to their significance, whether they are fulfilling their roles will be considered throughout.

<table>
<thead>
<tr>
<th>Key Individuals to the Success of ‘12A’</th>
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<tbody>
<tr>
<td>Parents/responsible person</td>
</tr>
<tr>
<td>BBFC</td>
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<td>Distributors</td>
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<td>Exhibitors</td>
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i. Cinema Consumer Advice

The purpose of CCA is to allow parents to make ‘informed decisions about what their children watch’ (BBFC, 2003: 46). As a result this could be regarded as a form of
media literacy. Due to this mechanism being an ideal solution to censorship issues and lack of effects, it is not surprising the Board has adopted this as part of their liberalisation. Issues were rasied about the BBFC advice in the video games chapter, will flaws also be apparent here?

*How should CCA function?*

Consumer advice seeks to highlight content you might not ordinarily expect particularly in terms of sex, violence, bad language, drugs and horror and should be visible on film posters, TV advertisements and cinema listings. The advice is formed by the BBFC and is then forwarded to the film company for distribution on promotional material. Habitually the CCA consists of up to 70 characters (including spaces) and should be juxtaposed alongside the category:

| 12A |
|——|
| Contains moderate violence and sexual references |

The BBFC has a voluntary agreement with distributors and exhibitors to display CCA, but its appearance is not mandatory – similar to their video game advice. (BBFC, 2003: 46). Whether or not this is an issue will be demonstrated via analysis of industry application.

*Are the necessary bodies fulfilling their roles?*

1) BBFC

As already illustrated, the Board is responsible for a number of things. Parental awareness will be examined first.

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266 Media literacy initiatives should also be aimed at parents – see the effects chapter p.61.
267 See the media effects chapter p.59.
268 See p. 198.
Parental awareness

The main purpose of ‘12A’ was to transfer responsibility to parents. In order for them to make informed choices, they need to be aware of CCA. The Board sought to raise awareness via the production of an advert in 2002. This featured a woman who appears anxious about not knowing what her child is witnessing: the antidote being CCA. This ran in cinemas throughout the country for several weeks at the beginning and end of 2003 (BBFC, 2004: 29). Considering the certificate was introduced in August 2002, why was such a media literacy initiative not launched then?

Robin Duval, BBFC Director, believed the advertisement was a success that it had: ‘...gone down well. It puts the spotlight on the new advice’ (FDA, 2004a: 51). The validity of this statement is debatable considering no research was conducted to establish its success. Moreover, the extent to which this reached the public is questionable, as statistics at the time indicated that only 17% of the population attended the cinema on average once every 2-3 months (BBFC, 2000: 4). The advert was shown again during December and January 2004 and corresponding research revealed that over half of this sample had noticed the CCA (BBFC, 2004: 29). Whether or not the research conditions were fair is unknown, but by conducting the research at the same time as the screenings could have influenced the outcome.

Research on advice was again conducted in 2005. Focus groups were utilised, but the results revealed very little: ‘Awareness of CA was dependent on age and whether or not respondents had children’ (BBFC, 2005a: 1). Their 2005 Public Opinion and Guidelines Research (2005) did not provide much further affirmation. 58% of the sample were said to have not noticed the CCA, compared to 41% who had (BBFC, 2005b). This could reflect a lack of awareness, but equally could suggest visibility issues (will be considered shortly under distributors and exhibitors).

Based on the above, it is problematic to verify awareness of CCA, thus further wide scale research is required. However, even if awareness is across the board, visibility issues may jeopardise this.
Industry guidance

The BBFC has formulated guidance stating how CCA should be displayed, guidance that is crucial to ensuring visibility. Their ‘CCA – Guidance for Distributors’ has two main requirements:

- CCA must be displayed in cinema release publicity for all films, regardless of category;
- CCA must be displayed in a prominent and legible manner in every instance (BBFC, 2005a: 1).

In order to achieve the above, the guidance also stipulates minimum requirements for differing promotional media (BBFC, 2005a: 1):

<table>
<thead>
<tr>
<th>Type</th>
<th>Box Size</th>
<th>Colour Combination</th>
<th>Positioning</th>
<th>Timing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Print ads</td>
<td>25mm x 5mm</td>
<td>A white box with dark type is recommended. Other combinations are acceptable as long as there is no reduction in visibility.</td>
<td>The CCA box should be displayed at the end of the title or directly below it. If this cannot be achieved due to artistic or practical reasons, the advice should be displayed immediately adjacent to the release date or the venues.</td>
<td>N/A</td>
</tr>
<tr>
<td>TV spots</td>
<td>CCA does not have to appear in a box, but must be clear and large enough for the average viewer to read in the time available.</td>
<td>Not stipulated</td>
<td>The advice may appear anywhere on the advert, but if placed on the final title card it should be placed directly below the title.</td>
<td>CCA to appear for at least 5 seconds on all spots over 10 seconds. For under 10 second adverts, this can be reduced to 3 seconds.</td>
</tr>
</tbody>
</table>
Guideline observations – 1) The guidance for the positioning of CCA in press adverts, suggests the Board is accommodating industry needs. The BBFC contends this will not compromise legibility (BBFC, 2005b: 1). 2) The TV spot guidance states that the CCA should be ‘large enough for the average viewer’. This is wide and open to interpretation, hence it might lead to visibility issues. 3) Is 3 seconds long enough amongst the activity of an advert for CCA to be acknowledged? These queries will be debated in the distributor section. It is worth noting here, that similar voluntary guidance utilised in the other regulatory systems were regarded as flawed269.

CCA formation and Comprehension

The sufficiency of information provided within the CCA could also affect parental empowerment. As stated earlier, the formation of the advice lies with the BBFC. Their film examiners are given roughly 6 to 7 words (70 characters) to relay the main content issues. Is this sufficient? In 2005 the BFFC perceived that CCA (effectively in most cases) is a ‘very useful’ tool for parental decision making (BBFC, 2005b: 1). However, they recognised it is impossible to provide a blow by blow account of a film due to character restrictions (Clark interview). As a result: ‘This places constraints on the ability to convey sometimes complex concepts’ (BBFC, 2005b: 1). Does this hinder parents? Mark Batey (Film Distributors Association) contends not: ‘less is more on these things, you can’t have a whole essay written on these film posters’ (Batey interview). Understandably, too much information could be counter productive, whereby parents may be overwhelmed and therefore ignore the information. In a sense the BBFC’s Consumer Advice Research (2005) confirms Batey’s affirmation, that ‘...specific information was more helpful than general concepts but there was a fine balance between useful specific information and too much information’ (BBFC, 2005b: 1).

Consideration of advice clarifies why this is a fine balance, as terminology utilised could be regarded as unhelpful. For example, with regard to sex, CCA could state ‘mild sexual references’ or ‘moderate sexual references’. But what constitutes mild and moderate? The same problem arises with all the Boards main content issues e.g.

269 See p.143 and 200.
violence and language, as ‘mild’, moderate’ and also ‘strong’ are frequently applied. The same issues were raised in the video games chapter, due to the BBFC utilising the same guidance for games\textsuperscript{270}. The BBFC’s 2005 consumer advice research contemplated this. The findings suggested that only the application of ‘moderate’ was problematic. Despite the ambiguity the participants did not come up with an alternative, thus its employment remains (BBFC, 2005b: 4). Other terminology may affect comprehension. The 2005 research also revealed: ‘...respondents literally did not understand some of the words being used’, that they were not ‘common parlance’ e.g. ‘peril’, ‘anguish’, ‘innuendo’, ‘imitable’ and ‘grisly’ (BBFC, 2005b: 2).

In order to rectify some of these problems, the Board in 2005 revised their examiner guidance\textsuperscript{271}. It is positive that the Board conducted research and responded. Nonetheless, as the ‘moderate’ issue was not addressed, confusion could continue.

In terms of parental awareness and comprehension generally, the Board continued to show their commitment by releasing a dedicated parental website in October 2007: Pbbfc. As stated in the video games chapter, this site sought to aid informed choices, particularly by the formation of ‘extended consumer advice’. This would help issues raised earlier about comprehension as trailers are viewable. Moreover, problems over terminology like ‘moderate’ might be tackled as plot examples are cited. Nevertheless, success would be dependent on promotional activity and whether parents are actually logging on. Research is yet to be conducted on its usefulness, but their 2007 Annual report revealed that in its first three months, they had received 930,000 hits and unique visits from 9,600 people (BBFC, 2008b: 11). This was said to have been achieved by word of mouth and promotion on their main webpage. It is unknown how many of the visitors were parents. In addition, if the website is to be of benefit surely a wider publicity campaign is required? It must be acknowledged though, unlike other regulatory systems where media literacy campaigns are disjointed, this demonstrates a conscious effort by the Board to address the need for literacy.

\textsuperscript{270} See p.183.
\textsuperscript{271} The key changes were to use contemporary language and specific rather than general descriptions. Vague descriptions like ‘disturbing behaviour’ will be avoided and content issues will be ordered in terms of importance (BBFC, 2005b: 4).
2) Distributors

The distributors' main role is to provide CCA on their marketing materials. Therefore, even if guidance is comprehensive, parental literacy could be affected by distributor application. The latter may be a factor whereby CCA inclusion is not mandatory; instead it is based on a mutual agreement as the Board's classifications do not hold any obligatory weight, instead local authorities are the legal enforcer (Clark interview). This guidance is similar to that used for the regulation of chat-rooms, where compliance was patchy. Will application by the film distributors prove correspondingly?

Based on the financial benefits of the classification, you would assume the industry would be keen to comply. The BBFC affirms commitment, that distributors have increasingly come round to their way of thinking and even display CCA on '15' and '18' films, which is not a requirement (Clark interview). A 2003 Telegraph article inferred otherwise and named transgressors: Buena Vista and Metro Goldwyn Meyer (Hastings, 2004). The Board responded, stating that over the last year distributors had performed 'spottily', however: 'Some distributors have done everyone proud, with the advice appearing broadly and clearly on all 12A and most other advertising. Others...well...have not been quite so consistent' (FDA, 2004a: 51).

The BBFC's praise of distributors continued into February 2005: 'The film distributors have improved the provision of consumer advice on 12A publicity' (BFFC, 2005e). No indication was given on how this deduction was achieved. A November press release suggested conversely: 'Whilst the results have generally been satisfactory, it is clear that consumer advice is still not being employed entirely consistently. In some cases it is not being used for every film and in other cases it is not being displayed in the most user-friendly fashion' (BBFC, 2005b). As a result, the Board met with the FDA (Film Distributors Association) to ensure future compliance. Since then has any substantial headway been made? To provide enlightenment, a comparison of distributor material between 2004 and 2006 was conducted.

