

RSA lecture : clips

EXTRACT 1: **Tom & Jerry**
[as in roadshow tape]
DURATION: 2 mins 43 secs

EXTRACT 2: **The Mummy**
[as in roadshow tape]
DURATION: 1 min 39 secs

EXTRACT 3: **American History X**
[as in roadshow tape]
DURATION: 1 min 33 secs

EXTRACT 4: **A Clockwork Orange**

IN 01:10:09:11 “Who is it, dear?”

OUT 01:12:53:08 fade out on Patrick Magee’s face

DURATION: 2 mins 44 secs

EXTRACT 5: **Pulp Fiction**

IN 01:28:07:24 (fade in)

OUT 01:30:17:00 (fade out by)

DURATION: 2 mins 9 secs

EXTRACT 6: **Banned from Television**

IN Start of ‘Champaign, Illinois’ sequence (begin at start of fade in)

OUT End of sequence

DURATION: 1 min 16 secs

RSA lecture : 21st February 2001

“Does censorship for adults make sense in the internet age?”

Robin Duval

1. Nearly 40 years ago, when I was a student at University College London, I directed a play for the Drama Society. It was Georg Buchner’s **Woyzeck**. In those days it was only known to British audiences through the Alban Berg opera, incorrectly called **Wozzeck** because of a misreading of the Buchner manuscript. So, for practical purposes, I was doing a new play, certainly in a new translation, which meant I had to get the text cleared by the Lord Chamberlain for public performance. I sent it to him.
2. A few weeks later, I got a long letter from his office signed, if I remember right, by a Lt. Col Penn (or Fenn), listing all the cuts I had to make to the text. About two closely typed pages of them - mostly four letter words and minor sexual references to naked thighs, that kind of thing, but one or two phrases which even today pack a shocking punch. The most extreme certainly was at a climactic point in the play when a character invites the hero to “piss on the cross and drown another Jew” - a phrase pretty well guaranteed to offend as many people as possible.
3. Nevertheless, I was a creative artist (of course). I lodged an appeal and presented myself at St James’s Palace, with the translator. For about an hour, we sat in a beautifully furnished room, in armchairs, arguing the toss with the Lt Col and his reader, a very small bald man with spectacles. In the end, we rescued all the non-sexual four letter words and some of the mildest sexual references. We lost on the most offensive phrase. During the run of the play in London and later at the NUS / Sunday Times Drama Festival, we punctiliously observed the terms of the Lord Chamberlain’s licence to perform. For the first few nights anyway...

4. I tell this story because I now stand before you as the last surviving representative of the fine British tradition represented by the Lord Chamberlain's office. There has been no official censorship of the theatre since that function was abandoned in 1968. Prior intervention in television and radio ended when the IBA (the Independent Broadcasting Authority) was wound up in 1992 and replaced by the ITC (the Independent Television Commission) and the Radio Authority. There is no public censorship either of books, newspapers, magazines. But there is pre-censorship of the cinema and videos, by the BBFC of which for 2 years or so now I have been the Director.
5. Let me give you a little more history. The BBFC was set up in 1912 as the British Board of Film **Censors** to classify cinema films on behalf of local authorities. The general view was that a central body was needed to ensure national consistency. In 1984, after 72 years of dealing just with the cinema, the Video Recordings Act made the BBFC responsible also for videos and later computer games, DVDs, and in principle (and subject to certain provisos) all their electronic descendants. The BBFC dropped the 'censorship' tag and became the British Board of Film **Classification**. This is fair enough, given that the Board classifies just about 100% of what passes through its doors; and cuts (or censors) only about 7%. Much of that is done to accommodate the desires of the film and video companies which want lower-age classifications to maximise their audience.
6. We are now a small industry. We have a staff of 50 or so, of whom around 16 are the examiners whose job it is to classify the works that are submitted to us. In the year 2000, we classified over 7000 videoworks and over 500 cinema films plus around 700 cinema advertisements and trailers. Since every work, every film, DVD, video, computer game, is different, the greatest professional challenge is to achieve consistency. So we base all our judgements on our published classification guidelines and the practical criteria, which they express.
7. The BBFC Classification Guidelines are to an important extent about harm. Harm to children from premature exposure to certain kinds of images and experiences. Harm to

society through the promotion of violent or dangerous activity. The trouble with harm, however, is that it is part of a wider and infinitely complex media effects argument which may be incapable of resolution. But I'll talk more about that later.

