

# REGULATION AND CENSORSHIP

## INTRO TO REGULATION WITH A BIT OF EARLY THEORY THROWN IN:

Regulation arguably exists to prevent vulnerable audiences becoming victims of but the concept of regulation evolves and changes – this reflects changes in technology, societal values, cultural competences and legislation. David Gauntlett in 'Moving Experiences: Media Effects and Beyond' (2005) would argue that the that constantly rages relating to media regulation but mainly as in moving image media, and is far less relevant now because of the above changes. Gauntlett suggests we are more sophisticated than we think we are and this should be reflected by approaches to representation and censorship.

## DESENSITISATION AND DEREGULATION – UNDERPINNING CONCEPTS

Digital technology in particular has dramatically changed what we perceive as 'media' and how this in turn has opened up debate on the concept of regulation – in previous times, even 10-20 years ago and certainly going back much further to the first acknowledged media artefacts the media was subject to much tighter regulation and censorship. This is to the point that many contemporary films like the *Saw* franchise simply would not have received a certificate – we have moved into an era of desensitisation however where audiences are saturated with media from a very early age and are far less shocked or effected (so the argument goes) by what they see and hear. The institutional result of this is that media regulatory bodies like Ofcom, the ASA, BBFC and the PCC have recognised this social and cultural shift and have responded with the concept of deregulation; moving away from the cultural straightjacket of media regulations, the relaxation of codes of practice and the liberalisation of approaches to regulation the media.

Whether this suggests that media regulation is less effective now than in previous times is a related issue – the idea of regulation is different now and this potentially means it is not as effective because it is not as controlling (it is worth referencing cultural regulation as in some countries regulation is much more liberal, and much more tougher than in the UK). The internet is associated with the concept of cultural regulation as the internet technically has no borders and no global regulatory body; most of the world is free from global censorship and communicating regularly to audiences with billions of pages of content which cannot be subject to traditional gatekeeping mechanisms (parental control yes but only up to a point). Gauntlett of course does not oppose the idea of parental control but opposes the stereotype that regulation seeks to protect young people in society – he would suggest young people are more media literate. Ironically in 2013 ex-Bond Pierce Brosnan spoke out suggesting society is being damaged by violence in films and computer games while Mediawatch-UK campaign against the publication and broadcast of what they see as harmful media content such as violence, profanity, sex, homosexuality and blasphemy. In 2009 their Director John Beyer describing the video game *MadWorld* stated: "I hope the BBFC will view this with concern and decide it should not be

granted a classification.....we need to make sure that modern and civilised values take priority rather than killing and maiming people”.

## THE BBFC

The BBFC has responded to cultural change in the first instance by now publishing new guidelines every 5 years reflecting the speed of this change – there has been a move towards liberalisation in terms of certification but there is an argument that U films are still subject to the same high degree of monitoring and regulation. The organisation itself has streamlined in recent years reflecting change e.g. the regulation of computer and video games is now undertaken by PEGI but they (the BBFC) are still seen as an effective body providing certification for over 700 films yearly receiving a theatrical release, 1500 DVDs and BluRay films and over 2000 trailers. Films are exchanged by audiences in an increasing number of formats including on television, streaming via Netflix and LOVEFILM, on tablets and Smartphones, on consoles such as PS 360 and at cinemas where attendance is still commercially healthy – every format requires a BBFC certificate but Richard Berger argued in 2010 that the BBFC may in the future struggle to survive as an organisation with focus more on video games and interactive media with the potential for the government body Ofcom to take over their role.

## EXAMPLE BBFC TEXTS

The criteria by which the BBFC certifies again arguably evidences an effectiveness however that recognises the changing media landscape – the release format is crucial and educational material or historical documentation on film or material that is ‘in the public interest’ is far less likely to be subject to cuts or any form of regulation or control e.g. the very graphic and violent *Saving Private Ryan* received a 15 certification as an accurate historical piece albeit a dramatisation. CGI and animation can also blur regulatory boundaries with *The Simpsons’* ‘Itchy and Scratchy’ parodying the very violent *Tom and Jerry* cartoons of the 1940s – non realist violence is less likely to be subject to regulation and imitable techniques are argued, according to the BBFC to more likely happen as a result of live action sequences. *The Simpsons Movie* in 2007 received a PG despite full frontal nude scenes (Bart) and mild drug references. *South Park: Bigger, Longer and Uncut* in 1999 parodies Disney films but also the writers’ battle with the American equivalent of the BBFC, the MPAA to obtain an R rating for the film which they finally achieved.

What potentially anchors the effectiveness of the BBFC is its initial remit to ensure that films abide by current UK legislation – the 2004 Swedish teen movie *Hip Hip Hora! The Ketchup Effect* was investigated for scenes of child nudity in case it broke the Protection of Children Act but was passed with an 18 certificate which was seen as controversial and reflecting much more liberal approach to classification and

censorship. In 2012 *Human Centipede 2* was banned (the BBFC rarely ban films) because in its original format it breached the Obscene Publications Act because of the portrayal of sexual violence. The BBFC still gave Director Tom Six an option of cutting key scenes and re-framing certain shots but the hype about its banning had driven interested parties to the internet searching for the original uncut version. Eventually the film was released after 32 cuts with an 18 certificate – the original *Human Centipede* film is still regularly shown on the Syfy television channel.

