



Australian Government
Classification Review Board

22 June 2005

23-33 MARY STREET
SURRY HILLS, NSW

MEMBERS: Ms Maureen Shelley (Convenor)
The Hon Trevor Griffin (Deputy Convenor)
Mrs Gillian Groom

APPLICANT: Madman Entertainment Pty Ltd, original applicant for classification, represented by: Ms Raena Lea-Shannon of M Frankel & Co. Solicitors; Mr Doug Stewart, Expert Film Classification Witness; Dr Brent Waters, Psychiatrist Expert Witness on Classification and Children; Mr Paul Tonta, Theatrical Co-ordinator Madman Cinema.

BUSINESS: To review the Classification Board's decision to classify the film *Palindromes* (the film) R18+ with the consumer advice 'Adult Themes'.

DECISION AND REASONS FOR DECISION

1. Decision

The Classification Review Board (the Review Board) unanimously classified the film R18+, with the consumer advice "Abortion and paedophile themes".

2. Legislative provisions

The *Classification (Publications, Film and Computer Games) Act 1995* (the Act) governs the classification of films and the review of classification decisions. Section 9 of the Act provides that films are to be classified in accordance with the National Classification Code (the Code) and the classification guidelines.

Relevantly, the Code in paragraph 3 of the Table under the heading 'Films' provides that:

Films (except RC films, X18+ films) that are unsuitable for a minor to see

are to be classified 'R18+'. The Code also sets out various principles to which classification decisions should give effect, as far as possible. Section 11 of the Act

requires that the matters to be taken into account in making a decision on the classification of a film include:

- (a) the standards of morality, decency and propriety generally accepted by reasonable adults; and
- (b) the literary, artistic or educational merit (if any) of the film; and
- (c) the general character of the film, including whether it is of a medical, legal or scientific character; and
- (d) the persons or class of persons to or amongst whom it is published or is intended or likely to be published.

Three essential principles underlie the use of the *2005 Guidelines for the Classification of Films and Computer Games* (the Guidelines), determined under s.12 of the Act:

- The importance of context
- The assessment of impact;
- And the six classifiable elements – themes, violence, sex, language, drug use and nudity.

3. Procedure

The Review Board convened on 22 June 2005 to determine the validity of the application for review from, Madman Entertainment, received on 7 June 2005, view the film and consider the substance of the application. Three members of the Review Board viewed the film *Palindromes* at the Board's meeting on 22 June 2005.

The Review Board received oral submissions from Ms Raena Lea-Shannon, Mr Doug Stewart, and Dr Brent Waters, all representing the Applicant. These were provided in addition to written submissions. Mr Paul Tonta also attended on behalf of the Applicant during oral submissions.

The Review Board then considered the matter.

4. Evidence and other material taken into account

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

- (i) Madman Entertainment's application for review;
- (ii) Madman Entertainment's written and oral submissions;
- (iii) The film;
- (iv) The relevant provisions in the Act;
- (v) The relevant provisions in the Code, as amended in accordance with s.6 of the Act;
- (vi) The Classification Board's report; and
- (vii) The *Guidelines for the Classification of Films and Computer Games 2005*.

5 Synopsis

Palindromes is the story of a 13-year-old girl – depicted by a range of actors who are male and female, black and white, thin and obese, ranging in age from six to adult – and her desire to be a mother. She expresses this desire in her depiction as a six-year-old stating that she wants “lots and lots of babies” so that she will always have someone to love.

The girl, Aviva, becomes pregnant at 13 and her mother arranges an abortion for her. Aviva doesn't want the abortion but succumbs to her mother's pressure. The procedure goes poorly and a hysterectomy is performed leaving Aviva sterile. Her parents, somewhat unrealistically given the nature of the results of the operation, keep this fact from her.

Aviva then runs away from home and has sex with a 40-something truck driver, in her bid to become pregnant. Described as a “road trip” film, Aviva travels to Ohio and lives with a religious family who have adopted many children with disabilities. Unlike Aviva's parents, this couple, the Sunshines, value “every child”. In valuing “every child” Mamma Sunshine regularly goes to a local rubbish tip to collect the discarded aborted fetuses and buries them. Mamma Sunshine's children have the disabilities that Aviva's mother warns that Aviva's child would have if she had allowed it to be born.

Aviva participates in the shooting of the doctor who performed the abortion procedure on her. She is captured by the police and returned to her family. The film concludes following a sex scene between Aviva and a teenage boy. Aviva says, in her six-year-old depiction: “I have a feeling that this time I'm going to be a mum”.