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272 See p.143.
273 See p.233
Firstly, it is worth considering that the BBFC professes to constantly monitor the system and claims that non-application or indecipherable CCA is reprimanded (Clark interview). However, it is not stated how this is achieved and considering the certificate is not mandatory no fines etc can be administrated.

2004-2006 comparison

In 2004 and 2006 press and television advertisements were analysed between the months of May and August. Application of CCA on each media will be briefly considered.

- Press advertisements

Application in both years inferred commitment:

![CCA Present on Press Advertisements 2004 and 2006](image)

In fact, this suggests that application increased following the FDA talks. Nevertheless, inclusion could be regarded as meaningless if the advice is not legible. Consequently, these adverts were rated as either poor or good depending on CCA readability\(^{274}\). Based on this rating, in both years over half were deemed indecipherable:

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\(^{274}\) Please see the two examples in the appendix to see how this differentiation was made (Appendix G, see p. 293-297).
The main reasoning for poor application was chaotic backgrounds and the colour and size of typeface. Colour combinations of the CCA box also create problems. Although the BBFC recommends the utilisation of a white box with black type, only 5 out of the adverts in 2006 opted for this formatting. As already highlighted, the Board’s guidance states other colour combinations are acceptable if ‘there is no reduction in visibility’ (BBFC, 2005a: 2). Out of the 12 who chose other colour variations, only 5 were regarded as ‘good’. Based on this, it appears the Board’s guidance is flawed and the industry appears to put attractive advertising campaigns before parental empowerment. Nevertheless, distributors could argue they meet the basic guideline requirements.

They could also pledge to fulfilling the Board’s sizing requirements. Despite this, squeezing up to 70 characters in the CCA box, often meant advice was undecipherable. This again suggests that the Board’s requirements are in need of revision.

- Television advertisements

Similarly to press advertisements, on face value application is positive.

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275 An advert for Connie and Carla illustrates this (See appendix G p.295).
276 Prime highlights how pink on a black background reduces visibility (See appendix G p.296).
277 In 2006 59% of the sample had CCA boxes which were sized 25mm x 5mm and over.
278 Memoirs of a Geisha CCA reads ‘Contains moderate sex scenes and emotional intensity’, this equates to 52 characters (including spaces). The box is 25mm x 5mm, but the CCA actually fits into 16mm as the ‘12A’ certificate takes up 9mm.
In fact those in 2006 who did apply CCA abided by the guidelines. Instead, it is the Board’s requirements that could affect parental viewing. For instance, does 5 seconds provide adequate time for a viewer to notice and read the advice, as the film’s imagery may be distracting? Moreover, would one notice advice on a final still which only lasts for 3 seconds? This screen can be covered in abundant information e.g. release date, distributor, website address.

Based on the above visibility issues, as the BBFC’s research on CCA focused only on comprehension, future research should also focus on industry application to establish guideline adequacy.

3) Exhibitors

The role of the exhibitor is equally important to CCA visibility. The exhibitors have also voluntarily agreed to display it. Is their application any better?

The 3 main avenues for CCA appearance were analysed between May and August in 2004 and 2006. All the major exhibitors were sampled alongside smaller chains/independents.

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279 The BBFC’s consultation revealed: 78% wished for CCA to appear in film listings, 62% on exhibitor websites and 53% on exhibitor telephone automated systems. Based on these statistics, their role is arguably as vital as distributor material - 62% (BBFC, 2002: 9).

280 UGC, Cineworld, Showcase, Curzon, Broadway, Savoy, Odeon, Vue, Leiston Film Theatre, Regal, Riverside, Empire, Tyneside Cinema, Appollo, Metro Derby, City Cinema.
• Listings

The graph below demonstrates that in both years over half of the sample failed to include advice in their listings.

Exhibitor Application of CCA on Listings 2004 and 2006

The sample difference in 2006 is that the Odeon cinema stopped advertising in the press and that The Apollo was inconsistent in their application (sometimes they stated CCA).

In 2004 John Wilkinson (Cinema Exhibitors Association) suggested cost as a reason\(^{281}\). This infers that profit may jeopardise parental empowerment and the success of regulation. An observation that was apparent in the majority of the other case studies\(^{282}\).

• Exhibitor website

The provision of advice on exhibitor websites improved in 2006 (60% compared to 33%):

CCA Present on Exhibitor Websites

281 Listings cost approximately £10-15 million pounds per year. CCA increased this expense as adverts had to increase in size to accommodate this (Wilkinson interview).

282 Video games – display of CCA; chat-rooms – display of safety information and mechanisms.
A reason for this could be the lack of costs involved to advertise on their own sites. Despite this, application was inconsistent. Examples taken from UGC website provide evidence:

**CCA Applied**

![Prime Poster](image)

**Synopsis**

While an old enemy plots to render him powerless once and for all, Superman faces the heartbreaking realization that the woman he loves, Lois Lane, has moved on with her life. Or has she?

Superman's bittersweet return challenges him to bridge the distance between them while finding a place in a society that has learned to survive without him. In an attempt to protect the world from cataclysmic destruction, Superman embarks on an epic journey of redemption.

**No CCA**

![Superman Poster](image)

- Exhibitor automated telephone listings

In 2006 not one of the exhibitors divulged advice on their automated systems:
Considering inclusion would be of no additional cost to exhibitors, this demonstrates a lack of commitment.

In terms of all the exhibitor output, a reason for lack of application could be the Board only conducts spot checks. They were also unable to divulge if transgressors are reprimanded (Clark, 2004).

In conclusion, it appears that due to visibility and comprehension issues CCA may not be empowering parents. All major players play a role here, whereby the distributors and exhibitors are failing to adequately display CCA. The BFFC also fails to help due to a lack of monitoring and inadequate guidance. The main issue here and for all the other regulatory systems analysed, appears to be the voluntary aspect of the system, whereby the industry is not willingly adhering. Consequently, bearing in mind the significance of CCA to ‘12A’s’ existence, revisions may be required.

ii. Accompaniment

The above demonstrated that one of the conditions of ‘12A’ is flawed. Will the condition of accompaniment also prove to be flawed? Accompaniment means that it is mandatory for those aged under 12 to be accompanied by an adult (aged 18 or over). Unlike CCA it is more problematic to analyse if this is working in practice, as parents if questioned may not admit to acting irresponsibly. Nonetheless, the main arguments surrounding accompaniment e.g. responsible adult/parental responsibility will provide an indication of possible issues.

The accompanying adult must be aged 18 or over and be ‘responsible’. But what is responsible and how can this be defined? In addition, are parents taking responsibility seriously? Such queries will be briefly considered.

In terms of parental responsibility, their ability to execute this role has been queried:

Rather than pay out for a childminder, some parents are taking kids as young as four to quite adult films that are completely unsuitable..... It
is a blatant abuse of a system that was intended only to provide a certain amount of flexibility and choice (Bruce, 2004).

The BBFC's Annual Report (2004) confirmed the occurrence of such instances (queries over parental responsibility was also evident in all the other chapters). Research conducted by the Board in 2004 further questioned parental ability; that there was a 'substantial group who appeared unable to cope with the complexity of the issue'. This involved parents either 1) shielding away from the decision making process, 2) lacking in confidence or 3) simply not being interested. On the contrary, the other half of the sample embraced the change as it empowered them (BBFC, 2005: 20). Despite this divide, '12A' has not been modified (BBFC, 2006: 40). This is not surprising, as how could this be tackled? The availability of CCA and publicity campaigns might not alter parenting habits. In addition, this cannot be generalised to all parents, so it would be unfair to remove the certificate on this basis. A potential solution is a minimum age. This will be analysed in the recommendations section.

Another potential issue with the responsible adult is the prospect of 'dubious adults' taking advantage. The same trepidation existed with the 'A' category back in the 50's and 60's. The BBFC refutes such possibilities: 'Most cinemas....they are often very safe places, with lots of people and CCTV cameras. We don't see any reason this should cause problems' (McFarlene, 2002: 4). Even if this was reality, how could this be combated, how could you prove the responsible adult arrived with the child? Despite this, the potential of a child entering '12A' films minus a responsible adult is plausible, due to the difficulty of determining the age of teenagers. This is possible in two ways. First, a 16 or 17-year-old could accompany a child, as some teenagers mature at different rates and therefore could pass for being aged over 18. Second, (analogous with other film classifications) younger children may attempt to pass for older certificates e.g. a 10-year-old for a '12' rated film. This maybe nothing new, but as this certificate was implemented with mainly 10-11-year-olds in mind, if they can gain access minus an adult, this questions the point of parental accompaniment and ultimately the certificate. John Wilkinson of the CEA, has provided a defence, that it

283 Children had been taken to see films like Terminator 3 and The Hours (BBFC, 2005d: 46). Toddlers have been witnessed at '12A' screenings and that very young children (3-8 years) had seen King Kong (BBFC, 2006).
284 See p.118-120, 150, 167-168.
is a criminal offence for cinemas to admit under age children (Wilkinson interview). Despite this, John Beyer (MediaWatch) has proclaimed: ‘The 12A rating should be abolished outright’ (Bruce, 2004). As already stated, such a move may be unfair considering not all will act irresponsibly. Moreover, is the maturity argument and how it would be unfair to restrict all children’s access. These are issues that the Board might want to address to improve how the certificate works.

**Borderline 15 films**

Now that the two main prerequisites of ‘12A’ have been analysed, there is another issue that requires attention – borderline ‘15’ films. Some ‘12A’ films push the boundaries of the certificate, meaning that children could observe content more suited to 15 year-olds. Prior to ‘12A’ this would not have been as much of an issue, however, potentially children of all ages can now witness these films. Consequently, is the Board still fulfilling their aim to protect children? As highlighted in the moral panic section, some moral entrepreneurs contended not via criticism of films for their content and ‘12’ certification. *Terminator 3* provides another example - the BBFC received a ‘larger than average postbag’ from the general public stating the level of violence was inappropriate for ‘12A’ (BBFC, 2005d: 17). The Board’s justification (this response mirrors those given to the other instances cited in the moral panic section) was the unrealistic nature of the violence and imagery (BBFC, 2005d: 17). If the BBFC are rating films according to their Guideline criteria such affirmations are valid and instead public ignorance is an issue. This infers the need for greater media literacy on content of ‘12A’ films. Another point is effects research, as it is unproven it would be hard to justify the prohibition of violent content (see the effects chapter).

