



PEGI SA's Response to the ITU Child Online Protection Consultation on GUIDELINES FOR INDUSTRY ON CHILD ONLINE PROTECTION Respecting and Supporting Children's Rights

CONSULTATION QUESTIONNAIRE

Kindly type your responses directly into the text boxes provided.

PARTICIPANT INFORMATION

1. Please tell us about yourself. Alternatively, you may provide your input anonymously.

These responses are made on behalf of PEGI S.A., the Belgian non-profit organization in charge of the day-to-day management, supervision and development of the pan-European age rating system for video games (PEGI).

The PEGI system operates through a set of scientifically backed ethical standards in the form of a Code of Conduct a large part of which reflects the industry's commitment to responsible behaviour where children are concerned. The Code's main aim is to provide parents with objective, intelligible and reliable information regarding the minimum age for which a given product is deemed suitable. The Code also deals with advertising, promotion, consumer redress, sanctions as well as committing its members to respect human decency and provide a safe online gameplay environment for children.

PEGI has been operating in Europe since 2003 and is overseen by a number of independent bodies such as the PEGI Council with officially designated representatives of the European countries and Institutions. The PEGI Experts Group is comprised of specialists and academics in the fields of media, child psychology, classification & technology. The PEGI Complaints Board and Enforcement Committee are composed of independent experts and the content ratings themselves are given by designated independent games rating authorities who review and monitor all declarations by PEGI signatories.

The PEGI system applies in over 30 European countries with more than 850 member companies and covers the vast majority of major publishers selling games in the European market. All major games consoles support PEGI and incorporate robust parental controls to ensure that these age ratings can be easily enforced in the home by parents.

The PEGI system is a highly praised and well-regarded self-regulatory framework that is gradually evolving in to a co-regulatory pan-European framework. A growing number of countries have strengthened their official support by integrating PEGI into national law; others are in the process of such a change. In the UK, for instance, PEGI became the sole legally-enforceable UK age rating system for games and it is a punishable offence to sell a game rated 12, 16 or 18 to a child below that age.

2. In what capacity are you responding?

A professional

3. Input provided will not be publicly attributed to any organization or individual. However, please indicate if we may disclose the fact that you or your organization provided input in the process.

Yes.

4. Which sector do you belong to? Please check one box.

Private Sector / Business – subsector: Content Provider - Video game industry.

5. May we add your contact information to our “Interested persons” list to keep you informed about the process related to the development of the Guidelines and/or in the event we need to contact you to clarify your responses?

Yes.

A. ASSESSING THE COVERAGE AND CONTENT OF THE DRAFT GUIDELINES

6. Please comment on the *scope* of the draft Guidelines. Are there topics covered that should not be, or are there gaps?

PEGI agrees with the scope of the Guidelines – they cover all the pertinent themes.

7. Please explain or provide other comments on the scope/coverage of the draft Guidelines.

The text states that ensuring children’s safe use of ICT is a shared responsibility between industry, parents, guardians and educators, policy makers, children and young people themselves and thus a separate set of guidelines was prepared for each of these stakeholder groups. While the recognition of a shared responsibility between all parties to protect children is commendable the draft text does not go on to specify more precisely how these different sets of guidelines relate to each other and which guideline or guidelines prevail where there are conflicting interests.

8. Please comment on the *content* of the draft Guidelines, including any suggestions for redrafting of particular provisions. Use additional space as needed.

PEGI SA welcomes the fact that “the development of a safer and age appropriate online environment” has been identified as a key area in the draft Guidelines. We share with the authors their dedication to create a safer online environment for children and have undertaken several steps to do so.

In 2007 PEGI expanded into the online games world through PEGI Online. Online game providers must indicate if their gaming environments fulfill rigorous PEGI Online requirements which are set out in the PEGI Code of Conduct. Further, as an increasing number of small games apps are now being published online and on smartphones we developed PEGI for APPS, a rating procedure specifically designed for small software applications, including but not limited to games. PEGI for Apps was launched in 2012 and is currently approved for use by Microsoft on Windows 8 and Windows Mobile platforms

PEGI is also working to provide a streamlined submission process for digital games and apps in order to produce classifications for all participating regions across the globe at the same time. We therefore very much welcome and endorse that the display of age ratings has been included as one of the guidelines in the Draft and that PEGI and IARC, the International Age Rating Coalition, have been specifically referenced as a tool “to help parents and others decide whether the entertainment

content in your service or app is age-appropriate for young players” and with which your app or service should be “aligned”.

However, we have identified a number of provisions and/or examples which should be explained, redrafted or omitted. These are listed below.