6 Findings on material questions of fact

The Review Board found that the film contains aspects or scenes of importance, under various classifiable elements:

(a) **Themes** – The film contains very strong themes of abortion, paedophilia and under-age sex. The film contains a number of disturbing sexual and abortion references. At approximately four minutes, Aviva in her – six-year-old depiction – wakes from a nightmare following her cousin's funeral. She says “Dawn was pregnant from a date rape”. The child then refers to abortion saying: “that would be killing the baby”. The actor is a six-year-old African-American child.

At 10 minutes, Aviva – in one of her teenaged depictions – participates in a simulated sex scene with Judah. The children have been watching what sounds like a pornographic film on video. On the walls are pictures of naked and partially naked women. Judah is wearing a T-shirt displaying a cartoon figure with an erection. As Aviva lies in bed, with Judah on top of her, she says “I think about having a baby. I want one”.

Between 15 minutes and 18 minutes Aviva and her mother discuss the baby, whilst her mother pressures Aviva to have an abortion.

At approximately 20 minutes, Aviva's mother tells Aviva about the abortion she had when Aviva was about three or four years old. She uses this abortion, that she says she undertook so that Aviva could have material advantages, as reason as why Aviva should have the abortion.

At 23 minutes Aviva and her mother go to the abortion clinic. Protestors are shouting "Don't do it, don't do it". Aviva and her mother both appear upset by the shouting and pushing of the protesters.

Between 24 and 27 minutes, Aviva is shown at the abortion clinic. She is in a surgical gown, and being "prepped" for the abortion. The room is shown as being out of focus. The music is a lullaby that played whilst Aviva was playing with her baby doll in an earlier scene. Fuzzy images of the doctor telling Aviva's parents about the hysterectomy are shown. The visuals are blurred and the sound is distorted. Aviva awakens and her parents assure her that everything is OK. Aviva questions them as she has some hazy memory of the doctor speaking to them about the hysterectomy. Aviva asks her mother whether the baby was a boy or a girl. After a tense scene, her mother tells her it was a girl. Aviva says: "Henrietta" naming the baby after the foetus that her mother aborted (whom her mother had named Henry).

At approximately 46 minutes, a teenage girl with a visual impairment "tells her story" at the dinner table at Mamma Sunshine's house. She says that her mother tried to have an abortion and that when it failed and the girl was born her mother didn't speak to her for three years. The child says that her mother then put her into a home. The scene has strong impact.

Between 51 and 54 minutes, Peter Paul – one of Mamma Sunshine's children – a boy of 10 to 12 years, takes Aviva/Henrietta to a rubbish dump where aborted foetuses are thrown. He tells Aviva/Henrietta that this is where "they throw out the babies". He says that some are wrapped in plastic and says: "There's one", picks it up and shows it to Aviva/Henrietta. A foetus is shown in a plastic bag. Aviva screams. Peter Paul prays to God for the aborted foetuses. He lists all the stages of foetal development at which they are aborted; he lists the disabilities that they may have. He refers to them as missing body parts, "having no brains or noses". The scene has high to very high impact.

At approximately 62 minutes, three men – Mr Sunshine, the doctor who examined Aviva, and Earl (who is Joe the truck driver) - look at photographs that the doctor has taken of Aviva when he examined her. "That girl of yours. That girl's a child whore," the doctor says. Mr Sunshine answers saying: "I've never had a slut in my house before." The doctor says, "I took some pictures. I just got them developed." He passes the photographs around and the men all look at them intently.

At approximately 66 minutes Aviva/Henrietta runs to Earl/Joe's trailer home. He tells her that she is too young for him. She replies that she feels comfortable with him. He says he "Can't know her" and she answers "But you do, you do".

At 68 minutes Earl/Joe and Aviva/Henrietta are depicted in bed together. Earl/Joe says that women don't like him and he doesn't like them. Aviva protests that he likes her. He says: "You're not a woman, not yet." She asks "What am I then?" He hesitates and then answers: "You're different."

Between 69 and 73 minutes, Aviva says to Earl/Joe: “You could make love to me tonight, even if it isn’t the regular way”. He cries. She says: “It’s OK, I understand”. The scene is a disturbing one where the adult is shown as childlike and the child is shown being understanding and sympathetic to the man.

At approximately 90 minutes Aviva and Mark have a discussion about the accusations of people that he is a paedophile. He says: “I am not a paedophile”. She agrees saying: “Paedophiles love children.”

(b) **Violence** – There are a number of violent scenes in the film. At approximately 19 minutes Aviva’s father knocks at her bedroom door saying “I’m going to have to force open the door.” He hits the door violently while shouting at Aviva. She screams and appears visibly distressed.