8. The BBFC's Classification Guidelines have also been a mixture of what the law requires and what we believe the public expects. There are laws to do with obscenity, the indecent portrayal of children, cruelty to animals, public order including racial abuse, and so on (harm-based laws, incidentally). Naturally, we must also take account of the Human Rights Act and the European Convention on Human Rights and the law there relating to fair procedures, privacy, discrimination and especially freedom of expression. We have been less clear in the past about what the public expects.
9. The credibility of our classification criteria, and of the BBFC as regulator, depend upon public consent and regulatory transparency. What the public expects and requires shifts over time. Whatever we may have believed to be acceptable or appropriate 5 years ago may not be now or in the future. For these reasons, we published our Guidelines in a new draft form in Autumn 1999 and embarked upon what we believe may be the most comprehensive exercise in public consultation and opinion research undertaken by any content regulator. The process was finally completed last summer. We published a summary of all the research and the new Guidelines which are, to an important extent, derived from it on 14th September. [SHOW COPIES]
10. The main conclusions from the research and consultation process, which are embodied in the new Guidelines, are these:-
 - The British public, by a large majority, wants the classification categories to remain mandatory and not advisory. If you are below the age rating - '12', '15', '18' - it should remain an offence to let you into the cinema, or rent or sell you a video.

- The public wants more consumer information, to accompany the classification. They wish to know why a film, for example, has a '15' rating. Is it for violence, bad language, explicit sex, horror, drugs? They are particularly anxious to know why a 'PG' is not a 'U'.
- The public does not want the BBFC to intervene unnecessarily at '18'. Adults should in general be able to choose what they want to see without 'nannying' from us.
- By contrast, the public continues to be concerned about children. We should be a little more restrictive in the junior categories ('U', 'PG', '12' in particular) - especially in relation to violence, drugs and bad language.
- Finally, the British public are more relaxed than we thought they were about sex. They do not mind explicit portrayals of sexual activity in adult films. They believe that pornography should be permitted providing no law is broken.

11. We now have a sound and tested matrix for regulation. That's clearly enough what the public wants now. But how long will it stand up to the pace of change - new media, new ways of delivering film and video? How meaningful are these Guidelines when so much that is unregulated by the BBFC, and perhaps far worse than anything we permit, is available elsewhere? Are we not sticking our finger into the proverbial dyke?
12. Basically the argument is as follows. Cinema, video and so on will become redundant. It will all be replaced by the Internet. The Internet is international and beyond regulation. Censorship will very soon be dead. QED.
13. This is all loosely embraced within the fashionable concept of 'convergence'. I am not sure I entirely believe in convergence. The model appears to describe a lifestyle that passed away years ago. All the family clustered around the old steam radio, and later television, with cinema in terminal decline. That's not the way it is today.

14. I suggest that the future may actually be about divergence. In the 21st century, people want to get out. They want to travel, go to clubs, make an occasion out of their entertainment. The last thing they want to do is stay at home. The cinema is already onto this with 30-screen multiplexes within a complex of restaurants, bars, gyms, 10-pin bowling, computer games and of course convenient car parks. The cinema audiences are growing from 135.5 million in 1998 to 139.5 million in 1999 to 143 million in 2000. These are the biggest audiences for more than a quarter of a century, and three times the audience size as recently as 1984 (when admissions were at 54 million). New digital technology is being harnessed to the cause. Digitally projected films will be retrieved from a satellite, sent via cable or downloaded from a disc. Distribution costs will fall and picture and sound quality can only improve. I have no fears for the cinema industry or the BBFC's role as its regulator.
15. But what about video? All I can say is that, for all the promise of cable and satellite, pay per view and subscription television, and Internet downloading (the so-called 'streaming'), the video industry is booming. In 1997 just over 3000 video features were submitted to the BBFC; in 1998 it was 3800; in 1999 it was 4600; in 2000 it was 6300; this year it may exceed 7500. This is only partly the consequence of the introduction of DVD - digital versatile disc - which will eventually replace video with a picture and sound technology and a range of add-on 'extras' with which the Internet will always struggle to catch up. All-around sound, giant plasma screen, and the rest.
16. In making this point, of course, I am placing myself rather in conflict with the received wisdom of the government's December White Paper on Communications and think tanks like the IPPR. For them, convergence is everything. The White Paper supports this with statistics. For example, "The number of television channels in the UK has risen from three, twenty years ago, to over 250 today. British viewers could chose from 300 hours of television in a week in December 1980. Today they could chose from over 40,000 hours." The implication of course is that British viewers are responding, no doubt vigorously, to