Addiction

On page 26 the guideline to “work with online/in-person prevention programs and counseling clinics” uses the example of “an online game site that may link to an online clinic to help with issues of “addiction”. While “video game addiction” is a term used often in popular culture it is important to note that it is neither a scientific nor medically recognised diagnosis. PEGI itself uses the more appropriate definition of “excessive use”. Due to the lack of any reliable criteria in the analysis of excessive use, as well as the presence of so many variables in determining it, there is no agreement among the medical community on the severity or amount of time spent required to cross the threshold in to excessive gameplay. The evidence so far suggests that excessive players are likely to have more significant underlying problems. Excessive videogame playing is therefore likely to be a symptom and not the cause of the problems.

We feel that it is also important to note that excessive use also exists in other forms of media consumption (e.g. Web Browsing, Consumption of Online Media, Social Networking, Television viewing) and that the video games industry should not be singled out unwarrantedly. Therefore, we request to remove this particular example.

Suggested amendments:

~~P26 For example, an online game site may link an online clinic to help with issues of “addiction”.~~

Technological solutions

The Draft Guidelines regularly refer to technological solutions, such as automatic filters, biometric and age verification systems. It should however recognize that these solutions do not offer a “one size fits all” solution and can heavily vary in terms of the level of assurance they offer. Differences between current systems can be associated with the age that needs verification, issues of legal liability and perceptions of corporate risk, the potential for legal action following non-compliance and data protection considerations. To date, there is no single system that can be applied on a global basis that would create a level playing field.

Suggested amendments:

P12 Employ appropriate technical measures such as age-verification, block/allow lists, spend/time controls, opt out functions, filtering and moderating to prevent under age access and exposure to age-inappropriate content or services **although they may vary in terms of the level of assurance they offer and do not provide a one size fits all solution;**

National Standards

On the top of page 9 the draft states that methods to describe the nature of content or services should be aligned with the pre-existing national standards, while page 28 advises to “work together with other industry players to agree on content classification systems that are based on accepted national standards and consistent with approaches taken in equivalent media”. Today consumers are increasingly exposed to material of different national origin, due in part to the increasing online cross border trade. Although different political climates and sensitivities may influence a territory’s notion of what is appropriate for children we believe that such varying local standards can be maintained within an international standard that will help avoid confusion for parents and remove

barriers to enforcement in an online environment. PEGI is a prime example that such a standard can be successful in a market as diverse as the European Union. IARC will streamline cooperation between international classification systems and provide a forum for international classification bodies to share standards and advice. We feel that this should be reflected in the Guidelines.

Suggested amendments:

- P9 *Wherever possible these should be aligned with the pre-existing relevant **national and international** standards or advice made available by the appropriate classification bodies.*
- P28 *Where possible, work together with other industry players to agree on content classification systems that are based on accepted national **and international** standards and consistent with approaches taken in equivalent media (e.g. games, film).*

Re-using ratings

On page 28 the text advises that, where possible, content classifications from other industries should be re-used. We would like to point out that PEGI ratings are only licensed for use in specific countries on specific platforms. Due to video games being a fundamentally different (and interactive) entertainment medium there are large differences in how content is rated. Video games are complex and seldom played from start to finish in one go. In the case of massive multiplayer online games they can literally go on indefinitely. This complexity requires a rating system that takes account of the presence of different types of game content separately, rather than contextually processing all content together. Such an approach has important consequences for the level of the age ratings which in general are stricter for games compared to corresponding movie ratings.

Suggested amendments:

*P28 Where possible, content classifications **of product of the same** industry should be re-used **on other platforms**. An example might be of a ~~film or film trailer~~ **or a PC game in a movie theatre and on a smartphone** (assuming that the images are repeated in the re-purposed for mobile version) so that customers' experiences of the same content are consistent across **different national media platforms**.*

Active choice

The Draft Guidelines very rightly point out that parents sometimes have less understanding and knowledge of the Internet and its services than their children. They should however be aware of all risks in order to better protect their children and empower them to take action. This is the basic philosophy on which the PEGI system was built: empowering parents to become familiar with the products their children are using and thus enabling them to make informed choices on their children's behalf.

To ensure parents actively think about their child's online activities and set controls that are appropriate to that child's age and maturity it is not sufficient that these controls be easy to use as set out on page 37 of the Draft. It is of equal importance that parental controls are at a default 'OFF' position. Having filters set 'on' by default would not make parents engage, since they are presented with a simple choice of leaving the filter on or turning it off. Encouraging engagement, alongside education and awareness, is the best way of ensuring parental control functions are used to protect children.

Suggested amendments:

*P37 **Parental controls should be set at a default 'OFF' position**. When turning on Parental Controls a PIN is required to change the allowed services, which prevents children or other parties from changing your settings.*

9. Should the Guidelines distinguish more clearly between must dos and nice to haves?

For these Guidelines to be successful companies should have the highest level of flexibility in deciding how they choose to implement them in the wide range of business models as well as technological and regulatory environments that exist today. Prioritization of some of the Guidelines would not be helpful in this respect.