The Board has admitted the potential unsuitability of some ‘12A’ films: ‘It is slightly odd situation because these films contain content that would generally be considered highly unsuitable, but it seems that when 007 is involved, anything goes’ (Bruce, 2004:1). Sue Clark (BBFC) was referring to the film *Casino Royale* and infers that other motivations may have been at play when granting the ‘12A’ certificate. This

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285 Any child aged under 12 can be accompanied by an adult.

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relates to regulator impartiality, a theme recurrent in both the moral panic and development of regulation sections. Based on Clark’s quotation, it is worth considering that quite a few of the films condemned for their content levels have been marketed to children via merchandise tie-ins e.g. *Hulk, Iron Man, X-Men 2, Pirates of the Caribbean*. The next sub-section will focus here.

**Marketing**

Industry targeting of ‘12A’ films to children would be expected as it opens up a whole new audience for their films. Other motivators includes: 1) as much as 80% of a film’s revenue can stem from merchandising (Economist, 2002: 81), 2) distributors receive an advance payment for licensing fees, 3) royalty payments often lay between 5-10% of gross revenue (Wasko, 2003: 165).

The reason why campaigns require consideration is that ‘12A’s’ are being targeted at children of all ages, not just 10-11 year-olds (those whom the certificate was originally intended), hence regulation could be undermined. As there are no BBFC restrictions or rules on how marketing should be disseminated, this is not surprising. In addition, there are no advertising restrictions, neither Ofcom’s Broadcasting (BCAP) or Non-Broadcasting (CAP) rules are applicable, they only prohibit ‘15’ and ‘18’ films or if the advert contravenes broadcasting standards.

The National Children’s Coalition (NCC) regards this as a loophole: ‘Ratings are a time-honoured way for parents to know what their children are watching and generally work well. But it is deeply cynical companies, knowing that films have ratings, to undermine them by marketing to children under that age’ (NCC, 2007). As a result they called for advertising codes to be revised.

Examples of marketing campaigns which had the potential to reach children aged under 10:

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286 Sue Clark: ‘We have no control over the way the film and its products are marketed’ (Lister, 2002).

287 The Advertising Code only embodies restrictions for ’15’ and ‘18’ rated films, whereby commercials for these films cannot be shown in and around children’s programming. Moreover, they look at the content of the advert to determine if it is suitable for the time of transmission (OCC, 2004).
• Television campaigns - Between May and December 2004 intervals between ITV's children's programming were observed. CITV ran between the hours of 3.15pm and 5pm and the schedule was targeted at children aged between 2 and 11 years old, which varied from programme to programme. The first half of the programming was aimed at pre-school children. Advertisements for both Van Helsing and Catwoman were aired during this period. It cannot be proven if this time slot was deliberately chosen.

• Children's magazines - This tends to be in the form of in-direct marketing, whereby distributors allow publications to use images from their films, rather than specific adverts. Therefore, distributors are gaining free publicity, publicity, which could be regard as indispensable: 'The public often accepts news stories and features more readily than advertising, so the mention of a film in articles can be highly persuasive' (FDA, 2004b: 12).

Various children's magazines have benefited from such collaborations:

| '12A' Films Gaining Front Cover Coverage in 2004 |
|-----------------|--------------------|-----------------|
| Date            | Magazine           | Film            |
| 5 – 25 May 2004 | Toxic              | Van Helsing     |
| August 2004     | K-Zone             | Catwoman        |
| September 2004  | Disney’s Big Time  | Hellboy         |

All of these publications have a target age audience ranging from 6-13.

• Partnerships with various food companies – Although this hybridisation does not directly involve the targeting of specific ages, such products could appeal to children. One of the main collaborations is with cereal manufacturers. Nestle has promoted Lord of the Rings, Spiderman, The Hulk and Kellogg’s: King Kong and Star Wars III. The FDA acknowledges the benefits: ‘As well as advertising and publicity, tie-in promotions with brand partners can bring tremendous added value and exposure to a film campaign, spreading the main art and characters on the high street and into millions of homes’ (FDA, 2006: 30)
The result of such campaigns could be parental confusion, as on one hand the distributors are indicating the film is ok, whereas the BBFC continues to proclaim that they never said these films were suitable for all under 12’s (‘12A’ film guidelines state that films are suitable for children aged 12 and over). As a result parents could make a uninformed decision.

One final point, the use of marketing to undermine regulation was a factor emphasised in both the advertising and obesity and video games chapters\textsuperscript{288}.

\textbf{Internet access}

An issue inherent in all of the other case studies was the ability for the internet to undermine regulation. In all cases, to an extent, current regulation is doing little to tackle this. The internet also poses a problem for film and in 2008 the BBFC introduced BBFC Online to tackle the undermining of film classifications. Due to time constraints and when the system was introduced, its effectiveness has not been analysed. However, it is acknowledged that compared to the other media regulatory systems, this proposes the BBFC is conscious about regulation. The reason being, the majority of other regulators have acted following pressure for further regulation, whereas the BBFC in this instance have been pro-active (no moral entrepreneurial response – see the moral panic section).

\textbf{Conclusion}

The above analysis demonstrates that despite conscious efforts by the BBFC to ensure the certificate functions well, fundamental flaws exist. All those responsible for the success of the certificate are aiding these flaws: the industry is not empowering parents, parental responsibility is debatable and there are issues with the Board’s CCA formation. Overall, this impacts on the performance of the two provisions requested by the public that affirm ‘12A’s’s presence. Consequently, unless such issues are addressed the validity of ‘12A’ may be jeopardised.

\textsuperscript{288} See p.92, 196-197.
In addition, although the BBFC’s reasoning for liberalisation was distinctive, as suggested in the introduction this brought film regulation in line with other systems that embodied more self-regulatory approaches. My analysis demonstrates that loopholes raised in all the other chapters are evident throughout this case study i.e. inadequate media literacy (CCA), questions over parental responsibility, regulator impartiality, adequate regulatory provisions and industry commitment. Similar to the other systems, a reason for these flaws could be the Board’s attempt to keep everyone happy and thus attempt to balance regulation (this was rasied earlier in the development section). Despite these flaws, (which on some occasions have either been recognised by the Board or by moral entrepreneurs) no action has been taken. Consequently, in order to address these issues and justify this lighter touch regulation, it appears action is required.
Recommendations

The evaluation of ‘12A’ has raised a number of issues that may affect the adequacy of regulatory provision and ultimately the viability of the certificate. The latter is based on the flawed application and understanding of CCA and queries over how accompaniment can function successfully. Other shortcomings included:

a) The possibility for borderline 15 films to be viewed by under 12’s
b) Industry marketing campaigns potentially undermine regulation
c) The BBFC are funded by the industry.

Based on the above, although there has been no moral panic, how film regulation is administered may require revision, as it appears lighter touch regulation (similar to all the other regulatory systems analysed) has led to various flaws. The concluding part of this chapter will propose recommendations.

Consumer advice - visibility and apprehension

The analysis of CCA indicated that parental empowerment via media literacy could be hindered by a number of factors. Each will be considered in turn, with possible solutions.

Industry application:

The industry as a whole demonstrated a lack of commitment to displaying CCA, as it was either sporadically displayed by distributors and exhibitors or its visibility was affected by how it was employed i.e. colour combination and sizing requirements. There are various ways this could be tackled:

- Mandatory requirement – this is an obvious route to guarantee application, whereby those who do not adhere face financial penalties. Based on the current framework of the BBFC, this is not possible (see p.234-235). Therefore, as CCA is
vital to parental empowerment and the validity of the certificate as a whole, it is recommended that the BBFC reviews its jurisdiction.

- Strategic approach to spot checking – the BBFC claims to check both exhibitor and distributor application, but did not reveal how this was achieved. Therefore, it is recommended that the Board establishes a tactical framework for reviewing their application of CCA. Due to the amount of '12A' films released and based on the subsequent amount of marketing literature this may need to be conducted on a monthly basis. As part of the Board’s certification process, it could be a requirement that marketing material is submitted for consideration prior to public release. Depending on resources at the BBFC, this may not be practical. It is worth considering that the US regulator MPAA (Motion Picture Association of America) requires that all advertising is submitted to their Advertising Administration team before general release. They cover all forms of advertising from television, print and billboards. Their purpose is to determine the suitability of the content, but to also guarantee the advert is placed appropriately (MPAA, 2008).

- Revision of current BBFC requirements – Analysis revealed that in some cases the industry complied with the BBFC’s requirements, despite this CCA visibility was still affected. This demonstrates that the guidance is flawed. Therefore, it is recommended the Board revisits its guidelines. The analysis revealed possible areas for change (see p.242), but in order for the Board to fully understand and tackle the problems, a large scale study of application should be conducted. This could be combined with focus groups with the general public to gain their feedback, as ultimately they are the active users of the CCA.

**Parental and accompanying adult awareness:**

The analysis revealed that utilisation of CCA to aid decision making could be hindered by parental awareness and comprehension.

- Awareness - Due to a lack of dedicated research, it was hard to determine public awareness of CCA. Consequently, it is recommended that the Board conducts further
research. If research reveals that additional awareness campaigns are needed, it is further suggested that to grasp a higher audience, the Board should not just rely on cinema advertising (how previous campaigns have been disseminated)\textsuperscript{289}. Instead, it might be useful to combine a number of medias i.e. press and television advertising.

- Comprehension – The Board’s own research revealed that certain terminology was confusing, the main source of confusion being ‘moderate’. Despite focus groups raising this, the term is still being applied. In order to prevent misunderstanding alternative terminology should be considered. This could be achieved via research into how other regulators are formulating advice. For example, instead of ‘moderate’, the MPAA and OFLC (Australia film regulator) utilise descriptive words (in red):

<table>
<thead>
<tr>
<th>Film</th>
<th>BBFC</th>
<th>MPAA</th>
<th>OFLC</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>The Dark Knight</em></td>
<td>Contains moderate violence</td>
<td>Intense sequences of violence and some menace</td>
<td>Action violence</td>
</tr>
<tr>
<td><em>Hellboy II</em></td>
<td>Contains moderate fantasy violence</td>
<td>Sequences of sci-fi action and violence</td>
<td>Fantasy violence</td>
</tr>
<tr>
<td><em>Iron Man</em></td>
<td>Contains moderate violence</td>
<td>Intense sequences of sci-fi action and violence</td>
<td>Action violence</td>
</tr>
</tbody>
</table>

Whether the other countries applications are more or less useful, would have to be open to consultation. This would again necessitate further public research.

Another potential solution is parental usage of the Pbbfc website (see p.242). The site however, will only be beneficial if advertised appropriately. So far the Board has not widely publicised the site, therefore promotion of the site could tie in with the above recommendation on a campaign for raising awareness.