these small-box opportunities. Not so. There have been dedicated film channels on cable and satellite since the 1980's. And yet, even now, the share of viewing for film channels in multi channel homes never reaches more than 1% for Sky Premier and Sky Moviemax, the most popular channels. No others get more than 0.4 %. Film Four's share is 0.1%, in spite of a marketing spend of over £10m since it launched in 1998. At the end of last year, 83% of all TV viewing was still the 5 terrestrial channels. Also, as TV channels and hours rise inexorably, total viewing actually falls. Viewers switch away from the box to their own options: the video/DVD market - among others - expands. Indeed, as the Barclaycard ad puts it, "The Internet is God's way of telling you you should get out more".

17. Of course, eventually the Internet will begin to fulfil its promise. But by then, the major companies will have got their act together as they generally do, and the famous Internet freedoms may seem a quaint hippy memory. And when the majors are in charge, the respectable badge of public-accepted regulation may be as pervasive as it is now.
18. I'm sure there will always be an unregulated fringe. There always is - take the financial world for example. But noone suggests that that justifies winding up the official regulator. There is no real threat to him. To argue that there is, and that statutory regulation should be abandoned in despair, is like arguing that everybody should be let out of prison simply because a few of the inmates escape from time to time.
19. Incidentally, the early signs of major entertainment companies - the BBFC's clients - asserting power over the Internet are already there. I imagine most people here have heard of Napster. A year ago, it was a site unknown to most net users let alone the offline majority. It was all about sharing new, copyright-free music though in reality it became the biggest source of pirated popular music in the world. All protected by the First Amendment freedom of the Internet. Or so we thought. The major music companies combined against Napster in the courts and last week a US federal appeals court ordered it to stop. Last month also, www.MP3.com which had made popular music albums available to punters was sued by the 5 major record companies - Sony, EMI, BMG,

Universal, Warners - for copyright infringement and they were awarded huge damages by a federal court. I suspect this is only the beginning.

20. The same entertainment behemoths dominate the movie business. You may remember Scour.com. New technology called DivX allowed website users to download film content on to ordinary CDs in their PCs. The results, technically, do not begin to compare with a shop-bought DVD, but the threat to Hollywood's copyright was obvious. 24 major companies including all the large studios filed suit against Scour, asking the courts to shut the site down. The huge cost of the legal action and a \$100 million debt load forced the collapse of Scour. The problem of course for a company like Scour and its imitators is that its system offers no workable revenue model to sustain it against corporate attack. The Internet's philosophy of freedom is also its biggest problem: consumers are, at least so far, unwilling to pay for content on the web and may not become willing to do so until a better broadband future arrives.
21. The kind of developments we should look out for include the development of corporate policing of the Internet. A company called Netsertion, for example, can track pirated data anywhere on the Internet, whatever its form, including movie material. At the same time, encryption technologies far more complex than DVD will come into play.
22. I seem to have been talking quite a lot about the future of the movie industry. But the reason I have done so is I think obvious. It is by no means a foregone conclusion that the Internet will be an unregulated monster. The indications are that big entertainment companies will learn how to control it and bend it to their corporate will. And if they can manage that, then it can be regulated. Hollywood may **need** the imprimatur of the MPAA, the BBFC and the national or international regulatory bodies which provide the necessary good health labels.
23. Big business has already shown its regulatory hand. On 13th December last, the Internet Content Rating Association (ICRA) announced a content labelling system which can be

used internationally anywhere on the Internet and which is specifically adaptable to different national, cultural and individual needs. In simple terms, every Web-page on the system should carry a content label (sex, violence, language, drugs, weapons etc) which can be read and interpreted by applications on PCs and desktops that provide a level of filtering based on the content of the label found. Examples of these applications are Microsoft's Internet Explorer Content Advisor and Netscape's NetWatch.