B. CONSIDERATIONS ON APPLYING THE GUIDELINES

10. Please share one or more examples of a policy, practice or initiative your organization is involved in that is relevant to the draft Guidelines and the topic of child online security and ICTs (links to existing material are fine). (The partner organizations may draw on this material for good practice examples of how to implement the Guidelines).

As indicated above PEGI has taken several additional steps to protect children in an online environment:

In 2005 it started developing PEGI Online with funding from the European Commission. The system was launched in 2007 and requires online game providers to indicate if their gaming environments meet requirements that are set out in the PEGI Code of Conduct.¹ These standards include, among other things, the obligation to keep websites free of illegal and offensive user-created content and undesirable links, as well as the obligation to maintain an effective protection of privacy and grief reporting. More information about PEGI Online is available [here](#).

Following the development of PEGI for Apps, PEGI has recently founded IARC (The International Age Rating Coalition) working group which includes rating boards from Europe, US, Australia and Brazil. IARC will provide for a streamlined submission process in order to simultaneously produce classifications for all participating regions. Although cultural differences may influence these ratings the system will provide a publisher with a single, robust rating solution, tailored to the needs of the local consumer. IARC is expected to be launched in 2014.

11. How might the Guidelines be helpful to you and your organization?

The Guidelines could serve as inspiration to help us develop new ideas on how we could promote and defend children's rights in the future.

12. What would be helpful to include in commentary and documentation that accompanies the final version of the Guidelines? (Select all that apply)

- **Case Studies / Good Practice Examples**
 - The business case for the Guidelines**
 - Assessment tools to measure progress**
 - Facts & Figures**
- **Glossary of Terms**
- **Other, please specify:** The PEGI Code of Conduct

¹ Please see article 9 of the annexed PEGI Code of Conduct.

C. THOUGHTS ON NEXT STEPS

15. Once the Guidelines are finalized, what steps should be taken with regard to these Guidelines? (Select all that apply):

Collect and share resources/guidance materials and tools that may help businesses/organizations with their application of the Guidelines

→ **Collect and share good practice examples illustrating action businesses/organizations can take to help with their application of the Guidelines**

Work with others to fill gaps in guidance on specific issues relating to ICTs and children (please specify any needs below)

Create an initiative around the Guidelines and their implementation

Please elaborate or indicate any other recommendations here:

D. ADDITIONAL COMMENTS AND/OR QUESTIONS Please limit your input to 500 words.

18. If you have additional comments, kindly indicate them below.

We do not have additional comments.

ANNEX

CODE OF CONDUCT FOR THE EUROPEAN INTERACTIVE SOFTWARE INDUSTRY REGARDING AGE RATING LABELLING, PROMOTION AND ADVERTISING OF INTERACTIVE SOFTWARE PRODUCTS AND MAINTENANCE OF SAFE ONLINE GAMEPLAY

Article 1: SCOPE

- 1.1 The present Code shall apply to all interactive software Products including video products, computer products and education/reference works, distributed for retail sale by all publishers or other organisations which sign an agreement with ISFE to comply with this Code.
- 1.2 This Code shall also, where practicable, cover all Products distributed electronically by whatever means, such as via the Internet or mobile telephony including on-line retailing of packaged products and on-line distribution of products which, in each case, are intended for play in territories where the PEGI System applies.
- 1.3 The rules contained in this Code shall apply to the labelling of interactive software Products, as well as to associated advertising and promotion by any means.
- 1.4 The rules contained in this Code shall, where indicated, also apply to Products which offer Online Gameplay ('Online Gameplay Environments').
- 1.5 All capitalised terms in this Code have the meanings given to them in the standard PEGI Agreement between ISFE and Users unless otherwise indicated in this Code.

Article 2: PURPOSE

This Code reflects the interactive software industry's commitment and concern both to provide information to the public on the content of interactive software products in a responsible manner and also to ensure safe online gameplay for children. This industry's contribution complements existing national laws, regulations and enforcement mechanisms.

- 2.1 Firstly, this Code is intended to provide parents and educators with objective, intelligible and reliable information regarding the minimum age for which a given product is deemed suitable with specific reference to its content. The voluntary ratings implemented under the Code in no way relate to the difficulty of an interactive software product or the level of skill required to play it.
- 2.2 Secondly, this Code is intended to ensure that all advertising, marketing and promotion of interactive software products is conducted in a responsible manner.
- 2.3 Thirdly, this Code reflects the interactive software industry's commitment not to distribute market, advertise or promote interactive software products likely to offend human decency.
- 2.4 Fourthly, this Code reflects the interactive software industry's commitment to provide a safe environment where children utilise interactive software products online.