\textsuperscript{289} Research has shown that the public are not regular cinema goers (see p.239).
Another issue was whether the concise advice provided enough information (see p.241-242). The Pbbfc website is the ideal solution as it affords more detailed CCA. Again this is dependent on public awareness and utilisation of the site.

**Minimum age**

The application of a minimum age was briefly noted as a potential solution to parental responsibility issues (see p.250). Considering the category was originally intended for 10-11 year-olds, a minimum age would be an obvious solution as it would accommodate maturity levels but at the same time safeguard younger children. The BBFC considered this and a 2004 survey revealed public desire\(^\text{290}\). Despite this, a minimum age was not introduced. Sue Clark (BBFC) argued it would be impossible to enforce and would again cause confrontation at the box office with parents purporting their rights (Clark interview). It was further contended that if a minimum age was given i.e. 8, then the public may conceive ‘12A’s’ are suitable for 8 to 11-year-olds, when in fact they are not (Clark interview). Alternatively, the absence of a minimum age could suggest suitability for all.

The film industry is also in opposition. Mark Batey (FDA) verifies the distributor’s stance: “I think in practice this is a backwards step, I don’t think this is going to help the situation. I mean, it is one of those things that makes sense in theory, but in practice it is not going to help (Batey interview). John Wilkinson of the Cinema Exhibitors Association, professes similar thinking: “What we could not handle in the cinema is minimum age...No we just can’t police that, it would defeat the objective. If some parent believes their brat can handle this film who are we to say they can’t” (Wilkinson interview).

Whether a minimum age is a suitable solution could be verified by other countries adoption. Finland, Sweden and Denmark have applied restrictions, whereas USA, Australia and France have refrained. Cultural differences would play a role, but further research into reasoning for and against implementation should be conducted.

\(^{290}\) When asked if children of all ages should have access to ‘12A’s’, 65% stated ‘no’ and 35% ‘yes’ (BBFC, 2005b:8).
Consideration should also be given to what age limits have been applied and whether they are functioning successfully.

**Parent as the responsible adult**

The potential for the responsible adult position to be abused by dubious adults and teenagers was raised as an issue. This could be addressed by requiring the accompanying adult to be a parent, particularly as they are best placed to gauge maturity levels. The BBFC’s 2002 national survey demonstrated support for this: 64% in favour (BBFC, 2002: 5). Nevertheless, in practice this would be impossible to enforce, mainly due to problems of identification. Moreover, it would restrict other family members who could be regarded as ‘trustworthy’ e.g. grandparents.

Based on the above, such a recommendation would be unworkable. Instead it is recommended that exhibitors are diligent with security and ask for identification. Spot checks should be conducted to verify exhibitor compliance, but who would conduct this is an issue, as exhibitors are not required to do this by law. Under the Licensing Act 2003 they are obligated to prevent access of underage children to films, but the BBFC’s condition of the accompanying adult is not a requirement. If it was, spot checking would be the responsibility of Trading Standards. The BBFC do not regard this is an issue, thus they have no auditing mechanism in place. Their reasoning; doubt over how many children go with 17 and 18-year-olds (Clark, 2006). As the latter is possible i.e. sibling accompaniment and based on the fact accompaniment is a critical condition of ‘12A’s’ existence, it is recommended that the Board contemplates means to spot check compliance. Significance here should be given to Licensing Act, which stipulates ‘Where the film classification body is specified in the licence.....admission of children must be restricted in accordance with any recommendation made by that body’ (OPS, 2003a). As accompaniment is a recommendation, why is this law not applicable? If it was, as stated earlier, responsibility for spot checking would fall to Trading Standards.

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291 Sue Clark (BBFC) - Well what about grandma and granddad, Auntie May, godmothers or brothers and sisters. I mean it would be unrealistic and unreasonable to restrict it and what are you going to do, can I see your marriage certificate and birth certificate of these children to make sure they are actually your children (interview).
Internet Access

The ability of the internet to undermine regulation has formed an integral part of the other chapters. As already highlighted, for film this has not yet concerned moral entrepreneurs, nonetheless the BBFC has launched BBFC Online. As this was not launched until 2008 its adequacy has not yet been evaluated. Therefore, it is recommended that research is conducted to determine the efficiency of BBFC Online.

Border-line 15 films

Concern was highlighted over some ‘12A’ films being more suited to the ‘15’ category. It was determined that the Board use their Guidelines to justify their decisions, thus if applied correctly censure was not warranted. However, it was also noted that such criticisms were aimed at films that have been marketed to children, inferring that the BBFC may have been pressurised by the industry to grant the lower certification. Although this cannot be proven, in order to prevent such occurrences and due to the Board’s reliance on the industry for funding, it is recommended that their decisions are independently audited – see the following section on BBFC independence.

If ‘12A’ has been applied according to the guidelines, another way to combat this and prevent criticism would be to indicate in the CCA that the film contains borderline material. This recommendation would prevent the stifling of maturity and further empower parental decision making.

BBFC funded by the industry

The BBFC is dependent on the industry for funding. Although industry influence could never be proven, this has not prevented moral entrepreneurs querying their impartiality. In order to prevent criticism and to verify their independence, the Board could seek alternative funding. As discussed in the video games chapter, income could be generated from the government but state interference may not be plausible in today’s regulatory climate. Instead it was recommended that how the Board currently functions remains and an independent body be formed to verify their sovereignty by
auditing the BBFC’s decision making processes. It was proposed that the Parliamentary Home Affairs Committee take on this role (see p.213), but the issue of government involvement would still be applicable.

**Industry marketing campaigns**

The analysis illuminated the potential for the industry to undermine regulation by marketing ‘12A’ films to children under the age of 12. It further revealed that currently the BBFC have no guidelines in place to prevent this. Moreover, Ofcom’s advertising restrictions are not applicable. As the BBFC is said to move with public opinion (see p.236), considering the marketing of ‘12A’ films has not been debated, the Board should consult with the public to determine if restrictions are required. If restrictions should apply, the Board could liaise with Ofcom to develop their codes to cover ‘12A’ films. Such deliberations would need to consider whether this would interfere with mature children’s access - those who might be equipped to watch these films and witness the related advertising.

**BBFC’s jurisdiction**

Whilst formulating the above recommendations, it is clear that the BBFC is not equipped to ensure the industry is adhering to the requirements of the certificate. This revolves around the law only allowing the Board to certificate, they do not hold the power to enforce, instead this lies with the local authorities (see p.243). As a result the BBFC cannot obligate the industry to comply with any of their guidelines. This jurisdiction dates back to the 1909 Cinematograph Act. Although, it could be recommended that the local authorities apply restrictions etc, this would not be appropriate considering each may act conversely. Consequently, due to the changing nature of the regulatory environment and with more responsibility lying with the industry, how cinema regulation operates may require modification.
Chapter 7

Conclusion and Recommendations

The analysis of the four different regulation systems revealed some common similarities between how the systems have developed and the subsequent repercussions — regulatory flaws. This conclusion will attempt to highlight the similarities, suggest reasons for them, and formulate some overall recommendations.

Similarities across the regulation systems

The main findings of this thesis are demonstrated in the table below. A definition for each ‘area of similarity’ can be found in the footnotes.

<table>
<thead>
<tr>
<th>Area of Similarity</th>
<th>Case Study</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Advertising</td>
</tr>
<tr>
<td>Moral Panic</td>
<td>✓</td>
</tr>
<tr>
<td>Regulation Changed as a Result of the Panic</td>
<td>✓</td>
</tr>
<tr>
<td>State Regulation</td>
<td>X</td>
</tr>
<tr>
<td>Self-Regulation</td>
<td>✓</td>
</tr>
<tr>
<td>Regulator Industry Funded</td>
<td>✓</td>
</tr>
<tr>
<td>Industry Compliance</td>
<td>X</td>
</tr>
<tr>
<td>Internet Regulation Adequacy</td>
<td>✓</td>
</tr>
<tr>
<td>Parental Responsibility</td>
<td>✓</td>
</tr>
<tr>
<td>Parental Awareness</td>
<td>X</td>
</tr>
<tr>
<td>Media Literacy Adequacy</td>
<td>✓</td>
</tr>
</tbody>
</table>

Key: ✓ = Yes  X = No  □ = Byron’s recommendations may solve these issues

292 Did a full circle of moral panic occur? – see the moral panic chapter for the main stages of a panic
293 Following the generation of panic, did the escalation stage occur – was there a need for further regulation?
294 Is the current regulation paternalistic, a system ran entirely by the government?
295 Is the current system either co-regulated or self-regulated?
296 Are the regulators either fully or partially funded by the industry?
297 Has the industry demonstrated commitment to compliance of regulation?
298 Due to convergence, has regulation been adequately expanded to cover on-line activity?
299 Does the current regime of regulation rely on parental responsibility to aid the regulation process?
300 Do parents appear able to fulfil their role i.e. do they know how they can protect their children?
301 Have media literacy initiatives increased awareness of parent’s and children?
Although it is recognised this is a complex debate, the table attempts to visually demonstrate the parallels between the four areas of regulation. The following subsections will provide clarification of these.

Moral panic and regulation

The table shows that out of the four systems three have been subject to moral panics. It further demonstrates that these same three systems have been modified in an attempt to strengthen regulation. This infers that moral panics play a key role in the process of regulatory reviews and subsequent development. Following concern and calls for further regulation, the logical progression is regulatory change. This is confirmed by the lack of a panic in the 12A case study, as regulation was liberalised due to no full circle of panic (see p.221-224).

State and self-regulation

The table shows that none of the current regulatory systems rely entirely on a state led system, instead they have opted for a combination of state regulation and self-regulation. This combination is known as co-regulation (see p.80) and suggests that a new paradigm of regulation has occurred. Instead of a paternalistic approach (which was favoured in the past), the government today appear to prefer a more hands off approach. This regime revolves around the transferral of state responsibility to industry bodies, parents and reliance on media literacy. Their only involvement is the initiation of the need for regulatory changes, a responsibility they pass to other bodies by granting them the power to penalise under various statutes.

The potential reasoning for this transferral to a post-paternalistic regime is inconclusive effects research (see the effects chapter), children’s varying maturity levels (see p.51-53), children’s rights (see p.57-58) and protection of the industry (see p.3, 85, 109). On this basis it would be problematic to justify state censorship.
Consequently, this paradigm of regulation appears in theory to be a good solution, as it attempts to balance a number of factors: the general consensus for the protection of children, moral entrepreneurial concerns, potential risk (as a result of inconclusive effects research), children’s rights to access and industry interests (no direct intervention). Despite this acknowledgement, the remainder of the table highlights issues that have resulted following the adoption of this framework. This therefore, queries if this is an adequate response to the current complex regulatory environment.