Escapist violence challenged the effectiveness of the BBFC in 2008 with the release of *The Dark Knight* – 200 complaints were lodged to the BBFC when it received a 12a certificate but the BBFC response was that the violence was “impressionistic and bloodless” and that much of the violence took place off screen. This opened up further debate about the idea that what you imagine and cannot see will not harm you. In France and Spain film regulation and classification is in binary opposition to countries like the Republic of Ireland, the UK and the US – in France films are rarely banned and the French Commission for Film Classification cannot make cuts. Films like *American Beauty* containing clear drug references and nudity received a U certificate in France while the violent *Ichi the Killer* was rated 12.

The BBFC do not judge their effectiveness against cultural regulation but their approach acts as a barometer for UK culture. Their effectiveness as an independent body that classify films on behalf of local authorities can be challenged by the local authorities themselves. *Crash* was banned by Westminster Council and Lanarkshire Council in 1996 while some local authorities re-classified the 2006 British social realist film *This is England* (18 certificate) to a 12 after Director Shane Meadows campaigned on educational grounds that this should be the case.

## **THE PCC**

Like the BBFC, the PCC are an independent body but unlike the BBFC are self regulating – this particular aspect has put them under much public scrutiny post Leveson Inquiry and has also led to government ministers, and sections of the media questioning their effectiveness as a organisation funded by the newspaper industry. They have been described as “toothless” and “inadequate and absent during the phone hacking affair” (News of the World) by Prime Minister David Cameron. The ‘New Left Project’ journalist Julian Petley, referencing their funding said they (the PCC) are “the equivalent of the customer services department of a large organisation” suggesting again a lack of effectiveness.

This, and many other criticisms had led to questions about whether there indeed should be a PCC – the Leveson Inquiry Report debated the age old topic of statutory regulation and should Editors face heavy fines and prison sentences if they break the ‘Editors Codes of Practice’ that newspapers, magazines and their websites have to

abide by. As of now, and always they have and are being faced by heavy resistance to these suggested changes, mainly by the newspaper industry themselves but also not least by ministers who oppose the idea of state censorship.

This has almost been, to use the 'Monopoly' analogy, a 'get out of jail free' card for Editors who in the past have had a 'publish and be damned' philosophy where newspapers are sold by a controversial story or headline now with apologies coming later. Only relatively recent changes have meant that newspapers and magazines that break any of the codes of practice have to print an apology with due prominence – this never used to be the case with many victims accused of wrongdoings who were subsequently found innocent (and at the same time wrongly accused by the newspaper using non litigious wording to not get into legal trouble). They found it difficult to shake an erroneous reputation circulated by the print media. New guidelines have protected celebrities like Jim Davidson who was wrongly accused under Operation Yewtree and Michael le Vell from *Coronation Street* who was charged, tried in court and also found to be not guilty with large headlines in newspapers announcing their innocence dependent on their news values.

In January 2012, in a further attempt to restore confidence in a regulatory body that the public had lost faith in, the PCC stated that any upheld complaints must be published (the whole adjudication) in newspapers or magazines again with due prominence. At the same time however, the PCC added a clause to the end of their codes stating that "there may be exceptions to the clauses marked \* where they can be demonstrated to be in the public interest". This basically meant that most of the codes could be manipulated as long as Editors can prove what they published was in fact in the public interest. Stokes and Reading in 1999 supported this criticism by stating that: "Newspapers use the freedom of the press argument to legitimise intrusion" which supports the cynical argument that there is a complete disregard by Editors for the PCC's ineffective codes.

The PCC now deal with over 4,600 complaints a year but 71% of these relate to the 'Accuracy' clause and many of these complaints relate to minor grammatical errors e.g. the wrong spelling of a name. 'Intrusion into Grief and Shock' complaints are increasing, for example the Millie Dowler murder complaints to the PCC and complaints made about the reporting of the Madeleine McCann running story but on occasion, the PCC get it right – in summer 2012 the Spectator website stated that the "overwhelming majority" of violence committed during the London Riots was caused by Afro-Caribbean males which was proved to be untrue under the accuracy clause. It was also a good example of online news media being regulated by the codes. The problem however is blogs and the inability to regulate them and as Dan Gilmour promotes, increasing Citizen Journalism and 'we media'. These both challenge notions of press regulation. Ex-PCC Chairman Stephen Abell stated "the proliferation

of information online militates against statutory regulation” while the current Chairman Lord Hunt suggested that potentially blogs about current affairs could pay for a kite mark indicating the blogger agrees to be regulated. He did also acknowledge however “it’s like the wild west out there”.

In 2010 the PCC received 20,000 complaints about the Daily Mail journalist Jan Moir’s comments after singer Stephen Gately’s death, none of which were upheld because of the lack of ‘taste and decency’ coverage in the codes. A woman who complained about the photographing of her friend’s suicide in The Sun (she was caught in mid air throwing herself off the balcony of a London restaurant) again was refuted by the PCC as the event was in a public place and legitimate news media – the problem the PCC has is the perception of their effectiveness, in previous times and now does not often reference the mundane day to day work of the organisation. Phone Hacking scandal headlines brought them back into the statutory regulation debate leading to the PCC claiming, “in a democracy, the press should not be subject to stringent controls by law or government”. This is supported by some theorists like Collins who suggested “behind statutory regulation is censorship”. In relation to their effectiveness Robertson and Nichol also argued: “The PCC is an ineffective regulator which fails to offer adequate redress in most cases”. Either way the idea of self regulation compared to the BBFC model of regulation is under scrutiny.