Article 3: INSTRUMENTS

In order to fulfill the objectives spelled out in Article 2, nine principal instruments are hereby outlined:

- 3.1** The PEGI System operated by PEGI S.A. (see 3.3 below) with the assistance of the Administrator resulting in the granting of licenses to use the Logos and Descriptors. PEGI retains at all times the right to rescind or recall any Logo or Descriptor assigned to a product.
- 3.2** An Online Safety system to be known as “PEGI Online ” which shall, where practicable, apply to Products offering Online Gameplay and will result in the granting of licences to use the PEGI Online Logo.
- 3.3** PEGI S.A. (“PEGI”) a Belgian not for profit company with a social purpose and entrusted by ISFE with the day to day management, supervision and development of the PEGI and PEGI Online Systems.
- 3.4** A Management Board (“PMB”) consisting of a chairperson, the PEGI Managing Director, representatives from industry, the chairs of the PEGI Council and the Experts Group charged with giving guidance to the PEGI Managing Director on the operation and development of the PEGI and PEGI Online Systems.
- 3.5.** A Council (“PC”), Experts Group (“PEG”) and Developer Group (“PDG”) including representatives from chief stakeholders (parents, consumers associations, child psychology experts, academics, media experts and the interactive software industry - see Article 12 below) These bodies will advise on the continuing adjustment of the Code to take account of social, political, legal and technological developments. The PEG and PDG shall be in charge of considering technical developments (in their respective fields) that may impact the PEGI and PEGI Online Systems.
- 3.6** A Complaints Board (“PCB”) including, in the same manner as the PC, representatives from chief stakeholders, (see Article 13 below) and entrusted with the two following tasks:
 - handling possible complaints about the consistency of advertising, marketing and promotional activities of any User with any age rating finally attributed or likely to be attributed under the PEGI System.
 - handling conflicts about the PEGI System age ratings themselves including any User or consumer complaints about those ratings.
- 3.7.** An Enforcement Committee (“PEC”) including, in the same manner as the PC, representatives from chief stakeholders which is in charge of implementing the recommendations of the PMB, and, more generally, of seeing to the enforcement of the rules and sanctions included in the present Code, including decisions of the PCB (see Article 14 below).
- 3.8** A Legal Committee (“PLC”) in charge of securing the ongoing coherence of the PEGI System with national legal frameworks.

Article 4: PEGI's COMMITMENT TO THE CODE

PEGI hereby commits to:

- 4.1 ensure that the PEGI and PEGI Online Systems are operated as efficiently as possible by an independent administrator.
- 4.2 ensure comprehensive, thorough awareness and understanding of the Code and its purpose by all participants in the industry, including Signatories and developers, wholesalers, retailers, internet service providers, trade media and advertising companies.
- 4.3 implement and maintain the appropriate structures to carry out the tasks of interpreting and updating this Code, making it public in cooperation with national trade associations, settling disputes, and conducting studies and reports about the products concerned.
- 4.4 initiate any additional operations necessary to support the purposes of the Code.

Article 5: OBLIGATIONS OF SIGNATORIES

Signatories shall:

- 5.1 abide by all decisions made by the PCB and PEC and provide all appropriate information to the PC and PEG which oversees the implementation of this Code.
- 5.2 assist PEGI in delivering on its own commitments as stated in Article 4 above including endorsing and publicising the Code where necessary.
- 5.3 when concluding new terms and conditions of sale with distributors and wholesalers of their Product, include a term providing that those distributors and wholesalers, by way of a standard clause in their respective terms and conditions of sale with retailers (example below), recommend that those retailers and their employees, when engaged in face to face transaction with customers, ensure compliance with the PEGI Retail Code (see Annex B) and, in particular, do not sell Product to those customers in contravention of the specified PEGI age rating.

Sample Standard Clause:

'The Distributor (Wholesaler) recommends to the Retailer that they and their employees, when engaged in face to face transactions with customers, comply with the PEGI Retail Code and, in particular, do not sell Product to those customers in contravention of the specified PEGI age rating.'

- 5.4 when concluding new terms and conditions of sale with retailers of their Product recommend to those retailers, by way of a standard clause in the terms and conditions (example below), that they and their employees, when engaged in face to face transactions with customers, should comply with the PEGI Retail Code (see Annex B) and, in particular, do not sell Product to those customers in contravention of the specified PEGI age rating. Sample Standard Clause:

'The Seller recommends to the Retailer that they and their employees, when engaged in face to face transactions with customers, comply with the PEGI Retail Code and, in particular, do not sell Product to those customers in contravention of the specified PEGI age rating.'

Article 6: LEGAL AND REGULATORY ENVIRONMENT

Signatories shall ensure that the content, distribution by any means, promotion and advertising of the Products covered by this Code comply at all times with existing and future laws and regulations at EU and national level. It is therefore understood that the obligation to utilise the Code applies only as far as it does not lead to any infringement of existing or future national mandatory (governmental) rating and labelling systems applicable to interactive software made available by physical or electronic means.