Regulator industry funded

A consequence of the co-regulation system is the regulator is either predominantly funded by the industry or the regulator entirely relies on industry funding. The reason for the latter, is the self-regulatory part of co-regulation means that some of these bodies are entirely industry led. The table reveals that all four systems involve an element of industry funding. This has provided stimulation for moral entrepreneurs to raise concerns over regulator impartiality and whether this conflict of interest affects the effectiveness of regulation.

Industry compliance

The table demonstrates industry commitment to regulation is debatable for all of the systems. One of the major reasons for this is self-regulation, as this means that the industry can voluntarily choose to apply regulation, they are not obliged to act. A purported benefit of self-regulation is that the industry will voluntarily act to prevent further regulation. Out of the four case studies this was not evident across the board, instead the industry demonstrated an unwillingness to comply. An explanation for this is the lack of sanctions e.g. penalties which could act as a deterrent. However, even if this resource was available, it was debatable whether it

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306 This is evident by all the systems still restricting content in terms of children.
307 Home Office Taskforce (see p.134)
308 ASA (p.84), Clearcast (p.84), PEGI (p.178), Ofcom (p.84), BBFC (p.182), VSC (p.178).
309 PEGI, VSC, Clearcast
310 See p.70, 73, 163, 223-224, 233-235.
311 See the development of regulation section in the advertising chapter.
313 See p.81, 127, 180, 241.
worked in practice. This was due to the system either having insufficient mechanisms to monitor compliance \(^{314}\) or having a monitoring body reliant on industry funding e.g. Clearcast and Ofcom. The result of the above factors is four regulatory systems that appear flawed and open to abuse.

**Internet regulation**

This thesis has highlighted that the internet poses a number of problems for regulation. The first was revealed in the moral panic chapter, that the internet allows the industry to undermine regulatory codes by transferring their efforts online. This has been permitted due to no relevant regulation; regulation that has not been developed to tackle on-line convergence. This was evident predominantly in the video games (see p.189) and advertising chapters (see p.78-79). Another issue is the expansiveness of the net - how can you monitor all relevant websites and catch all contraventions? The latter would cause problems for all of the systems, but was only discussed in three of the case studies, hence why only three crosses appear in the table \(^{315}\). These issues suggest that the current systems are flawed and that they have failed to address new technology.

**Parental responsibility, awareness and media literacy.**

The last sub-section raised the possibility for the internet to undermine regulation. As a result, parents have been regarded as crucial to supporting the regulatory process, particularly for chat-rooms (see p.119). In fact they are generally considered central to the success of the whole process, whereby their actions could emasculate regulation. The table shows this is applicable to all of the four systems, but despite this parents appear unable to fulfil this role due to a lack of knowledge \(^{316}\). The key here is media literacy, the ability for regulators to produce educational campaigns to help parents act responsibly. The four case studies have demonstrated that this method has been embraced due to the problems of regulating. However, as the table proposes

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\(^{314}\) See p.101-102, 134, 189, 249.

\(^{315}\) Advertising (p.108), video games (p.191), chat-rooms (p.152). The BBFC has developed an on-line regulatory scheme for films, but analysis of its adequacy fell outside of this thesis (see p.254).

\(^{316}\) See p.118-120, 167-168.
regulators have been unsuccessful in achieving this\textsuperscript{317}. Therefore, this is another area of the regulatory process that could affect the robustness of the system. One of the main reasons suggested was the lack of a coherent approach to disseminating campaigns\textsuperscript{318}. This involved either: 1) very little effort had been placed to target both parents and children; 2) appropriate channels to reach the target audience were either not used or were not publicised; 3) no research was conducted to measure media literacy levels and thus target campaigns effectively. Evidence was provided in the media effects chapter that such elements are crucial to the effectiveness of media literacy.

To summarise, based on the above brief explanations of the main similarities between the four case studies, all the systems embody a form of co-regulation and as a result share the same regulatory loopholes:

- Regulator impartiality is not guaranteed due to reliance on industry funding.

- The industry are unwilling to voluntary adhere to regulatory codes/guidelines.

- Internet technology undermines current regulation.

- Lack of mechanisms available to monitor industry adherence.

- Lack of or weakness in sanctions to deter industry contraventions.

- No systematic approach to targeting media literacy campaigns.

- Lack of parental understanding of systems and media literacy.

\textsuperscript{318} See p.147, 202-203.
An explanation for the common outcome of regulatory flaws

As a result of the above issues, the regulatory systems analysed are not operating as intended and instead are riddled with flaws. The move to a co-regulation system has already been aired as a reason for this, particularly due to the self-regulation side of the system. Although this provides an explanation for the majority of flaws, an overarching explanation exists – the logical progression of regulation in the current regulatory climate. The following flow charts attempt to demonstrate this:

<table>
<thead>
<tr>
<th>New Media</th>
<th>Traditional Media</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chat-rooms, video games and advertising</td>
<td>Cinema</td>
</tr>
<tr>
<td>Moral panics</td>
<td>Industry and indirect parental desire for regulation to be relaxed</td>
</tr>
<tr>
<td>Inconclusive science</td>
<td>Inconclusive science</td>
</tr>
<tr>
<td>Struggle for regulation (Element of risk, moral entrepreneurs, public, industry, and children’s rights)</td>
<td>Struggle for regulation (Element of risk, industry, parents and children’s rights)</td>
</tr>
<tr>
<td>Production of ‘balanced regulation’ (Co-regulation)</td>
<td>Liberalisation of regulation – production of ‘balanced regulation’ (Co-regulation)</td>
</tr>
<tr>
<td>Regulatory flaws</td>
<td>Regulatory flaws</td>
</tr>
</tbody>
</table>

Two flow charts were necessary due to the stimulus for regulatory change being different for cinema regulation. The independent variable in the cinema flow chart is the lack of a moral panic. Lots of reasons were offered for this in the 12A chapter (see p.224-226), but one of the key reasons could be the lack of new media influence on the system, as the internet has not yet threatened film regulation. All the other systems govern relatively new media (chat-rooms and video games) or are traditional media where regulation has been threatened by the internet (advertising). Consequently,
unlike the other three systems there has been no conflict to strengthen the regulatory system – no sustained moral entrepreneurial campaigns, no pressure on the government to act. Therefore, this led to a re-examination of the regulation, the outcome being liberalisation. Despite this independent variable, as the flow charts show, all the four systems have developed in the same manner.

The fundamental stages for the development of regulatory flaws are the struggle for regulation stage and the subsequent formation of balanced regulation. Although the film system did not have to take moral entrepreneurial concern into account\textsuperscript{319}, when the regulation was revised (similar to the other three systems) consideration would have needed to have been given to a number of factors (mentioned earlier, see p.265). These included risk (inconclusive science), children’s rights, and industry needs. By attempting to balance all of these factors, the result in all cases was co-regulation, thus the same regulatory flaws.

**Overall recommendations**

In response to the flaws that have emerged throughout this thesis, in each case study recommendations were offered. Due to the similarities between the systems, many of these overlapped, the common recommendations being:

1) The need for an independent body to monitor and audit industry application of regulations – this should address the issue over industry commitment to comply.

2) The need for penalties to encourage industry compliance – this should address the issue over industry commitment to comply.

3) The need for an independent body to review regulatory operations, decisions and funding – this should address concerns over impartiality.

4) The need for regulation and monitoring to apply to on-line activity – this should address the issue of the internet undermining traditional regulation.

\textsuperscript{319} No sustained campaign existed (see p.225).
5) The requirement for an evidence based approach to media literacy. This thesis reveals that although regulators have not embraced media literacy as a sole solution to regulatory issues\textsuperscript{320}, the success of these campaigns are debatable due to no coherent approach to targeting and disseminating initiatives. Therefore, as media literacy is regarded as a key competent in the future of regulation and features in all the regulatory systems analysed in this thesis, when targeting initiatives it is recommended that research is conducted into: 1) parents’ and children’s awareness and understanding of regulation and media literacy; 2) the best media to use to reach target audiences. Such a systematic approach to media literacy initiatives should have a positive impact on awareness levels. Moreover, it should ultimately help prevent the possibility of parent’s undermining regulation and as a whole contribute to a more robust system.

In order to embody these recommendations, it is recommended that a super body responsible for overseeing media regulation in terms of children is established. The main purpose will be to bring consistency to the systems and to address the regulatory flaws highlighted throughout this analysis. Due to issues over regulator impartiality and the fact they each have their own specialised area to regulate, it is suggested that this role is not given to any of the current regulators. Instead a new independent body should be formed - the Children’s Media Regulation Commission (CMRC).

It is proposed that this new body is not an amalgamation of the current bodies due to the complexities and remits of each system. Instead they will be responsible for overseeing all the media regulators. This appears to be the best approach as a complete overhaul of the system could cause chaos. Moreover, as all these systems embody a co-regulatory approach, an approach that appears a plausible solution to the current quandary faced by media regulators. Therefore, it makes sense to build on these foundations and address the main flaws. To achieve this and encompass the recommendations made, CMRC will be responsible for the following:

\textsuperscript{320} Evidence was quoted in the effects chapter that media literacy should not be used in isolation by regulators, see the effects chapter, p. 60.
1) Auditing regulator funding, regulatory decisions and regulatory changes – this will be required to prevent criticisms over industry bias.

2) Monitor industry compliance and distribute penalties accordingly. Sanctions will be required for all of the systems.

3) Conduct research into parent and children awareness levels and disseminate media literacy campaigns accordingly. Due to Ofcom’s media literacy remit, CMRC should work closely with them to guarantee the most appropriate route is taken.

4) To formulate a best approach to regulating on-line and work with the individual bodies to formulate regulatory codes on this basis. To fulfil these responsibilities, the Commission should be manned by personnel of wider ranging expertise that reflects a broad range of interests. This would be required to prevent queries over impartiality and objectivity. Funding would also be important and therefore it is recommended that it stems from a combination of government and regulator money. In addition, to further promote transparency the CMRC should be required to report to the Home Office annually to demonstrate progress and the efficiency of regulation.

Based on CMRC’s involvement, many of the regulatory bodies will continue to function as they currently are. They can continue consultations into regulatory changes, revise regulation and distribute regulatory codes. Therefore the industry can still have a say in the development of codes (aid industry ‘buy-in’). The only difference will be that all these processes will be monitored independently. The biggest change will be for those regulators who have previously monitored compliance and applied statutory penalties, as this role will be transferred to CMRC.

