

Independent Mobile Classification Body



IMCB Guide and Classification Framework for UK Mobile Operator Commercial Content Services

First Edition
February 2005

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Introduction

General overview of IMCB

Background to IMCB and the Mobile Operator Code of Practice for New Content Services

On 19th January 2004 the UK Mobile Operators¹ (Vodafone, Orange, T-Mobile, 02, 3 and Virgin) announced a joint Code of Practice for the self-regulation of new forms of content on mobile phones. The six Mobile Operators have all signed up to the code designed to facilitate the responsible use of new mobile phone services whilst safeguarding children from unsuitable content on their mobile phones. Mobile technology advances mean that phones are being developed with enhanced features, such as colour screens, video and picture messaging allowing access to an increasing variety of services. Whilst many of the Commercial Content services which are delivered using this new technology will be suitable for all ages, some of the new services may, however, contain content which is only suitable for customers who are over 18 years of age. The Mobile Operators recognise that this may cause concern to parents whose children have mobile phones and have therefore worked together to develop the Code of Practice. This is intended to help protect children and give parents and carers the necessary information and tools to protect their children. A copy of the Code of Practice for New Content Services on mobile devices is available at www.imcb.org.uk.

With respect to Commercial Content, the Mobile Operators specifically committed to appointing an independent classification body to provide a Framework for classifying Commercial Content that is only suitable for customers 18 years and older. IMCB is the body chosen by the Mobile Operators to perform this role.

Terms of reference

IMCB is the Independent Mobile Classification Body responsible for setting a Classification Framework for certain new forms of mobile Commercial Content. IMCB Ltd is a not-for-profit company formed as a subsidiary of ICSTIS – the UK premium rate regulator – and Board members of IMCB have been drawn from the ICSTIS Committee. A multi-disciplinary team supports the Board. Premium Rate Services continue to be regulated by ICSTIS even where they are also Commercial Content services and need to be classified in accordance with this document.

As a body independent of the Mobile Operators, IMCB will:

- ❑ Provide and maintain the Classification Framework after consultation with the Mobile Operators and other stakeholders;
- ❑ Review and amend the Classification Framework after consulting the Mobile Operators and other stakeholders in light of changes in the law or changes in society's expectations. Evidence for this may come from consumer and public complaints, changes in standards by the Agreed Bodies or research;
- ❑ Publish information about the role and work of IMCB through an IMCB website and other appropriate means and, as part of this activity, IMCB will publish an annual report and summary of accounts;
- ❑ Deal with all complaints and disputes about the misclassification of Commercial Content in accordance with the complaints and dispute procedures set out in this document;
- ❑ Consult with the Mobile Operators over the appointment of new members to the IMCB Board.

¹ Any words used with capital letters denotes a defined term and is listed in the Appendix to this document

Remit

IMCB's remit is to determine a Classification Framework for Commercial Content against which Content Providers can self-classify their own content (whether provided directly or indirectly) as 18 where appropriate. Such content will be placed behind Access Controls so that, when combined with age verification arrangements, it is only available to those identified as 18 or over.

Commercial Content services which fall within IMCB's remit and the Classification Framework include:

- ❑ Still pictures
- ❑ Video and audiovisual material
- ❑ Mobile games, including java-based games

Services which fall outside IMCB's remit and the Classification Framework are:

- ❑ Text, audio and voice-only services, including where delivered as a Premium Rate Service and regulated by ICSTIS
- ❑ Gambling services (because they are age restricted by UK legislation)
- ❑ Moderated and unmoderated chat rooms (commercial unmoderated chat rooms will only be accessible by those 18 and over)
- ❑ Location-Based Services (which are the subject of a separate Mobile Operator code of practice available at www.imcb.org.uk)
- ❑ Content generated by subscribers, including web logs
- ❑ Content accessed via the internet or WAP where the Mobile Operator is providing connectivity only

Classification - Overview

The classification arrangements being put in place by IMCB will provide a common standard against which Content Providers can self-classify certain of their Commercial Content as 18. The Mobile Operators will be responsible for addressing instances of misclassification of Commercial Content through their own contractual arrangements with Content Providers.

The approach being adopted is that Commercial Content deemed suitable only for those 18 and over by Content Providers by reference to the Classification Framework set out in this document will be inaccessible to those under 18. Commercial Content that is not rated as 18 is Not Classified and will be unrestricted for the purposes of this document and IMCB provides no Classification Framework for unrestricted content.