Article 7: PEGI SYSTEM - AGE RATING

The main features of the PEGI System are described as follows. Their implementation shall be subject to guidelines to be enacted by the PEC and to specific agreements to be entered into by the Signatories and PEGI.

- 7.1** Prior to Product release, Signatories shall, for each product and format thereof complete an Assessment File.
- 7.2** The Assessment File shall generate an age rating Logo and the Descriptors indicating the reasons for classification of the Product in a specific age category.
- 7.3** The PEGI System age rating groups shall be divided as follows: 3, 7, 12, 16, and 18.
- 7.4** The Administrator shall review the Assessment File according to the following rules:
 - 7.4.1** The Administrator shall review all Products in full before deciding whether to approve the age rating by granting a licence to use the Logo and Descriptors except in the case of Products subject to the PEGI Express system where age ratings utilised can be verified by the Administrator after the Product is made available to the public.
 - 7.4.2** In the event that the recommendation on the appropriate age rating is different from the one determined by the submitting User, an explanation for the variation shall be provided by the Administrator. If the User does not agree with the recommendation, it may appeal to the PCB, which will make the final decision as to the appropriate age rating recommendation.
 - 7.4.3** In due course, the User will receive a license to reproduce the Logo and Descriptors corresponding to the final recommendation on the product packaging, or equivalent place immediately visible to consumers where distribution is made via electronic means.

Article 8: PEGI ONLINE SYSTEM

The main features of the PEGI Online System are described in this, and in the following, article.

- 8.1** The Administrator shall evaluate the ability of the User to comply with the commitments of the PEGI Online system described in Article 9 below in light of answers and material provided by the User as part of the PEGI System described in Article 7 above as far as Online Gameplay Environments (defined in Article 1.4 above) are concerned.

- 8.2** If the Administrator so decides, the User will be issued a licence to reproduce the PEGI Online Logo and to post it on its Online Gameplay Environments in accordance with guidelines enacted by the PEC.

Article 9: PEGI ONLINE - CONDITIONS FOR ONLINE GAMEPLAY ENVIRONMENTS

- 9.1** Rated Content; Products offering Online Gameplay Environments operated by Signatories will, where practicable, be appropriately rated under the PEGI System. This provision will not apply to game content which is posted on the Online Gameplay Environment operated by the User but which is not under the User's control, such as user-generated content.
- 9.2** Removal of Undesirable Content; Signatories shall use their best endeavours to ensure that Online Gameplay Environments are kept free of content which is illegal, offensive, racist, degrading, corrupting, threatening, obscene or might permanently impair the development of minors.

When Online Gameplay Environments also contain user generated content, Signatories shall use their best endeavours to immediately take down any such content which is illegal, offensive, racist, degrading, corrupting, threatening, obscene or might permanently impair the development of minors. Observance of all the foregoing should, where possible, also include removal of undesirable links or 'hyperlinks.'

- 9.3** Appropriate Reporting Mechanisms; Consistent with the foregoing paragraph, Signatories will ensure that appropriate reporting mechanisms are in place to allow players to notify Signatories of the existence of content such as described in the previous sub-section within any Online Gameplay Environment.
- 9.4** Chatrooms; Signatories should take reasonable precautions to ensure that Online Gameplay Environments which allow voice or video chat, protect children from access to age-inappropriate content introduced by other users.
- 9.5** Other Operators; Signatories shall use their best endeavours to ensure that operators of Online Gameplay Environments offered by Products published by the User and which are authorised by, but not under the control of, the User, abide by these rules and/or subsequently become Signatories themselves.
- 9.6** Safety Warnings; Signatories shall advise users of Online Gameplay Environments under their control of the desirability of taking occasional breaks from Online Gameplay.
- 9.7** Community Standards; Signatories shall ensure the incorporation in their terms of business with users of Online Gameplay Environments of certain provisions usually included under the heading of so called 'community standards'. These provisions will contain prohibitions against those users introducing content or indulging in online behaviour which is illegal, offensive, racist, degrading, corrupting, threatening, obscene or might permanently impair the development of minors.
- 9.8** Privacy; Any User engaging in the online collection of personal information from subscribers will maintain an effective and coherent Privacy Policy fully in accordance with all applicable European Union and national data protection laws. The Privacy Policy will encompass the responsible collection, distribution, correction, and security of the personal details of users

who shall be given full details of the User's Privacy Policy before the finalisation of any subscription to an Online Gameplay Environment. Subscribers must also be given the opportunity to comment on any perceived misuse of their personal details and therefore be fully advised as to ways, for example, of avoiding unsolicited or unwanted e-mail contact.

9.9 Protection of Minors; In keeping with one of the main objectives of both the PEGI and PEGI Online Systems, Signatories shall adhere to stringent standards ensuring the protection of children from any unsuitable content and behaviour associated with any Online Gameplay Environment offered by any Product aimed at children. These standards shall include, as appropriate;

- the publication of warnings about the supply or display online of private email addresses
- promoting responsible purchasing practices within Online Gameplay Environments where minors are concerned.