Whilst formulating the recommendation for CMRC, acknowledgement was given to the recommendations given by Dr Tanya Byron as part of her ‘Safer Children in a

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321 Ofcom’s remit is to help others bring about media literacy campaigns (Lennox, 2007)
322 A standard fee contributed from all the media regulators.
Digital World’ (2007) report. Recognition of this is vital, as these have been accepted by the government and a roll-out is underway. Where applicable these recommendations have already been rasied within the relevant case studies. Despite acknowledging the benefits of some of these suggestions, they would fail to directly impact on all the flaws highlighted in this thesis (see the summary table p.263). Therefore, they have not been incorporated into the overall solution presented. The main reason for this is that Byron’s recommendations only apply to the regulation of the internet and video games, they fail to address the overall issues associated with media regulation. Moreover, Byron’s recommendations revolve around the continuance of a voluntary system (see p.158), a method of regulation that has shown to be ineffective throughout this thesis.

Overall it is hoped that if the premise of CMRC is embodied, this may improve the robustness of current media regulation. If these recommendations are ignored and none of the issues highlighted throughout this thesis are addressed, then undoubtedly moral panics over technological advancements will continue. Moreover, the current quandary posed by the current regulatory climate will continue to result in the same flow of regulatory development and the subsequent regulatory flaws.

### Appendix A

#### Food Advertising During Children’s Programming – Sample: Selection of Programming During October 2005

<table>
<thead>
<tr>
<th>Date</th>
<th>Channel</th>
<th>Advert break</th>
<th>Product Advertised</th>
<th>Healthy Message?</th>
</tr>
</thead>
<tbody>
<tr>
<td>12/10</td>
<td>ITV - CITV</td>
<td>1</td>
<td>None</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2</td>
<td>Kellogg’s Frosities (Football promotion)</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3</td>
<td>Kellogg’s Frosities (Football promotion)</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4</td>
<td>Kellogg’s Fruit Winders</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Kellogg’s Frosities (Football promotion)</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Sky - Nickelodeon</td>
<td>1</td>
<td>Bitter Mouth Candy Spray</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2</td>
<td>None</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3</td>
<td>None</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4</td>
<td>McDonald’s (Football version)</td>
<td>Yes</td>
</tr>
<tr>
<td>14/10</td>
<td>Sky - Nickelodeon</td>
<td>1</td>
<td>None</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2</td>
<td>None</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3</td>
<td>None</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4</td>
<td>Nicktritian advert</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5</td>
<td>None</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6</td>
<td>None</td>
<td>n/a</td>
</tr>
<tr>
<td>15/10</td>
<td>ITV - Toonatic</td>
<td>1</td>
<td>None</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2</td>
<td>None</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3</td>
<td>McDonald’s (Ninja Turtles promotion)</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4</td>
<td>Kellogg’s Fruit Winders</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Kellogg’s Frosities (Football promotion)</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Frubes</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5</td>
<td>None</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6</td>
<td>Kellogg’s Fruit Winders</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Kellogg’s Frosities (Football promotion)</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7</td>
<td>McDonald’s (Ninja Turtles promotion)</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Kellogg’s Fruit Winders</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Frubes</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td></td>
<td>8</td>
<td>Kellogg’s Frosities (Football</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Page 273 of 325
<table>
<thead>
<tr>
<th>Date</th>
<th>Channel</th>
<th>Promotions</th>
</tr>
</thead>
</table>
| 17/10   | Sky - Jetix | 1. None  
2. Kellogg’s Frosities (Football promotion)  
3. McDonald’s (Ninja Turtles promotion)  
4. Frubes  
5. Fruit Winders  
6. None  
7. None  
8. McDonald’s (Ninja Turtles promotion) |
| 17/10   | ITV - CTV | 1. McDonald’s (Ninja Turtles promotion)  
2. None  
3. Coco Rocks  
4. Fruit Winders  
5. Coco Rocks  
6. Coco Rocks  
7. McDonald’s (Ninja Turtles promotion)  
8. Tiger Power (Chelsea endorsement)  
9. Tiger Power |
| 20/10   | C5 - Milkshake | 1. McDonald’s (Ninja Turtles promotion)  
2. None  
3. None  
4. McDonald’s (Football version)  
5. McDonald’s (Football version)  
6. None  
7. Tiger Power (Chelsea endorsement)  
8. Tiger Power |
| 21/10   | ITV - CTV | 1. None  
2. None  
3. Kellogg’s Frosities (Football promotion)  
4. McDonald’s (Football version)  
5. McDonald’s (Football version)  
6. Tiger Power  
7. Tiger Power |
| 31/10   | ITV - CTV | 1. Kellogg’s Frosities (Football promotion)  
2. Coco Pops (Scooby Doo promotion)  
3. McDonald’s (Ninja Turtles promotion)  
4. Tiger Power (Chelsea endorsement)  
5. McDonald’s (Ninja Turtles promotion) |
<table>
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<tr>
<th></th>
<th>Promotion</th>
<th>Yes</th>
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<tr>
<td>5</td>
<td>Kellogg's Frosities (Football promotion)</td>
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</tr>
<tr>
<td></td>
<td>Coco Pops (Scooby Doo promotion)</td>
<td>Yes</td>
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<td>6</td>
<td>McDonald's (Ninja Turtles promotion)</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Coco Pops (Scooby Doo promotion)</td>
<td></td>
</tr>
</tbody>
</table>

Advertisement Content:

*Coco Rocks*

The advert is cartoon based and states it has an awesome chocolate taste. Along the bottom of the advert is Kelloggs website address. This is then replaced by the message: ‘run around have fun eat a balanced diet’. This is in small letters and only appears for 3 seconds. The advert closes with the slogan: ‘We’d rather have a bowl of coco rocks.

*Fruit Winders*

This shows cartoon characters based on strawberries and apples. They are pictured being chased down a road by a character on skates and another being pulled along by a dog. They smash into each other and are sucked up and come out as fruit winders. The slogan: ‘Double the flavours, double the fun’.

*Frosties*

‘Improve your shooting skills with this cool interactive target, free with special packs of Frosties’

The advert shows a young boy aiming for goal, he shoots at the target and scores.
On the last still it stated: ‘Part of a complete breakfast’ and shows a box of Frosties on the table with orange juice, toast, milk and apple (this lasts for 2 seconds).

_Burger King_

The advert commences with images of Wallace and Gromit and then states to check out the great choices of food at Burger King. At this point you witness shots of fries, milk, fruit juice, coke, burger, nuggets and chicken pieces. There are single shots of a grapple bag (fruit) and smoothie. Then there are clips of the free toys and more clips from the _Wallace and Gromit_ film.

_Coco Pops_

The advert is cartoon based and states ‘When you tuck into your favourite cereal as part of a balanced breakfast you’ll get more than a spooky surprise. Feast your eyes on this monster what’s new Scooby Doo dvd, with 4 discs available’. You also witness on the screen: ‘enjoy as part of a balanced breakfast’. This is accompanied by the image of cereal on a table with toast, apple and fruit juice. The advert shows clips of Scooby Doo throughout.

_Tiger Power_

The advert shows a football match and states that Chelsea football team and their community coaches recommend you eat right with new Tiger Power whole grain energy. They also state you should follow this with a unique training programme to improve your skills. A boy is seen shooting and scoring. This is accompanied by a voiceover: ‘he strikes with new Tiger Power Frosties’.

_McDonalds_

Advert 1 – The advert shows three famous footballers (Ashley Cole, Joe Cole and Jermain Defoe) playing football with fruit. The advert opened with them saying: ‘It’s what I eat, it’s what I do’. In addition, throughout the advert the captions ‘Eat well’ and ‘Be active’ appeared on screen. No MacDonalds products are shown, instead the advert relied on brand recognition.
Advert 2 – Teenage Mutant Ninja Turtle and Strawberry Shortcake. The advert primarily revolved around these two cartoons. The associated Happy Meal toys are shown and kids are seen playing with them. In this instance, McDonalds could argue that the advert does contain shots of healthy options. For example, children are witnessed with milk, fruit juice and carrots.

Nicktrician

The advert encourages children to eat healthy and is in cartoon style. It shows a cave man and how they had to run for their food – ‘fast food’. It is stated that today’s fast food contains sugar, fat and salt. For example, that a burger has more calories than 10 apples, which takes 2 hours to exercise off. However, they do suggest that fast foods are fine for special occasions but vegetables should be ate in-between.
Appendix B

The number of people accused by the press of being involved in online grooming.

Sources used to obtain the articles: Lexis Nexis and BBC News

The criteria used for the searching:
- ‘Children and internet chat rooms’;
- ‘Paedophiles and chat rooms’;
- ‘Grooming and internet’.

