

**33<sup>RD</sup> MEETING**

**9, 10, 17 NOVEMBER 2000**

**23-33 MARY STREET  
SURRY HILLS NSW**

**8 DECEMBER 2000 (BY TELECONFERENCE)**

PRESENT: Ms Barbara Biggins (Convenor)  
Mr Jonathan O’Dea (Deputy Convenor)  
Ms Joan Yardley  
Ms Glenda Banks

APPLICANT: AXIS, a Division of Adultshop.com Limited

BUSINESS: To review the decision of the Classification Board to assign the classification RC (Refused Classification) under the *Classification (Publications, Films and Computer Games) Act 1995* to the film *The Butt Row Series – White Men Can’t Iron - Butt Their Putters Sure Work* (said to be *White Men Can’t Iron...on Butt Row*).

**DECISION AND REASONS FOR DECISION**

1. Decision

The Classification Review Board decided to confirm the decision of the Classification Board to classify the film *White Men Can’t Iron - Butt Their Putters Sure Work* RC.

2. Legislative Provisions

The *Classification (Publications, Films and Computer Games) Act 1995* (the Act) governs the classification of films and the review of classification decisions. The Act provides that films be classified in

accordance with the National Classification Code and the classification guidelines. Relevantly, the National Classification Code (the Code) in paragraph 1. of the Table under the heading “Films” provides that films that “depict, express or otherwise deal with matters of sex, drug misuse or addiction, crime, cruelty, violence or revolting or abhorrent phenomena in such a way that they offend against the standards of morality, decency and propriety generally accepted by reasonable adults to the extent that they should not be classified” should be classified “RC.”

Further, the Code provides that films that

a) contain real depictions of actual sexual activity between consenting adults in which there is no violence, sexual violence, sexualised violence, coercion, sexually assaultive language, or fetishes or depictions which purposefully demean anyone involved in that activity for the enjoyment of viewers, in a way that is likely to cause offence to a reasonable adult;

and

b) are unsuitable for a minor to see

may be classified “X”.

In addition, the *Guidelines for the classification of films and videotapes (Amendment No. 3, 18 September 2000)* provide, in part that, “No depiction of violence, sexual violence, sexualised violence or coercion is allowed in the category. It does not allow sexually assaultive language. Nor does it allow consensual depictions, which purposefully demean anyone involved in that activity for the enjoyment of viewers. Fetishes such as body piercing, application of substances such as candle wax, ‘golden showers’, bondage, spanking or fisting are not permitted.”

### 3. Procedure

3.1 Four members of the Review Board viewed the film at its meeting on 9-10 November 2000.

### 4. Matters Taken into Account

In reaching its decision the Review Board had regard to the following:

- (a) the applicant’s Application for Review
- (b) the film *White Men Can’t Iron - Butt Their Putters Sure – Work*
- (c) written and oral arguments made by Ms Elvis Caneers-Barnes and Mr John Davey on behalf of the applicant
- (d) the relevant provisions in the Act

- (e) the relevant provisions in the National Classification Code as amended in accordance with section 6 of the Act and endorsed by Censorship Ministers
- (f) the current Classification Guidelines for the classification of Films and Videotapes determined under section 12 of the Act.

5. Findings on material questions of fact

5.1 The film contains a series of unrelated scenarios containing real depictions of actual sexual activity.

5.2 The Review Board considered the scenes cited by the Classification Board as leading to an RC classification. These included 5 mins (cameraman holding camera has penis smacked by female partner), and 13 mins (female kneeling in front of male smacks and spits at his penis a number of times).

5.3 The Review Board found that the scene at 5 minutes did not constitute a depiction of a fetish such as spanking, but was rather a depiction of playful smacks as a prelude to other sexual acts.

5.4 However, the Review Board found that the scene at 13 minutes constituted a depiction of a fetish such as spanking.

The recently revised Guidelines for films prohibit depictions of fetishes such as spanking in the X category. Accordingly, the Review Board found that the film should be classified RC Refused Classification.

6. Reasons for the Decision

6.1 The Review Board based its decision to confirm the Classification Board's decision to classify the film "RC" on its content as described in 5.1, 5.2 and 5.4 above

6.2 To aid it in its determination as to whether certain depictions constituted a "a fetish such as spanking" the Review Board examined the intent of the Code and Guidelines in this regard.

6.3 The Review Board found that while some "fetishes" listed in the Guidelines, such as the application of candlewax, golden showers, bondage and fisting can be fairly easily recognised, the same cannot be said of "fetishes such as spanking". The Review Board saw a potential distinction between acts of spanking or smacking and "a fetish such as spanking".

6.4 The definition in the glossary to the Guidelines provides that a fetish is "an object, an action, or a non sexual part of the body which gives sexual gratification". This definition also gives rise to problems of interpretation, viz there are many actions which give sexual gratification but which would not usually be deemed to be "fetishes"- such as kissing, and playful slapping or smacking.

- 6.5 The Review Board looked at the Macquarie Dictionary (3<sup>rd</sup> ed) for a definition of ‘spanking’. It found that “spanking” means to strike (quickly and vigorously) with an open hand as a punishment. “Smacking” is to strike smartly or forcibly with an open hand, or a smart resounding blow.
- 6.6 The Review Board found that a common characteristic of the list of "fetishes such as ...." in the Guidelines, and which arise from the Code, was that these either demean, or cause harm or pain, in a sexual context, and for sexual gratification.
- 6.7 Using this analysis, the Review Board observed that the depiction at 5 mins, contained no elements of a portrayal that was demeaning to the participants for the enjoyment of viewers (in the sense used in the Code and Guidelines). Further, the playful smacks did not contain elements of punishment. As a consequence, the Review Board concluded that the behaviour depicted was that of smacking to promote sexual excitement, and there were no indicators that this was a depiction of “a fetish such as spanking”.
- 6.8 In the scene at 13 mins, the male asks the female to smack his penis. This is followed by a sequence in which the female with an angry look on her face, smacks and spits on his penis in a derogatory fashion and snarls the words “your fuckin’cock”.

The Review Board found that the female’s actions had sadistic overtones and had a severity and intensity that appeared to contribute to the sexual gratification from the act.

The Review Board therefore took the view that this depiction was one of spanking as there were elements of punishment in the actions. It was also an action from which sexual gratification was gained. The Review Board therefore concluded that this was a depiction of a fetish such as spanking.

- 6.9 The applicant argued in part, that the Classification Board failed to
- (a) take sufficient account of the conventions of adult films which focus on sexual gratification which does not necessarily constitute fetish behaviour.
  - (b) take full account of the wording of the Act and the National Classification Code.
  - (c) Reasonably apply the Film Classification Guidelines as they relate to depictions of fetish activity.

The Review Board found that these arguments had some validity in the first scene at 5mins, but not in regard to the scene at 13mins.

6.10 The Review Board therefore concluded that as the film contained real depictions of actual sexual activity between consenting adults in a way that is likely to cause offence to a reasonable adult, and also a depiction of a fetish such as spanking, it could not be classified X. It therefore classified the film “RC “ Refused Classification.

7. Summary

7.1 The Review Board’s decision is to confirm the decision of the Classification Board to classify the film *White Men Can’t Iron - Butt Their Putters Sure Work* “RC.”

This decision is taken after full consideration of the applicant’s submission, and after assessing the film as a whole against the relevant legislative criteria, including those contained in the Code, and in the current Classification Guidelines for Films and Videotapes determined under Section 12 of the Act.

Barbara Biggins  
Convenor