9.10 Signatories who publish Products offering Online Gameplay Environments which allow voice or video chat should take reasonable safeguards to protect children from access to age-inappropriate content introduced by other users and should also take steps to ensure that the privacy of minors is reasonably protected at all times.

Article 10: LABELLING

10.1 The PEGI Online Logo and the PEGI Logo and Descriptors shall appear on or in connection with the product in a size that permits the message to be legible and clearly visible to the consumer at the point of sale, in accordance with the templates set out in the Advertising and Labelling Guidelines as are made available by PEGI from time to time.

10.2 The same principles shall apply to the making available to the public through other means apart from sale, such as by electronic means or by rental or lending.

10.3 Signatories shall ensure that the PEGI Online Logo and the PEGI Logo and Descriptors are used in accordance with national legal requirements and that, in particular, they are not used in countries where the Product is prohibited or subject to compulsory content classification.

10.4 Signatories should use their best efforts to encourage online service providers carrying those Signatories' Products, or advertising for those Products, but not under the Signatories' control to display the ratings for those products within those online services.

10.5 The PEGI Online Logo should provide a direct hyperlink to a dedicated website where appropriate information will be given regarding the risks arising from the fact that content created in the course of gameplay may be unknown to the original publisher. Alternatively and where appropriate, POSC Signatories shall display the URL associated with the said dedicated website in a prominent position visible to users of Online Gameplay Environments.

Article 11: ADVERTISING AND PROMOTION

11.1 Advertising materials shall follow the PEGI Labeling and Advertising Guidelines and in particular show the age rating granted to the Product concerned or, should the license be

pending, show the final age rating expected, taking the higher age category as a reference in case of doubt.

11.2 The design of print, broadcast and on-line advertising of Products shall comply with laws and regulations applicable to the age category concerned.

11.3 More generally, the following principles shall apply:

- i. All advertisements shall accurately reflect, to the best extent possible both the nature and content of the Product publicized and the rating associated with that Product. Advertisements should not mislead consumers as to the Product's true character.
- ii. Advertisements shall not in any way exploit a PEGI System rating of a Product as such rating is intended as a recommendation only.
- iii. All advertisements shall be created with a sense of responsibility towards the public.
- iv. All advertisements shall aim to avoid content that is likely to cause serious or widespread offence to the average consumer targeted.
- v. Signatories shall not specifically target advertising for Products rated 16 or 18 to consumers for whom the product is not rated as appropriate.
- vi. Signatories shall ensure that ancillary or separate products that are being sold or promoted in association with a core Product contain content that is appropriate for the audience for which the core Product is intended.
- vii. Signatories shall not enter into promotion of Products rated 16 or 18 with another company's brands, products, or events, if it is reasonable to believe that such company's products, brands or events will reach consumers for whom the Product is not rated as appropriate.
- viii. Signatories shall inform the public by means of a general statement of the existence of sponsorship(s) and/or the existence of 'product placement(s) associated with any Product. In this regard use of a trade mark or brand solely to provide authenticity to the Product environment shall not be held to constitute either product placement or sponsorship provided that license holders do not receive payment in exchange for such use.

11.4 The PEGI System shall be open to magazine Signatories for the age rating of compact discs and/or DVDs attached to such magazines (cover discs) when they contain excerpts from interactive software products and/or audiovisual material related to such products provided that those products are published by other Signatories.

Article 12: PEGI COUNCIL, LEGAL COMMITTEE, EXPERTS AND DEVELOPER GROUP

The PEGI Council ("PC"), PEGI Experts Group ("PEG"), PEGI Developer Group ("PDG") and PEGI Legal Committee ("PLC") shall play key roles in ensuring that the Code evolves in line with all relevant social, political, legal and technological developments.

The PC comprises:

- national representatives from the countries that use the PEGI System,
- representatives from PEGI and the Administrator,
- other members as deemed appropriate by agreement between the PMB and the PC.

The PEG comprises:

- parents and consumer organisation representatives,
- child psychology experts,
- media experts,

- age rating experts,
- lawyers expert in European minor protection laws,
- videogame industry experts,
- academics,
- other experts in their field as considered appropriate and necessary.

The PDG comprises:

- developers of video games of the type rated or potentially rated by PEGI
- other videogame industry experts,
- other experts in their field as considered appropriate and necessary.

The PLC comprises:

- lawyers expert in European minor protection laws,
- videogame industry experts,
- academics,
- other experts in their field as considered appropriate and necessary.