24. Now, in case you thought this was just a wishful regulatory fantasy, I should advise you that ICRA is supported by a board whose membership includes AOL, Bell Canada, British Telecom, Cable & Wireless, IBM, Microsoft, Novell, OnDigital, and the Bertelsmann Foundation. It is the industry voluntarily regulating itself.
25. Then there is the UK-based Internet Watch Foundation, supported by government. Its purpose in part is to work with the police and other international enforcement agencies to drive unacceptable material off the Internet and its action has already resulted in the conviction of many people involved in child pornography. A good example of effective international cooperation is the recent closing down of the Wonderland Club, an international online paedophile ring. 13 countries and 180 policeman were involved. 7 British paedophiles were sentenced at Kingston Crown Court this month. Last year, the IWF asked UK Internet service providers to take down 2,500 items from their servers. Paedophile newsgroups are reducing sharply; though no doubt users are migrating to the less vulnerable IRCs (Internet chat facilities). The IWF model has been taken up in similar forms by a number of other European companies, in the USA and most recently in Australia. ISPs have been fairly prompt in taking down inappropriate content.
26. I think it is fair to say that international action to regulate the Internet is on the upswing. Not all countries threaten to be as tough as Singapore which prohibits nudity, violence, homosexuality as well as pornography generally on the Net. Any ISP or ICP (content provider) which fails to respect the Singapore Internet Code of Practice can be fined or otherwise sanctioned. Meantime, in Australia, Internet content can now be 'prohibited' by

the regulator who issues a take down notice. Failure to comply within 24 hours can result in a fine of 27,500 Australian dollars. In Europe, the main thrust is currently against extremism. A French court ordered the US web giant Yahoo! to bar French surfers from a US site selling Nazi memorabilia, or face a fine of up to £1000 a day. Yahoo's response early this year was to ban the sales on **all** its websites. On the wider European scene, anti-racism measures are on the agenda also for the European Union whose racism monitoring unit has been tracking Internet sites.

27. I mentioned the demise of the Wonderland Club. The same fate last year befell the Rhino Corporation, a huge Internet pornography empire based in Antigua, with a number of websites now no longer operational. Conventional wisdom, expressed in the government's recent White Paper on Communications, is that (I quote from it) "It is difficult to control the availability of material on the Internet - which may be located on a computer server in a country with little or no ability to enforce standards". Difficult, yes. But as the Antigua and Wonderland examples indicate, not impossible given sufficient commitment.
28. That the public expects and desires effective regulation of the Internet is not in doubt. In the most recent British Social Attitudes survey, published late last year, only 5% of Britons agreed that sexual scenes "should be available to anyone with Internet access". The BSA took the precaution of separately polling respondents with Internet access. Even so, only 6% of those who are on the Internet believe sexual scenes "should be available to anyone with Internet access".
29. I think it's time now to show you some movies. Or at least a few clips that will put all this regulatory talk into some sort of context. Our theme of course is censorship for adults. But a very large part of the BBFC's activity is to do with the concerns we have, the public has, about children. Adult-rated works (i.e. those given an '18' or 'R18' classification) represent around 17% of the total i.e. very much the minority. So let's start with the

broader picture first. And consider the topic that most concerns the public, whatever the classification level: violence. This is the real test for your good libertarian as we enter the Internet age. It's generally fashionable and correct these days to argue against censorship of sex, even pornography. Censoring coarse language at adult levels is a dead duck. On that liberal opinion is absolutely clear. What it is not clear about is the portrayal of violence on the screen, and its implications for society: emulation, imitation, endorsement. If I had a fiver for every friend who has told me to let more sex through, but be tougher on all that violence, I would be a rich man.

30. Screen violence is a hugely researched area; and yet nothing is clear. For every piece of research that shows a correlation or even a causal relationship between viewing films and behaving violently, another shows the opposite, or fails to replicate the finding. Aggression effects, for example, seem just as likely to be produced in laboratory conditions by comedy as by violence. Some eminent experts, Professor David Buckingham for instance, argue that children may actually benefit from fictional violence: it enables them "to conquer the fears they experience in real life".
31. Actual public concern about media violence rises and falls. In the 1980s and 1990s it was greatest in the aftermath of Hungerford, James Bulger and Dunblane. Perhaps we are due for another cycle. It appears to have very little to do with how much violence there actually is on television or on films at any particular time; but to have everything to do with what is in the news. And yet the public firmly rejects the proposition that a violent or shocking newsworthy event should not be reported.
32. Society of course has always entertained itself with stories and images of violence. And most social researchers these days take the view - I'm quoting one - that "The causes of violence and crime seem more likely to be found in poverty, unemployment, homelessness, abuse, frustration, personality traits and psychological background". As a regulator I do well to be reminded of the writer Paul Schrader's comment that "if you

banned depictions of violence, you would still have Raskolnikov but you wouldn't have Dostoyevsky".