<table>
<thead>
<tr>
<th>Name of Accused</th>
<th>Year</th>
<th>Source</th>
<th>Date of Publication</th>
</tr>
</thead>
<tbody>
<tr>
<td>Philip Rankin</td>
<td>1998</td>
<td>The Mirror</td>
<td>1st May 1998</td>
</tr>
<tr>
<td>Patrick Green</td>
<td>2000</td>
<td>The Mirror</td>
<td>26th October 2000</td>
</tr>
<tr>
<td>Dr Anthony Gray</td>
<td>2001</td>
<td>Western Mail</td>
<td>9th April 2001</td>
</tr>
<tr>
<td>Colin Spencer-James</td>
<td>2001</td>
<td>This is Brighton &amp; Hove</td>
<td>29th October 2001</td>
</tr>
<tr>
<td>Simon Josephs</td>
<td>2001</td>
<td>The Express</td>
<td>3rd April 2001</td>
</tr>
<tr>
<td>Ifthaqhr Ahmed</td>
<td>2001</td>
<td>Leicester Mercury</td>
<td>23rd June 2001</td>
</tr>
<tr>
<td>Matthew Bulith</td>
<td>2002</td>
<td>Evening Chronicle</td>
<td>12th February 2002</td>
</tr>
<tr>
<td>Robert Coleshill</td>
<td>2002</td>
<td>Birmingham Post</td>
<td>16th January 2002</td>
</tr>
<tr>
<td>Phillip Bugler</td>
<td>2002</td>
<td>The Mirror</td>
<td>30th November 2002</td>
</tr>
<tr>
<td>James Gilmour</td>
<td>2002</td>
<td>The Express</td>
<td>12th October 2002</td>
</tr>
<tr>
<td>Dr Richard Slater</td>
<td>2002</td>
<td>Birmingham Post</td>
<td>19th January 2002</td>
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<tr>
<td>Graeme Paterson</td>
<td>2002</td>
<td>Sunday Mail</td>
<td>24th November 2002</td>
</tr>
<tr>
<td>Stephens</td>
<td>2002</td>
<td>Daily Mail</td>
<td>22nd December 2002</td>
</tr>
<tr>
<td>David Hipperston</td>
<td>2003</td>
<td>Daily Mail</td>
<td>25th September 2003</td>
</tr>
<tr>
<td>Michael Britton</td>
<td>2003</td>
<td>This is The North East</td>
<td>21st May 2003</td>
</tr>
<tr>
<td>Matthew Phillips</td>
<td>2003</td>
<td>The People</td>
<td>23rd February 2003</td>
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<td>Douglas Lindsay</td>
<td>2003</td>
<td>Belfast Telegraph</td>
<td>10th October 2003</td>
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<td>Michael Wheeler</td>
<td>2003</td>
<td>The Guardian</td>
<td>16th October 2003</td>
</tr>
<tr>
<td>John Mansfield</td>
<td>2004</td>
<td>The Sun</td>
<td>26th August 2004</td>
</tr>
<tr>
<td>Toby Studabaker</td>
<td>2004</td>
<td>The Guardian</td>
<td>13th February 2004</td>
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<tr>
<td>Neil Ross</td>
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<td>The Express</td>
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<td>Justin Few</td>
<td>2004</td>
<td>The New of the World</td>
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</tr>
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<td>John Gibson</td>
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<td>Malcolm Angell</td>
<td>2004</td>
<td>The Star</td>
<td>8th April 2004</td>
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<td>Guy Evans</td>
<td>2004</td>
<td>Fife Free Press</td>
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<td>Walter McGuigan</td>
<td>2004</td>
<td>Evening Chronicle, Newcastle</td>
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<td>Michael Barrett</td>
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<td>Nicholas Whitmore</td>
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<td>Martin Knight</td>
<td>2004</td>
<td>The Star</td>
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<td>Charles Monaghan</td>
<td>2004</td>
<td>This is Lancashire</td>
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<td>James Fleet</td>
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<td>Graham Collinson</td>
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<td>6th April 2004</td>
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<td>John McIver</td>
<td>2004</td>
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<td>28&lt;sup&gt;th&lt;/sup&gt; July 2005</td>
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<td>Andrew Gardener</td>
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<td>Keith Gosling</td>
<td>2005</td>
<td>Birmingham Post</td>
<td>5&lt;sup&gt;th&lt;/sup&gt; May 2005</td>
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<td>Paul Thompson</td>
<td>2005</td>
<td>Daily Post, Liverpool</td>
<td>29&lt;sup&gt;th&lt;/sup&gt; March 2005</td>
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<td>Richard Laws</td>
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<td>5&lt;sup&gt;th&lt;/sup&gt; February 2006</td>
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<td>7&lt;sup&gt;th&lt;/sup&gt; March 2006</td>
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<td>Thomas Dent</td>
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<td>2006</td>
<td>The Sun</td>
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<td>Luis Cotilla</td>
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<td>1&lt;sup&gt;st&lt;/sup&gt; October 2006</td>
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<td>Steven Carter</td>
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<td>Adrian Ringland</td>
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<td>16&lt;sup&gt;th&lt;/sup&gt; July 2006</td>
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<td>Paul Rogers</td>
<td>2006</td>
<td>The People</td>
<td>24&lt;sup&gt;th&lt;/sup&gt; September 2006</td>
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Appendix C

The sample utilised to analyse the willingness of the industry to apply the Home Office Taskforce guidelines

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<tr>
<th>UK Based Sites</th>
<th>Target Age</th>
<th>Worldwide Sites</th>
<th>Target Age</th>
</tr>
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<tbody>
<tr>
<td>Habbo Hotel</td>
<td>11+</td>
<td>GYC</td>
<td>25 and under</td>
</tr>
<tr>
<td>Mad Dog Mobile</td>
<td>13-19</td>
<td>Teen Spot</td>
<td>Not stated</td>
</tr>
<tr>
<td>Teensay</td>
<td>Not stated</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lunarstorm</td>
<td>Teen room aimed at 17 and under</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Teen Today</td>
<td>Not stated</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chatterbox</td>
<td>Teen room 13-17</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wanadoo</td>
<td>16-19</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yahoo/Lycos</td>
<td>Not stated but Teen room available</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Trouble</td>
<td>16+</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tiscali</td>
<td>Not stated but Teen room available</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Lycos and Yahoo’s linkage requires explanation. Yahoo does not offer its own chat service instead they provide a link to Lycos’s chat page. This collaboration implies Yahoo’s endorsement of Lycos, therefore in a sense Yahoo are also responsible for the content of the chat-room.
### Appendix D

#### The results of the Chat-room Analysis

<table>
<thead>
<tr>
<th>Habbo Hotel</th>
<th>Mad Dog</th>
<th>Teensay</th>
<th>GYC</th>
<th>Teen Today</th>
<th>Chatterbox</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clear links to safety information?</td>
<td>Link at the top of the page to help and safety information</td>
<td>The home page has small safety links at the bottom of page. There is also a help link at top of page, but this offers limited information.</td>
<td>On the log-in page there is a link to the governments ‘thinkuknow’ webpage</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Potential dangers indicated?</td>
<td>States people may not be who they say they are and gives on-line safety tips</td>
<td>On the registration page there is information about not giving personal details away. It also states that a 15 year old might be a 47 year old and not to meet offline.</td>
<td>Their rules document states to think twice about giving personal details away.</td>
<td>No</td>
<td>In the rules document it just states not to give out your personal details.</td>
</tr>
<tr>
<td>Clear indication of moderation and filtering techniques?</td>
<td>The home page indicates that the site is moderated 24 hours a day by professional moderators. There is also a link to a moderator page which describes their purpose and how to contact them. It further states 27 are in.</td>
<td>Professes on their homepage that Mad Dog is on a constant prow to keep the site safe. It also says that professional moderators keep an eye on every bit of the site, including 1-to-1 messaging.</td>
<td>Their rules document declares that moderators will have blue or green names. If rules are not followed it says users can be removed</td>
<td>Their rules document (accessed by main page), states chat is sometimes moderated by room hosts. These can be identified by the letter ‘A’ next to usernames.</td>
<td>The log-in page says it is a safe, moderated room.</td>
</tr>
<tr>
<td>Can you report abuse or are there links?</td>
<td>See below.</td>
<td>Says to hit dodgy button if see something fishy. If click on be safe banner at top of chat you get taken to government website, thinkuknow.</td>
<td>There is a link on the log-in page to the thinkuknow webpage</td>
<td>There is an e-mail address on the rules page encase people breach the rules.</td>
<td>On the chat page there is a help tab, but this merely gives advice on how to use the page, nothing on how a moderator can be contacted.</td>
</tr>
<tr>
<td>Link to VGT? (sampled May 2007)</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Help Rooms present in chat (alert function)?</td>
<td>You can press the blue ‘?’ for help. Also in red they state ‘call for help here’. In terms of the latter you can press emergency help, then you are required to give details of the problem. Moderators do not always appear present.</td>
<td>There is a help room. Also as mentioned above you can hit the dodgy button to attract moderator attention. However, the latter function was not visible.</td>
<td>No</td>
<td>There is a help button, but this merely redirects you to the homepage where no safety/contact information is available.</td>
<td>No</td>
</tr>
<tr>
<td>Do you have to register?</td>
<td>Requires, email address, name, address, D/O/B</td>
<td>No just application of a nickname</td>
<td>Yes, you have to register on the main GYC site first.</td>
<td>No just application of a nickname</td>
<td>No</td>
</tr>
<tr>
<td>-------------------------</td>
<td>-----------------------------------------------</td>
<td>----------------------------------</td>
<td>--------------------------------------------------</td>
<td>----------------------------------</td>
<td>----</td>
</tr>
<tr>
<td>UK or worldwide site?</td>
<td>UK</td>
<td>Worldwide</td>
<td>UK</td>
<td>Worldwide</td>
<td>UK</td>
</tr>
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<td>Age suitability?</td>
<td>11+</td>
<td>13-19</td>
<td>Not stated</td>
<td>Age 25 and less</td>
<td>Not stated</td>
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<tr>
<td>Parental advice?</td>
<td>Yes</td>
<td>Yes, but link very small at bottom of page</td>
<td>None</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Rules?</th>
<th>Yes</th>
<th>On the log-in page there is a link to guidelines/rules</th>
<th>Yes, these are accessed by navigating through various pages: 'homepage', 'chat' and then 'terms and conditions'. States users may not enter site if intention is to groom, to arrange to have intercourse and arrange cybersex</th>
<th>Yes, but not much relating to chat, just purely says not to give your private details away</th>
<th>Link on homepage</th>
</tr>
</thead>
<tbody>
<tr>
<td>CRB check conducted?</td>
<td>Unknown. However, their advert for moderator vacancies did not mention CRB checks.</td>
<td>Yes</td>
<td>Unknown</td>
<td>Unknown</td>
<td>No</td>
</tr>
</tbody>
</table>

*Teensay and Teenentoday appear to utilise the same chat facility, however sites have differing chat information, safety rules and links.