This document has been created on the basis of research and consultations with a number of stakeholders. At a later stage IMCB intends to engage stakeholders in a review of this document and will consider further the requirements set out in it. The review will be undertaken in line with IMCB's remit described above.

The Internet

Content accessible through mobile devices available on the Internet falls outside of the remit of IMCB and these classification arrangements but the Mobile Operators have committed to offering filter solutions to parents and carers in order to help to protect their children. The Mobile Operators have also committed to providing advice to all customers on the nature of these new services and on ways in which they can help to protect themselves and their children. Some of the literature that provides this advice is available at IMCB's website – www.imcb.org.uk.

Funding

IMCB is funded by the Mobile Operators under a mutually agreed formula and in a way that does not fetter its independence. The funding for IMCB is wholly separate from that of ICSTIS. Summary accounts for IMCB will be published in IMCB's Annual Report.

Classification advice and general enquiries

IMCB provides a non-binding classification advice service for Content Providers who require advice on whether any particular content should be rated as 18 under the Classification Framework. Where there is doubt, however, IMCB would generally suggest caution. IMCB may charge for its advice in order to recover the costs associated with providing it.

Tel: 020 7357 8512

E-Mail: advice@imcb.org.uk

Contact details

IMCB
1st Floor, Clove Building
4 Maguire Street
London SE1 2NQ

Tel: 020 7357 8512

Fax: 020 7940 7456

E-mail: staff@imcb.org.uk

Media Enquiries: 020 7940 7474

E-mail: pressoffice@imcb.org.uk

Web: www.imcb.org.uk

Section One Classification Framework - General

1.1 Classification Framework Structure

The Classification Framework has been drawn up taking account of the need to be consistent, as far as is possible, with standards for other media produced by the Agreed Bodies such as the British Board of Film Classification (BBFC) and Interactive Software Federation of Europe (IFSE)/ Pan-European Game Information (PEGI) for Mobile Games.

The Classification Framework has been designed to be flexible enough to accommodate the widest possible range of Commercial Content available in the market place, where this falls within the remit of IMCB. However, the Classification Framework cannot address itself to every specific piece of Commercial Content that might become available at any one time. The specific requirements and examples described in the numbered sub-sections of Section 2 are therefore not exhaustive but instead intended as an indication of the types of content that, under the Classification Framework, should be rated as 18. Content Providers should interpret these sub-sections in terms of the spirit of what is being sought. When self-classifying their content, Content Providers should also have regard to the context in which the particular material is included and use the Classification Framework as a guide to assist them.

1.2 Scope of the Classification Framework

The Classification Framework only applies to Commercial Content provided to UK customers of UK Mobile Operators. The Classification Framework applies regardless of whether the Content Provider is based within or outside the United Kingdom. It does not apply to locally provided services accessed whilst UK customers are “roaming” overseas; nor does it apply to overseas customers “roaming” in the UK.

1.3 Relationship to other bodies

If the provision of Commercial Content is by means of a Premium Rate Service it must also comply with the code of practice issued and enforced by ICSTIS.

If the Commercial Content is to be distributed over other platforms, such as video or through a games console, and requires classification by an Agreed Body, additional classification must also be obtained.

1.4 Legality

Content Providers have responsibility to ensure that the Commercial Content they are directly or indirectly providing is not unlawful or illegal.

1.5 Further information

As is made clear in the Classification – Overview, the arrangements put in place will mean that Commercial Content not classified as 18 is unrestricted for the purposes of this Framework. Some parents and carers may well consider that not all material which is unrestricted for the purposes of this Framework is suitable for everyone, and in particular younger children. However, nothing in the Code of Practice for New Content Services prevents Mobile Operators, and by extension Content Providers, from providing further information or advice about the age range for which the particular Commercial Content was designed.

We recognise that parents have the main responsibility for making sure that their children are properly educated about mobile phone technology. This responsibility is supported by the Mobile Operators through their commitment to provide advice to customers on the nature and use of new mobile devices and services. To this end, they support activities designed to improve the knowledge of consumers, including parents and carers, such as the “Be Aware” leaflet produced jointly by the Mobile Operators as a teacher’s resource pack for school children.

Section Two Specific Classification Framework requirements

In addition to the general guidance and provisions relating to legality contained in Section 1 the following requirements shall apply to all still pictures, video and audiovisual Commercial Content, including mobile games.