33. But if screen violence is, as is often argued, a contributory factor, where does the regulator start taking action? Here for example?

EXTRACT 1 : Tom and Jerry

34. Pure mayhem. And what a message for small people: however extreme the violence, it's all right in the end. Nobody's really hurt, nobody really minds. There is of course more violence in children's entertainment - cartoons, comic books, video games, Hans Andersen, The Brothers Grimm and Harry Potter - than in almost any other popular genre. But are we going to censor **Tom and Jerry**? There are today organisations in America which would like it banned from television. And if not **Tom and Jerry**, should we censor video games with a similarly light-hearted approach to violence, in which everyone also survives to play another game? Of course the BBFC does intervene - at least in the sense of classifying the more violent ones upwards and away from accessibility (in principle) to younger children.
35. So if we are not going to censor **Tom and Jerry**, what about the next clip? Here's an extract from a film which has been very successful with audiences of all ages. It's called **The Mummy** and it's a good old-fashioned Boys Own Paper yarn, set in Egypt in the 1920s. The hero is in trouble.

EXTRACT 2 : The Mummy

36. The distributor of **The Mummy**, Universal, wanted either a 'PG' or at worst a '12' certificate to maximise the young audience. But what you have just seen is not acceptable at '12'. You have in fact just had a lesson in how to hang someone. Much worse than

that, you have seen the hero, at the end of it all, completely unharmed. Indeed it's all treated pretty lightly - almost as a bit of a joke. But children do sometimes play dangerous games or experiment with ropes. Occasionally they manage to kill themselves. Last year, the British newspapers reported yet another case of a boy of 10 accidentally hanging himself - this time after seeing another film, **Braveheart**, in which the hanging sequence was actually much less detailed and helpful than that. He had watched the film at home with his family in spite of the fact that it was '15' rated. This and other experiences in recent years confirm us in our resolution that dangerous techniques should, at the least, be kept out of films intended for younger children.

37. **The Mummy** was cut for a '12' certificate. Content of that kind would only in future be permitted at '15' minimum. However, I have to say that we in the UK were - apparently - the only regulatory body in Europe or America to insist on cuts for younger audiences. Do you think we were too cautious?
38. And, if we should not be worried about **Tom and Jerry** for children, vivid and consequence-free as it is, or about **The Mummy** for adolescents, how can we justify intervening in an adult-rated movie? Should we draw the line with this one?

EXTRACT 3 : American History X

39. Should we have cut that? There was a story in the newspapers last December about some young men who attacked a victim in precisely that way after seeing the video. That scene was from **American History X**, in fact a very moral Hollywood film (made by an Englishman) about the evils of racism. The rest of the film was about the attacker's imprisonment for that assault and the process of his eventual rejection of racism. That scene was, I would argue, neither inappropriate nor excessive. Without it, the force of the character's conversion to anti-racism would undoubtedly have been diminished. And in fact the director cuts away at the crucial moment and you actually see no detail of the violence. Like the best films (or the best art) it's mostly in the mind.

40. You may then agree that that was one particular adult film where there was no justification for censorship. If you do take that view, then clearly we have come some way since the following film was withdrawn by its director in 1973 in response to public outrage.

