



Australian Government
Classification Review Board

23, 29, & 30 March 2005

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

MEMBERS: Ms Maureen Shelley (Convenor)
Ms Dawn Grassick
Ms Meg Clancy (temporary member)
Ms Kathryn Smith

APPLICANT: Siren Visual Entertainment Pty Ltd (Siren), original applicant for classification, represented by Mr Nigel Rennard (Managing Director, Siren).

**INTERESTED
PARTIES:**

None

BUSINESS: To review the Classification Board's decision to classify the film *Tras El Cristal (In a Glass Cage)* (the film) RC (refused classification).

DECISION AND REASONS FOR DECISION

1. Decision

The Classification Review Board (the Review Board) unanimously classified the film RC (refused classification).

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 1 of the Table under the heading 'Films' provides that films that:

- (a) 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; or
- (b) depict in a way that is likely to cause offence to a reasonable adult, a person who is, or appears to be a child under 18 (whether the person is engaged in sexual activity or not).

are to be classified 'RC'. The Code also states various principles for classifications, and that effect should be given, as far as possible, to these principles.

Section 11 of the Classification 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 *2003 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

Three members of the Review Board viewed the film together on 23 March 2005. On that same day, four members of the Review Board met (three in the meeting room with the applicant present with the fourth joining by teleconference). The Review Board met in response to the receipt of a valid application from the applicant Siren. One member viewed the film on 29 March 2005. The same four members of the Review Board convened again on 30 March 2005 by teleconference.

The Review Board received oral submission from Mr Nigel Rennard representing the Applicant, which was confirmed in a written submission.

The Review Board then met in camera to consider the matter.

4. Evidence and other material taken into account

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

- (i) Siren's application for review;

- (ii) Siren’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 2003*.

5 Synopsis

Klaus, a former Nazi doctor responsible for the experimentation on children in concentration camps, is confined to an “iron lung” after a suicide attempt has left him paralysed. Angelo, now an adult who is one of Klaus’ concentration camp victims, takes employment as Klaus’ carer. Angelo begins reading excerpts from Klaus’ war-time diaries that document the torture and murder of children. These readings are heard in voice-over as Angelo implicitly masturbates in Klaus’ presence.

Angelo captures young boys and tortures and murders them in a re-creation of Klaus’ experiments – Klaus condones these acts and they take place in his presence. The torture and killing of the children is linked to the men’s sexual pleasure. The film ends with Klaus’ young teenage daughter Rena assuming a boy’s dress and hairstyle and joining Angelo, who has moved into the “iron lung” after murdering Klaus.

6 Findings on material questions of fact

The Review Board found that the film *Tras El Cristal* contains aspects or scenes particularly worthy of mention under various classifiable elements:

(a) **Themes** – there are very high impact themes of torture and murder of children, mainly young boys of approximately four to 12 years of age. Whilst these are not justified by context, they are treated in a restrained manner. Also the theme of sexual predatoriness is explored. Whilst the treatment of this theme is restrained, the graphic depictions of violence and the intertwining of the sexual references and sexual scenes with these depictions ensures the theme has a very high impact.

Further, the theme of death and torture in concentration camps is explored.

At approximately 51 minutes Klaus’ daughter Rena, who is a girl of approximately 12 to 13 years of age, is shown very frightened in bed (this is after she hears the sounds that Angelo makes as he murders her mother). She gets out of bed and asks Angelo to sleep with her. Angelo takes Rena by the hand and takes her to her room. The scene has significant tension.

(b) **Violence** –At 1.00 minute the film opens with a scene depicting a young naked boy hanging by his arms from the ceiling. His wrists are bound. He has scratches, and some lacerations and bruises over his body, mainly his face, back and shoulders. He

has blood and a laceration on his chest. He appears semi-conscious. His arms appear to be pulled out of their sockets. Klaus is shown photographing the boy and then approaches him. The child, who has blood on his face, opens his eyes and sees Klaus. Klaus places his mouth against the boy's face, and then rubs the child's face with his own face. Klaus closes his eyes in apparent pleasure. Klaus then picks up a plank and implicitly (off screen) hits the boy. There are sounds of the beating and of the boy writhing. The boy's feet are shown dangling and he now appears to have no animation. The scene is very high in impact.

At approximately 28 minutes Klaus' wife Griselda is shown turning off the power to the "iron lung". Klaus is shown screaming without sound. Griselda turns the power back on.