Where Commercial Content contains any content described in any of the sub-sections below it must be rated as 18 for the purposes of this Classification Framework. As a general guide it should be noted that if the content in question would be likely to be rated as 18 by an Agreed Body if it was relevant to that body, then it should be rated as 18 under this Classification Framework. In addition, the context and style in which the content is being presented, whether as a still picture or a video clip, should always be taken into account. Humorous content, such as violence or combat techniques in a children's cartoon, may therefore be acceptable.

2.1 Themes

No theme is specifically prohibited though these may be subject to other legal requirements. Content must not actively promote or encourage activities that are legally restricted for those under 18 such as drinking alcohol or gambling.

2.2 Language

Frequent and repetitive use of the strongest foul language.

2.3 Sex

Actual or realistic depictions of sexual activity, for example,

- ❑ Real or simulated sexual intercourse.
- ❑ Depiction of sexual activity involving devices such as sex toys.
- ❑ Sexual activity with visible pubic areas and/or genitals or including threats of sexual violence such as rape.

Note, however, that material which genuinely seeks to inform and educate such as in matters of sexuality, safe sex and health and where explicit images are the minimum necessary to illustrate and educate in a responsible manner may be permissible.

2.4 Nudity

Nudity where depicting pubic area and/or genitals (unless it is material which genuinely seeks to inform and educate such as in matters of sexuality, safe sex and health and where explicit images are kept to the minimum necessary to illustrate and educate in a responsible manner).

2.5 Violence

Graphic violence which in particular dwells on the infliction of pain, injuries or scenes of sexual violence. ***In respect of mobile games in particular:***

Gross violence towards realistic humans or animals such as scenes of dismemberment, torture, massive blood and gore, sadism and other types of excessive violence.

Graphic, detailed and sustained violence towards realistic humans and animals or violence towards vulnerable or defenceless humans.

2.6 Drugs

Depictions which promote or encourage illegal drug taking or which provide instructive details as to illegal drug taking.

2.7 Horror

Any depiction of sustained or detailed inflictions of pain or injury including anything which involves sadism, cruelty or induces an unacceptable sense of fear or anxiety.

2.8 Imitable techniques

Dangerous combat techniques such as ear-claps, head-butts and blows to the neck or any emphasis on the use of easily accessible lethal weapons, for example knives.

Detailed descriptions of techniques that could be used in a criminal offence.

Section Three Complaints and dispute procedures

Consumers

1. If you are a consumer you can make a complaint if you believe that an item of Commercial Content should have been classified as 18.
2. In order to complain you must first contact your Mobile Operator and explain the nature of your complaint. (Contact details can be found at www.imcb.org.uk or click here.)
3. On receiving your complaint your Mobile Operator has 28 days to state whether it agrees that the Commercial Content you complained about should have been classified as 18.
4. Your Mobile Operator will contact you directly to advise you as to its response to your complaint.
5. If your Mobile Operator does not reply to you within 28 days from the date you made your complaint or does not agree that the classification was incorrect you can make a formal complaint to IMCB.
6. To contact IMCB either go to the website at www.imcb.org.uk or write to them at:

IMCB
1st Floor, Clove Building
Maguire Street
London SE1 2NQ

Content Providers

7. If a Mobile Operator decides that content you have provided should have been classified as 18 (whether or not there has been a complaint about it) and you disagree with this decision then you can, within 28 days of hearing of this decision, make a complaint to IMCB.
8. Complaints must be made either through the IMCB website or in writing to the above address.

How IMCB deals with all valid complaints

9. On receiving a complaint the matter is considered by an IMCB board member. The board member will ask for information from all relevant parties and any other information needed to determine the case and state the time in which this should be received, which will not be longer than 28 days.
10. Once all relevant information has been received, a panel of the IMCB board ('the Panel') will consider the matter and make its decision ensuring that everybody involved has had an opportunity to respond to all the points raised.

11. Any party can request an oral hearing. If any of the parties does make such a request the Panel will consider at its discretion whether an oral hearing should be held. Such a hearing will normally be held within 28 days of that decision under the control of the Chairman of the Panel and will be held in private unless the Panel decides otherwise.
12. However the matter is dealt with by the Panel, it will provide its decision in writing to all the parties within 28 days, and its decision will be published on IMCB's website.
13. The Panel does not have powers to make any order for costs of the proceedings.