EXTRACT 4 : A Clockwork Orange

41. The notorious rape scene from **A Clockwork Orange**. After 27 years in the wilderness, the film was recently resubmitted following Stanley Kubrick's death. The issue - as with **American History X** - was the film's possible influence on young people. That is still a very shocking scene. However, we took the view that whatever potential it might once have had for fashionable emulation had faded with the passage of time. Whatever might have been the case in 1973, it is not a film of obvious appeal to young tearaways now. So the BBFC passed it '18' uncut.
42. Though I believe we were right to do that, I think **A Clockwork Orange** nonetheless reminds us of what is probably the most sensitive issue we have dealt with over the last 20 or 30 years. The combination together of sex and violence. Our policy, which is clearly expressed in our old and new Guidelines and reiterated in regular public statements, is to take a strong line with material which suggests to younger or older viewers that there is pleasure in forcible sex. Most of all, we reject material which endorses the old male 'women like it really' rape myth. One of the reasons we do this is because of the research evidence that that is what turns some men on. And perhaps not just some. You may be aware of the North London and Glasgow Universities research about 18 months ago which found that one in two young British men thinks that raping a woman is acceptable in certain circumstances. Or the Evolutionary Psychology debate in which it is argued that "rape (is) a natural biological phenomenon, that is a product of the human evolutionary heritage". Perhaps most of all we are concerned by the evidence from American social scientists - Donnerstein, Linz, Penrod, Malamuth - that violent pornography and "'X' rated videos in which the woman is shown enjoying the assault or

rape” excite aggressive responses from some male viewers. Bearing in mind my earlier reservations about the value of research, it is fair to say that these findings are probably more robust than most. Certainly, if we are to give any credence at all to the researchers, we cannot ignore this evidence. As our current guidelines say: “Where the portrayal eroticises or endorses sexual assault, the Board is likely to require cuts at any classification level... any association of sex with **non-consensual** restraint, pain or humiliation may be cut.”

43. That may still be the likeliest reason for cutting at ‘18’. The other most likely candidate is the portrayal of drugs. Unlike violent sex, this one has come up rather on the rails in recent years and clearly concerns the public much more than it used to say 10 or 15 years ago. In 1994, the BBFC gave an ‘18’ certificate to a film which included this sequence.

EXTRACT 5 : Pulp Fiction

44. That was of course John Travolta in Tarantino’s celebrated **Pulp Fiction**. Our guidelines for ‘18’ these days advise that the Board may cut or reject “instructive details of illegal drug use”. Indeed, “no work taken as a whole, even at ‘18’, may promote or encourage the use of illegal drugs... glamorising detail is a particular concern”. Those are guidelines based upon the evidence of what the general public finds unacceptable; and upon focus group research with professionals dealing with drugs and drug problems. If **Pulp Fiction** came before us now, should we cut that sequence at 18?
45. Let me give you another, final problem. We very rarely cut adult films for the cinema - only one in the twelve months of 2000. We cut video slightly more frequently because of the greater danger of underage viewing. It is exceptionally unusual for us to ban a work outright. In 1999, however, we had to consider a video, most of which was simply a compilation of scenes of extremely violent death, injury and mutilation, with many repeated -with relish- in slow motion. We took the view that the work was likely (even 18 rated) to have some significant brutalising effect on the attitudes of young and

impressionable persons to human life and pain. Here is a mercifully brief example of the content of the film throughout.

EXTRACT 6: Banned from Television

46. A typical sequence from **Banned from Television** which the BBFC banned from video in 1999. Should we have done it? Or should we be content for works of that kind - a sort of snuff movie news clips compilation with no journalistic or educational context: just for entertainment - should we be content for it to find its audience with no censorship by us? That certainly is the kind of question increasingly likely to be put in the 'Internet age'.
47. There's just one further topic I would like to touch on. You may have guessed from earlier comments that I do have some criticisms of the government's recent White Paper on Communications. Partly this is due to fear of what it may mean for the BBFC in the future. The White Paper, to be fair, does pose a highly relevant question. Not about whether there will be some media regulation (including censorship) in the Internet Age - that is a given; but about what form regulation will take.
48. The Government proposes a single regulator for telecommunications, television and radio, called OFCOM. There is not a great deal in the White Paper about the BBFC, which of course falls into none of those communications categories. What there is in the Paper does appear very much as an afterthought - in case it might be argued that the BBFC should be rolled up within the giant new body. But afterthoughts, since they tend not to be the product of much forethought, can be very threatening.
49. There is also a worryingly fashionable quality about this Paper. So far as cultural regulation is concerned, governments tend to swing from one extreme to the other. The fashion is either for fragmentation or consolidation. Today it is the latter, in the name of 'convergence' and consistency, uniting several different bodies within a single entity. Ten years ago, the fashion was to set up different bodies either professionally dedicated to

different sectors or else to provide some diversity of viewpoint: thus in the 1990s the BCC, the BSC, the Radio Authority, the Independent Television Commission. I have no doubt that that fashion will return, perhaps in another ten years. In a way, it is inevitable because neither model quite works. The fragmentation model is untidy and unpopular with the industry it serves (which, unsurprisingly, dislikes more than one arbiter placed over it). The consolidation model may avoid those criticisms. But it rapidly becomes monolithic and overpowerful. There is no other body to compare itself against, or challenge or compete with it. You might feel the proposed OFCOM has a slightly Orwellian feeling about it.