Article 13: COMPLAINTS BOARD

An independent Complaints Board (“PCB”) is established with regard to this Code of Conduct with the following tasks in mind:

- handling possible complaints about the consistency of advertising, marketing and promotional activities of any User with the age rating finally attributed or likely to be attributed under the PEGI System;
- handling possible rating conflicts between Signatories and the PEGI System,
- processing age rating complaints by consumers.

The PCB will draw on similar expertise to the PC and PEG.

Article 14 ENFORCEMENT COMMITTEE

Compliance with this Code, the provision of advice to all companies deciding to subscribe to the Code as well as to its Administrator and the possible imposition of sanctions on Signatories infringing the Code, shall be entrusted to the PEGI Enforcement Committee (“PEC”) which shall be made up an equal number of carefully selected representatives of the industry and PC members, as nominated by the PMB.

Article 15: INFRINGEMENT, CORRECTIVE ACTION, SANCTIONS AND ARBITRATION

15.1 In addition to infringements identified by third parties or the Administrator, the PEC and the PCB shall jointly identify and document any possible wrongful application and/or breaches of the Code. Reasonable, non-arbitrary discretion will be used in examining all relevant facts to enable a determination of appropriate sanctions.

15.2 The PEC and PCB may suggest corrective action commensurate to the violation, to be implemented immediately. This corrective action may include:

- re-labelling of packaging,

- revocation and removal of the Logos and Descriptors,
- recall of inaccurately labeled product,
- modification of advertisements both on and offline.

15.3 Failure to abide by the terms of this Code, including the failure to institute the corrective action referred to at 15.2. above will expose offenders to the imposition of sanctions by the PEC as set out in Annex A including, but not limited to, the following:

- temporary suspension of product from the PEGI and/or PEGI Online Systems,
- mandatory modification of any associated advertisements both on and off-line,
- disqualification of product from the PEGI and/or PEGI Online Systems for a set period,
- fines of up to € 500,000 per violation depending on the gravity thereof and the failure to take appropriate remedial action.

Violations warranting these sanctions include

- presenting misleading or incomplete material to support the original application for a PEGI rating license,
- failure to submit changes, updates, or modifications that affect the ability of the User to comply with its obligations under the Codes in a timely fashion,
- self-application or flawed display of the Logos and Descriptors by a User,
- unlicensed or inappropriate display of the PEGI Online Logo.
- inappropriately targeted marketing,
- more generally, all steps or omissions that fail to show a sense of responsibility towards the general public. In this regard the deliberate failure by a User to disclose relevant content which is discovered after Logos and Descriptors have been assigned shall be material grounds for consideration of high level sanctions by the PEC.
- those steps and omissions set out in Annex A.

15.4 The PEC shall be able to take into account on the application of a User, or otherwise, any or all extenuating circumstances justifying moderation of any sanction to be applied.

15.5 Any PEC decision imposing a sanction on a User can be referred by that User, within thirty days of the date of the PEC decision, to final and binding arbitration by CEPANI, the Belgian Centre for Arbitration. Arbitration shall be the sole method available to challenge any decision of the PEC. Imposition of any sanction shall await the decision of CEPANI.

ANNEX A

BREACHES OF THE CODE OF CONDUCT AND RELATED SANCTIONS

LEVEL I. VERY SERIOUS

Failure to Disclose Significant Content

This can be defined as a deliberate failure to disclose, or gross negligence* leading to a failure to disclose significant aspects of a product which would have led to the assignment of a higher age rating to that product than the rating actually assigned to and displayed on the product under the PEGI rating process and the targeting of advertising for a product at consumers, especially children, for whom the product is not rated as appropriate.

The fact that this behaviour causes significant damage both to the integrity of the PEGI System and the public's use of or trust in the system is reflected in the sanctions set out below.

SANCTIONS

First Breach; 100,000 to 250,000 Euro Fine

Second Breach; 250,000 to 500,000 Euro Fine

Third Breach; 500,000 Euro Fine

Additionally, a period of disqualification from the PEGI System may also be imposed the duration of which will depend on the severity of the breach.

In all the above cases the PEC may also elect to impose sanctions including the removal of the product from the market in order to resticker all existing product in line with the appropriate age rating.

* In case of doubt 'gross negligence' will not be held to have taken place;

- (i) where a genuine mistake has been made by the person assessing the content of a product and/or
- (ii) where there was a subsequent genuine attempt made by that person to correct the assessment as soon as possible after becoming aware of the mistake

LEVEL II. SERIOUS

These include the following:

- Negligence leading to a failure to disclose significant aspects of a product which would have led to the assignment of a higher age rating to that product than the rating actually displayed on the product when sold to the public. 'Negligence' will be held to exist where the content has been assessed but, through error or omission, content significant to the rating assigned has not been taken into account.
- Failure to comply with a sanction imposed by the PEC

- Failure to respond to an inquiry by the Administrator or the PEC
- Failure to submit changes, updates, or modifications that materially concern the age rating assigned to a product and are made after the product has received that rating.
- Using PEGI logo or content descriptors which have not been assigned by the Administrator by way of licence.
- Failure to display a PEGI age rating or display of an incorrect PEGI rating
- Failure to display a PEGI content descriptor or the display of incorrect content descriptor
- Presenting deliberately misleading or incomplete material to support an original application for a PEGI Online license
- Unlicensed display of the PEGI Online Logo
- Using advertising which is inconsistent with a PEGI rating (not 'very' serious) or which exploits a PEGI rating by, for example, drawing attention to an 18 rating as a device to encourage sales of the product concerned.
- Using advertising which is offensive or which otherwise does not reflect a sense of responsibility towards the public or to the PEGI System.