Note: Full details can be obtained from IMCB.

Section Four Independent appeals arrangements for Content Providers and Mobile Operators

Classification Framework Appeals Body (“CFAB”)

1. CFAB is a body of persons independent of IMCB appointed to hear appeals against decisions made by IMCB under the IMCB Complaints and Dispute Procedures. The Chairman is a qualified solicitor or barrister of not less than 10 years standing.
2. An appeal may be made on the following grounds:
 - a. the disputed decision was based on an error of fact;
 - b. the disputed decision was wrong in law or;
 - c. IMCB exercised its discretion incorrectly in reaching its decision.
3. An appeal may be commenced by either a dissatisfied Content Provider or Mobile Operator lodging with the Clerk written notification of intention to appeal within 28 days of the decision of IMCB. Attached to the notification must be:
 - a. the written determination of IMCB;
 - b. details of the service in question; and
 - c. notice of appeal setting out the grounds upon which the appeal is made and the facts and matters on which it is based.

Appeals Process

4. The Chairman may convene a conference of relevant parties in order to give appropriate directions for the preparation of the matter for consideration at the appeal.
5. If any of the parties requests an oral hearing then the Chairman will consider that request and may or may not decide to hold an oral hearing entirely at his discretion. If there is to be an oral hearing it would normally take place within 28 days of the decision that there should be such a hearing. If there is no oral hearing then CFAB will reach a decision on the matter on the basis of the papers before it once it is satisfied that it has all relevant information available and that any relevant parties have the opportunity to understand and respond to any relevant case made by another party.
6. There are particular provisions concerning the process leading to determination of the appeal in respect of witness statements, time limits and other relevant matters. There are also specific provisions relating to the conduct of any appeal hearing.
7. The CFAB does not have power to make any order as to costs of the appeal.
8. Within 28 days of an oral hearing, or otherwise as soon as is reasonably practicable, the written decision of CFAB will be provided to the parties and will be published on the IMCB website.

Note: Full details for CFAB appeals will be provided to all relevant parties on commencement of an appeal, or will be provided on request.

Appendix

Definitions used in the Classification Framework document

The following definitions apply in this document:

“Access Controls” are methods of preventing unrestricted access to content, including barring, PIN controlled access and subscription-only services

“Agreed Bodies” are the British Board of Film Classification (BBFC), Ofcom, Video Standards Council, Newspaper Publishers Association, Entertainment Leisure Software Publishers Association (ELSPA), Interactive Software Federation of Europe (IFSE)/Pan-European Game Information (PEGI)

“Chairman of CFAB” is the person being a qualified solicitor or barrister of not less than ten years’ standing appointed to be Chairman of the Classification Framework Appeals Body

“Classification Framework” is contained within sections 1 and 2 of this a document, is produced by IMCB and sets out the criteria against which Content Providers need to classify their Commercial Content as 18

“Classification Framework Appeals Body” (CFAB) is a body of persons independent of IMCB appointed to hear appeals against decisions made by IMCB under the complaints and dispute procedures (section three)

“Code of Practice for New Content Services” is the code of practice first issued by the Mobile Operators in January 2004 setting out the Mobile Operator obligations to their customers with regard to new forms of content services

“Commercial Content” means content provided by Content Providers to their mobile customers. Mobile Operators act as the delivery and access provider and thus exercise an element of commercial control over the content delivered. Commercial Content includes pictures, video clips, Mobile Games, music, sounds and experiences such as gambling. It does not include content accessed via the Internet – where Mobile Operators are providing only connectivity

“Content Provider” means a Mobile Operator or a provider having a contractual relationship with a Mobile Operator, supplying Commercial Content to customers through a mobile device

“ICSTIS” is the Independent Committee for the Supervision of Standards of Telephone Information Services – the industry funded regulator for Premium Rate Services

“Mobile Operator” is a telecommunications network provider who has subscribed to the Code of Practice for New Content Services – at the release of this version they are 02, Orange, T-Mobile, Virgin Mobile, Vodafone and 3

“Not-Classified” is content for which no classification has been determined by IMCB.

“Premium Rate Service” is as defined in the code of practice issued from time to time by ICSTIS (currently 10th Edition)

18 is any content that is deemed suitable for persons only 18 years or older

“WAP” is wireless application protocol and is a carrier-independent, transaction-orientated protocol for wireless data networks