* In terms of CRB checks, where ‘unknown’ this information was impossible to obtain either via the chat-room itself or from direct contact with the portal.
<table>
<thead>
<tr>
<th></th>
<th>Wanadoo (now Orange)</th>
<th>Teenspot</th>
<th>Lycos</th>
<th>Trouble</th>
<th>Lunarstorm</th>
<th>Tiscali</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clear links to safety information?</td>
<td>On the chat homepage there is links to 'stay safe' and 'chat terms'. Plus on the teen chat page there is links to 'be safe online' and 'protect yourself'. The first has link to tips for kids produced by Netsmart. There are also links to safety guidelines on chat screen.</td>
<td>The homepage has a small link at the bottom of the page. The top of chat screen states 'concerned about online safety? Click here for safety information you need to know'. This links to a safety doc.</td>
<td>On chat page there is a link to VGT. But there is no explanation as to what they do. Would kids use it? There is also a link in the bottom corner to safety tips. This gives links to other useful sites e.g. government site. At the bottom of the Lycos homepage there is a chat safety link. This did not open. When accessed it purely takes you to safety tips.</td>
<td>Log-in page states do not disclose personal information.</td>
<td>On the homepage there is a help link at the top of the page. When you sign-up/register there is an option to read terms. Moreover, when you click on live chat guidelines appear prior to entering the room.</td>
<td>There is a help button at the bottom of chat. The document it links to provides no safety information or help in terms of grooming. On the chat homepage there were links to the government website. On the teentalk homepage there is no safety information. However, when signing in as a member, on the members homepage there were links to safety information (but would children sign up when they can access chat without?). The link takes you to the same chat homepage anyway.</td>
</tr>
<tr>
<td>Potential dangers indicated?</td>
<td>Yes, as above. Plus on the main chat page in top right corner advice flashed up e.g. 'people aren’t always who they say they are'.</td>
<td>Yes on the safety document.</td>
<td>Yes in safety tips</td>
<td>Only the above</td>
<td>Inferred to in the guidelines (see above)</td>
<td>Not in the chat screen but on the homepage. There was a small warning saying children and teenagers should be especially careful not to disclose personal information. There was none on the teentalk</td>
</tr>
<tr>
<td>Clear indication of moderation and filtering techniques?</td>
<td>There was a link to chat moderation. They stated to moderate between 11 am-midnight. On the chat screen it stated 'moderators are always online while you are. Grab their attention by going in the moderators room'. Moderators were indicated by a number.</td>
<td>The moderator in chat was a automated robot. If you required to talk to a real person it asked you to contact the 911 help room. However, you have to go through the robot first. It states that chat officials often visit each chat room making sure there are no problems.</td>
<td>No, had to find information through help and clicking on chat patrol. Then if you pressed F2 it told you where the navigators were.</td>
<td>No statement on methods. There was an alert moderator button but no human moderator was present. A filter is utilised as when an e-mail address was applied the filter omitted 'hotmail'. This application also censored dialling codes.</td>
<td>No, but in chat there appeared to be some form. It was unknown whether it was a person or robot.</td>
<td>In all the rooms there were some users with @ before names. It was presumed these were moderators. On the chat homepage it stated that all community areas have moderators. If you click on the link it detailed information on all the moderators. On the teentalk page it said chat room was moderated.</td>
</tr>
<tr>
<td>Can you report abuse or are there links?</td>
<td>On the safety on-line page there was a link to report abuse. This led to a report abuse form.</td>
<td>On the bottom left hand corner of the chat screen it stated: 'click here to report inappropriate chat activity'. This led to a response form.</td>
<td>Yes, you could click on navigator and contact or send a log to chat patrol. You had to go through the help folder to find this information out. This was not made blatantly clear. On the lycos homepage, if you go through the help link at the bottom of the page (small link) you can go to report abuse. A form was available to submit.</td>
<td>There is an alert moderator button which takes you to a form for completion.</td>
<td>Yes via the help link on the homepage. You could report abuse and harassment by filling in a form.</td>
<td>No links available from the chat page. On the teentalk homepage it says if you need help you can contact hosts (gives names).</td>
</tr>
<tr>
<td>Link to VGT? (sampled May 2007)</td>
<td>No</td>
<td>No</td>
<td>Yes, logo and text 'VGT' featured in the top right hand corner of chat.</td>
<td>No</td>
<td>Yes, on the pre-chat page there was a big logo and message 'Report Abuse'</td>
<td>No</td>
</tr>
<tr>
<td>Help Rooms present in chat (alert function)?</td>
<td>Yes, there was a moderator room</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Do you have to register?</td>
<td>Yes. You enter a nickname and e-mail and an activation code is sent. There was a banner stating strictly for ages 16-19. You then click accept to the terms of use confirm you are aged 16-19. A date of birth (D/O/B) was not required.</td>
<td>Yes. It required: name, e-mail, post code and D/O/B.</td>
<td>Yes, with Lycos: name, address, e-mail, D/O/B.</td>
<td>No</td>
<td>Yes, post code, D/OB, town/city. You also had to tick a box to say you had your guardians permission.</td>
<td>When you clicked on chat it took you straight into a java screen and asked for your user username. No registration required.</td>
</tr>
<tr>
<td>Age suitability?</td>
<td>16-19</td>
<td>Not stated</td>
<td>Not stated, has a youth deck but no age limits given. I logged in as 13.</td>
<td>16+</td>
<td>17 and younger</td>
<td></td>
</tr>
<tr>
<td>Parental advice?</td>
<td>Yes, there was a dedicated page produced by NCH</td>
<td>None</td>
<td>None</td>
<td>No</td>
<td>Yes</td>
<td>On the teen talk page there was a link to the home office site and advice on how to keep your children safe online.</td>
</tr>
<tr>
<td>Rules?</td>
<td>Yes in the terms of use.</td>
<td>Yes</td>
<td>None</td>
<td>No</td>
<td>No</td>
<td>Yes but nothing directly linked to safety.</td>
</tr>
<tr>
<td>CRB check conducted?</td>
<td>Unknown</td>
<td>Unknown</td>
<td>No</td>
<td>Unknown</td>
<td>Unknown</td>
<td>No</td>
</tr>
</tbody>
</table>
Appendix E

Examples of video game advertisements with no classification information.

COMMAND RESPECT

"FULL SPECTRUM WARRIOR"

BASED ON A U.S ARMY TRAINING AID*

THE LIVES OF THE MEN OF ALPHA AND BRAVO TEAMS REST IN
THE SWIFT DECISIONS YOU MAKE AS THEIR COMMANDER.

*This game is not sponsored or endorsed by the United States Army.

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copyrights are the property of their respective owners. "PlayStation" and "PlayStation" are registered trademarks of Sony Computer Entertainment
Inc. Microsoft, Xbox, Xbox Live, the Xbox logo and the Xbox logos are either registered trademarks or trademarks of Microsoft Corporation
in the U.S. and/or other countries and are used under license from Microsoft. All rights reserved.
LADIES AND GENTLEMEN
WELCOME TO HELL

"Sweeping, Epic and Endlessly Stylish"
OFFICIAL PLAYSTATION 2 MAGAZINE

"Devilishly Stylish, The Envy of Many... Dante's Back"

GAMES TM

"It's the reason you bought a PLAYSTATION 2."

IGN.COM 9.6/10

DEVIL MAY CRY 3
DANTE'S AWAKENING
AVAILABLE FROM
GAME

CAPCOM DMC3.CO.UK Sony PlayStation 2

www.game.net
## Appendix F

<table>
<thead>
<tr>
<th>Date</th>
<th>Regulation/Certificate</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>1913</td>
<td>The BBFC was established</td>
<td>To bring uniformity to the distribution of film (see p.228).</td>
</tr>
<tr>
<td>March</td>
<td>‘A’ (Public) and ‘U’ (Universal). Both</td>
<td>Apprehension surrounding the influence of cinema on children: ‘The object of these two certificates is to meet, as far as possible, the complaints that have been made by licensing authorities in respect of the non-suitability of certain films for children’s entertainment’ (Kuhn, 1998: 26).</td>
</tr>
<tr>
<td>1913</td>
<td>considered suitable for children and adults, as it was contended that any film not suitable for children would also be unsuitable for adults (Smith, 2005: 26).</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Parents were primarily responsible for children’s viewing - the BBFC recommended that only children accompanied by parents or a bona fide guardian should be admitted (Smith, 2005: 62).</td>
<td></td>
</tr>
<tr>
<td>1930’s</td>
<td>Label ‘Horrific’- signified they were unsuitable for children (Smith, 2005: 71). Strong horror</td>
<td>Initial concern over Horror films in the 30’s (Smith, 2005: 71).</td>
</tr>
<tr>
<td>Year</td>
<td>Classification</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>----------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>1937</td>
<td>'H'</td>
<td>This was advisory, but aimed to indicate the possible unsuitability of these films for children (Smith, 2005: 31).</td>
</tr>
<tr>
<td>1951</td>
<td>'X'</td>
<td>Excluded children under 16</td>
</tr>
<tr>
<td>1970</td>
<td>'A'</td>
<td>The division of the 'A' category:</td>
</tr>
<tr>
<td></td>
<td>'AA'</td>
<td>- 14 and over. A guardian was not required.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>'A' - permitted admission of children aged five and above, with or without accompaniment, but warned parents that the film could contain material unsuitable for under 14's</td>
</tr>
<tr>
<td>Year</td>
<td>Category Description</td>
<td>Change Details</td>
</tr>
<tr>
<td>------</td>
<td>----------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>1982</td>
<td>‘PG’ (Parental Guidance) – this replaced ‘A’.</td>
<td>The category was modelled around the PG certificate in the US. The change in name reflected the BBFC’s wish to place responsibility in the hand of parents.</td>
</tr>
<tr>
<td></td>
<td>replaced ‘AA’ and raised the age limit to 15.</td>
<td>The incentive was to permit leniency as regards the classification of particular films.</td>
</tr>
<tr>
<td>1989</td>
<td>‘12’ – film considered appropriate for those aged 12 and upwards.</td>
<td>The Board was keen to continue safeguarding children, but recognised films could be enjoyed by under fiftens, consequently a further classification was required to bridge the gap between ‘PG’ and ‘15’.</td>
</tr>
<tr>
<td></td>
<td>‘18’ – this replaced ‘X’ and barred people under 18</td>
<td>The change was in name only to remove X’s increased association with pornoGRAPHY.</td>
</tr>
<tr>
<td></td>
<td>The limit was raised to grant more freedom for the passing of films without cuts.</td>
<td>(Screenonline, n.d.).</td>
</tr>
</tbody>
</table>
Appendix G

Examples of advertisements which demonstrate poor and good application of consumer advice.

Good example:

"If you loved the SCARY MOVIE series, you’ll absolutely adore this..." ★★★★
Star Magazine

Two black FBI agents, masters of disguise, are now...

WHITE CHICKS

To protect two white divas, they have to become them.
Bad example:

"The most entertaining inside-journalism movie since All the President's Men"
PREMIERE MAGAZINE

"One of the movie highlights of the year"
*****
FILM REVIEW

"Brilliant"
******
UNCUT

"Film of the Month"
******
TOTAL FILM

"Outstanding"
******
EMPIRE MAGAZINE

HAYDEN PETER CHLOE STEVE
CHRISTENSEN SARGAARD SEVIGNY ZAHN

SHATTERED GLASS

STARTS MAY 14 VUE
ODEON UGC VUE UGC
GRENVICH CINEMAS
SGC AD AND AT CINEMAS
NATIONWIDE

www.shatteredglassthemovie.co.uk
The Hilarious New Comedy
From The Writer and Star of 'My Big Fat Greek Wedding'

"THIS'LL HAVE YOU CRYING BIG, FAT TEARS OF SIDE-SPLITTING LAUGHTER.
UTTERLY FABULOUS!"

Nia Vardalos  Toni Collette
Connie and Carla

AT CINEMAS NATIONWIDE FROM TOMORROW
CHECK LOCAL PRESS FOR DETAILS
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Television Programmes


Interviews


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