At approximately 76 minutes Earl/Joe cocks his rifle to shoot Dr Fleisher, the doctor who performed the abortion on Aviva. Dr Fleisher is shown with his children and wife at his home. Aviva yells at Earl/Joe to “Do it, do it”. He shoots twice. After the first shot Dr Fleisher’s daughter is depicted falling and the window shatters. The second shot hits Dr Fleisher and he falls. The scene has strong impact.

Back at the motel, Earl/Joe and Aviva are trapped with the police outside and they discuss the shooting with Aviva saying Earl/Joe did what he had to do. Earl/Joe talks about being born again and that: “I’d be a dad and you’d be a mum. We’d have lots of babies.” He cries out: “How many more times can I be born again?” At 81 minutes he opens the door to the motel room and the police shoot him repeatedly.

(c) **Sex** – The film depicts a number of simulated sex scenes between the 13-year-old Aviva and an adult male and a teenage boy.

At approximately 11 minutes there is a simulated sex scene between Aviva and Judah. It takes place under the covers and is implied by the rhythmic movement of Judah as he lies on top of Aviva. The scene has high impact. Following the scene, the children discuss the sex. Aviva says: “I thought you’d done this before”. Judah answers: “I did, you were supposed to move your hips more”. Aviva is shown vomiting into a toilet at 12 minutes. Soon after, Aviva and her mother are talking at a doctor’s surgery. Her mother says: “Who did this to you? Who the fuck did this to you? Aviva did he rape you?”

At 32 minutes a simulated sex scene is shown between Aviva and a truck driver called Joe. The room is darkened. Aviva is in bed with the truck driver on top of her. They are both covered by the blankets. The lullaby music is playing. An implicit sex scene is depicted. Joe is shown moving rhythmically on top of Aviva. After the scene is finished Aviva asks Joe his name. He tells her it is Joe. She tells him her name is Henrietta. The next morning Aviva is speaking to Joe and says: “I had a good time last night. I never knew it was so beautiful.” She says: “Next time, you could try coming inside me”. He replies, “Yeah, I could do that.” The scene has high impact.

At 95 minutes a simulated sex scene is shown involving Aviva and Judah, who now calls himself Otto. Aviva lies down on the ground in the woods. Judah/Otto gets on top of her. The lullaby music is heard again. An implicit sex scene takes place where Judah/Otto moves rhythmically on top of her. They discuss the sex afterwards. She

says “It’s good. It’s much better. A lot got inside of me, then it slipped out.” During the sex scene the depiction of Aviva changes from the adult, obese African-American woman, through to one of the teenaged depictions, and then – after the sex scene – to the six-year-old depiction. As a six-year-old, Aviva says: “I have a feeling that this time, I’m going to be a mum.”

(d) **Drug use** – There is little drug use in the film.

(e) **Language** – There is some use of strong coarse language throughout the film, which could be accommodated at an MA15+ classification.

(f) **Nudity** – There is little nudity in the film. Aviva and her sexual partners are shown either fully dressed or under covers. At approximately eight minutes, Aviva and a teenage boy, Judah, are depicted looking at photographs with photographs of nude and partially nude women on the walls in the background.

7 Reasons for the decision

The Review Board based its decision to classify the film ‘R18+’ with the consumer advice ‘Abortion and paedophile themes’ on the content of the film as set out above.

Palindromes is a serious film that confronts a range of issues that face some children in teenage years. The Review Board believed that the various potentially controversial scenes were depicted in context and were not gratuitous or glamorised.

The Review Board therefore found that the treatment of the strong themes was justified by context, as were the sex scenes. Further, the Review Board found that the impact of the material was high, but not so high as to warrant a Refused Classification. However, the Review Board found that to allow unrestricted viewing to persons less than 18 years would fail to protect minors who would be likely to be harmed or disturbed by the film.

Palindromes was a challenging film to classify as it depicts simulated under-age and paedophile sex scenes involving a 13-year-old girl. However, the depictions are very restrained, they are neither prolonged nor detailed and there is no nudity or genitalia shown. Further, filmic techniques commonly used to increase the impact of such scenes are avoided in this film.

Careful consideration was given to the Code in regard to films that depict in a way that is likely to cause offence to a reasonable adult, a person who is, or who appears to be, a child under 18 (whether the person is engaged in sexual activity or not). The Review Board unanimously determined that the scenes did not reach this standard but did consider that the scenes were such that the film should be restricted to adult audiences.

8 Summary

While the classifiable elements and the impact in the overall context of *Palindromes* did not justify the film to be Refused Classification, they did make the film unsuitable for minors and warranted specific consumer advice relating to the paedophile and abortion themes contained in the film.