SANCTIONS

First Breach; 5,000 to 20,000 Euro Fine

Second Breach; 20,000 to 50,000 Euro Fine

Third Breach; 75,000 Euro Fine

In all the above cases the PEC may also elect to impose sanctions either of removal of the product from the market or restickering or relabelling of all existing product in line with the appropriate age rating.

LEVEL III ADMINISTRATIVE/OPERATIONAL

- Failure to display correct PEGI rating on Demo or Trailer
- Wilful failure to submit complete and accurate submission materials, when discovered before release of the product.
- Negligent supply of incomplete, inaccurate or inconsistent content in submission materials leading to rating errors which are discovered before release of the product.

SANCTIONS

First Breach; up to 5,000 Euro Fine

Second Breach; 5,000 to 7,500 Euro Fine

Third Breach; 10,000 Euro Fine and/or a period of disqualification from the PEGI Rating System depending on the severity of the breach

ALL LEVELS - RETRAINING OF CODERS

In all levels and cases of breaches of the Code of Conduct the imposition of a sanction requiring the retraining by the Administrator of all PEGI Coders employed by that company shall be at the discretion of the PEC.

ALL LEVELS – SYSTEMATIC SCREENING OF FUTURE PRODUCT

In all levels and cases of breaches of the Code of Conduct the PEC may require systematic screening of product to be released in the future for a period to be determined and also the payment of any additional costs caused by this measure.

ALL LEVELS - BREACHES AND TIME LIMITS

In the case of sanctions to be applied the following Time Limits shall be held relevant in determining whether a company under sanction shall be considered by the PEC to be of past good conduct;

LEVEL I All breaches shall stay on a company's PEGI record for a period of **three** years from the date that the related sanctions were imposed

LEVEL II All breaches shall stay on a company's PEGI record for a period of **two** years from the date that the related sanctions were imposed

LEVEL III All breaches shall stay on a company's PEGI record for a period of **one** year from the date that the related sanctions were imposed

After the expiration of the appropriate time limits as set out above the PEGI record of the offending company shall be considered free of any breach of Code of Conduct. However the PEC when considering sanctions for a breach at any one Level shall be entitled to take into account other breaches at all other Levels and can impose any discretionary penalties available under the Code for breaches at the Level under consideration.

ALL LEVELS - PUBLICATION OF DECISIONS

The PEC reserves the right to publicise details of all and any sanctions imposed for breaches of the Code of Conduct.

ANNEX B

PEGI RETAIL CODE

The Code applies to retailers in the European Economic Area territories and in Switzerland who have signed this Code and covers computer and video products that have been rated under the Pan European Game Information (PEGI) rating system. Retailers adopting this Code must use best efforts to comply with the policies outlined below when engaged in face to face transactions with customers.

Each User of this Code agrees to:

1. Train all appropriate managers, clerks and/or other employees so that they are familiar with the PEGI age ratings system and the policies adopted in this Code;
2. Display in a conspicuous location where product is displayed signage describing the PEGI age rating system;
3. Treat the PEGI age recommendations as mandatory and use reasonable endeavours to ensure that computer and video games are not supplied to persons below the specified age;
4. Assess existing internal policies, practices and procedures on ratings education and policy enforcement and make improvements where necessary to maintain compliance with the Code;
5. Clearly and conspicuously display rating symbols and, where feasible, content descriptors, in all advertising, marketing and promotion of games;
6. Where practical, endeavour to keep a refusals record when sales of PEGI labelled products are refused to customers of inappropriate age;
7. Respond to customer complaints about non-compliance with the Code and keep a record of such complaints;
8. Advise customers to submit a complaint at the PEGI website (www.pegi.info) when a complaint cannot be resolved at the store level;
9. Regularly share information on best practices to further develop and improve compliance with this Code;
10. Accept that, if a User has failed to fulfil the letter and spirit of the Code, PEGI may provide notice to the User summarizing the deficiency and provide a period of 30 days to improve, after which time PEGI may determine that the User has not made sufficient improvement and exclude him from the Code;
11. Be entitled to terminate its participation in the Code at its sole discretion by providing written notice of such termination to PEGI;