50. The Government believes that the new regulator must protect the interests of the public who rely on the media for entertainment, education and information. As the methods of delivery converge, they believe there needs to be a single regulator “with the vision to see across these converging industries” while at the same time recognising that “it should not demand the same regulation from each medium”. In addition the White Paper points out that viewers and listeners have different expectations about the content of different media. I firmly believe that bringing all moving image regulation under the umbrella of a single regulator may simply have the effect of reducing that necessary diversity to a common uniformity. The Government also believes that OFCOM will “reduce the regulatory burden upon communications operators” and will end what they call the “double jeopardy” of the current system where “the same issue could be examined in parallel by different regulators”.

51. There are some conflicts here. Cinema classification, of course, would not go into OFCOM. But the film industry will continue to want cinema release first, followed a few months later by video or DVD and only after a further period of time will the work be offered to broadcasters. The intervention by OFCOM at the video/DVD stage, after the original classification of the same work for cinema had been determined by the BBFC, would create confusion. Indeed requiring two regulators to arbitrate on the same work at

different stages in its marketing roll-out would be to introduce the very 'double-jeopardy' to which the White Paper refers.

52. The video/DVD classification should be made in full understanding of the processes and evidence which produced the cinema decision. The most efficient way of achieving this, avoiding needless repetition, is to use a single body for both the cinema and for video/DVD classification. The BBFC is a 'one-stop shop' where distributors can go through the necessary classification procedures for both the cinema and video or DVD versions of their films. In this way the burden of regulation on the industry is reduced to the minimum necessary.
53. There is a very basic difficulty also in reconciling prior regulation (what the BBFC does) and post hoc content regulation (what the rest of OFCOM would do). Since the British public clearly expects prior cinema and video regulation to continue, OFCOM would find itself pointing in both directions at once. To give one example of a problem: how could OFCOM take an independent and detached view of the performance of those it regulates if it has already involved itself in the decision-making which has contributed to that performance, e.g. by classifying films in video format later transmitted on television. How would it arbitrate on complaints about its own classification decisions without appearing judge and jury in its own case?
54. I believe the BBFC should remain separate and independent, but accepting two key principles. Its Guidelines could be allied to those of OFCOM so that the differences between film, video and television could be taken into account. There should be closer links between the two bodies and a formal process of mutual consultation on issues of common interest. Secondly, I would welcome an independent body which would consider criticisms from any member of the public that a BBFC rating was too liberal or too severe. This would provide the public with a complaints mechanism alongside the Video Appeals Committee (which is available only to the video industry).

55. I also look for a future which involves the BBFC more closely with the broadcast sector. As niche movie channels and website broadcasters grow, they will need to know when to schedule their movies and what ratings-related advice to give. Providing it would be for them a fairly costly exercise. For the BBFC, with all our core activity and knowledge, it would be a marginal cost. I'm sure there are deals to be done.
56. And I think also we might look forward to a future in which advice increasingly replaces instruction. Eventually, the British public will, I am sure, come to share the view of most of Europe and North America, that ratings should generally be advisory not mandatory. We are almost alone in the Western world in criminalising underage access to films and videos, at least outside of the most adult-rated material. But the quid pro quo is consumer advice. I am even now discussing with film distributors and exhibitors, and the video/DVD industry, ways of improving the quality of information the public gets when they contemplate a movie evening. If it's 'PG' (or '12', '15' or '18'), is it because of sex, language, drugs, violence? How much, what kind, how frequently? These are questions the industry, with the BBFC's help, should be answering more fully. Eventually, if we get it right, the public may come to the conclusion that mandatory ratings are not so necessary after all. We may need to keep the adult '18' category for rather longer. But in the meantime, we do need to enable people (I think the fashionable word is still 'empower') to get used to the idea of exercising personal responsibility. This is another area in which I really think change is inevitable.
57. Thank you.