At 32 minutes Angelo reads to Klaus from the war-time journal. He reads "I had never bothered to watch those long agonies that could last five minutes" "The youngest (child) looked at me I closed the door." Angelo is crying.

At 46 minutes Angelo puts a curtain over Griselda's head. He puts a rope around her neck. She screams. She is shown struggling, He pulls the noose tighter around her neck and throws her over the balcony. She is shown hanging with one hand grappling for a firmer hold. Angelo kicks her hand away. She is suspended from the balcony by the noose. She is covered by the curtain. Angelo carries Griselda's body and places it on top of the iron lung with the face toward Klaus. Angelo leaves the light on and says good night. Klaus can see Griselda's distorted face.

At approximately 60 minutes Angelo is reading to Klaus from the war time journal. "Those children already knew death. The whole place smelled of death. Tiny bright eyes. He looked at me. I took him to the small room. I told him to take off his shirt. He obeyed me mechanically. I prepared the needle in front of him. I raised the needle. I sunk the needle into his chest. I sat down and watched his agony. I never felt such pleasure." Flash backs of the war-time scene are shown with the boy eating an apple.

At approximately 70 minutes Angelo re-creates the scene with a boy he has captured. The scene takes place in front of Klaus in his "iron lung". Angelo undresses the boy roughly. The boy's little body is reflected in the angled mirror attached to Klaus' "iron lung". Angelo gets the needle. He ties the boy to the chair with a leather belt. Angelo inserts the needle into Klaus' machine. He prepares the needle and approaches the boy. At approximately 73 minutes Angelo plunges the needle into the boy's chest. The boy is shown gasping, his eyes roll back in his head. The boy "dies", his face is blue and his eyes are wide, staring. The scene is very high in impact.

At 78 minutes a further scene takes place where Klaus' war-time journals are recited whilst Angelo is watching a boy from a choir. "Watching the boy's agonies. The pleasure death gave me. I felt very excited. The panting of the boy's dying. He had a beautiful voice. Fear made it more beautiful. The blue, distended veins on his neck".

At 87 minutes Angelo brings the choir boy that he has been stalking to Klaus' room. The boy is pleading "please let me go". Angelo makes the choirboy sing to Klaus. The boy is crying while he is singing. Angelo undresses the boy down to his underpants. Angelo runs his hand down the boy's torso and pulls out a knife. There is

a sexual overtone to Angelo's gesture. Klaus watches as Angelo implicitly kills the boy.

The juxtaposition of the reading from the journal, the verbal references to the sexual pleasure Klaus gained from the torture and killing of boys all go to making the impact of the subsequent killing of the choirboy very high in impact. Also the sexualised touching of the boy by Angelo before he kills him increases the impact of the scene.

Between 93 and 97 minutes Angelo kills Klaus by removing him from the "iron lung". Rena is watching. There are flash backs during this scene to Klaus forcing Angelo as a child to perform implicit fellatio on him. The adult Angelo unbuttons his fly and pushes the disabled Klaus' face into his groin. Klaus is gasping for breath. The child Angelo is shown with his face being pushed into Klaus' groin area. The scene switches back and forth between war time and the present day.

At 100 minutes Angelo is dressed in Klaus' pyjamas. Rena has combed her hair back and is dressed like a boy. Angelo is now in the iron lung. Rena has blood and scratches on her neck and face. She is sitting on top of the iron lung. She starts to remove her jumper. The film ends.

It was the unanimous view of the Review Board that the violence and sexualised violence contained in the film is not justified by its context.

(c) **Sex** – at approximately 35 minutes Angelo begins to take off his clothes. Angelo recites from memory passages from Klaus' journal. "I didn't want him to die", which appears to be a comment from Klaus during war time about one of his victims. "Want a cigarette boy", which appears to be a question from war-time Klaus to the child Angelo. "I wanted pleasure, I was naked" (Klaus). "She wanted to kill you" says Angelo to Klaus. "I grazed his neck to feel his fright" – Klaus in reference to the opening scene. "I masturbated on his face, I saw his loathing". These exchanges continue with Angelo – either in character as war-time Klaus or as himself in the current day. Angelo implicitly masturbates and at approximately 36.16 minutes wipes what appears to be semen from Klaus' face.

(d) **Language** – there is no coarse language used in the film.

(e) **Drug use** – there is no drug use in the film.

(f) **Nudity** – the depiction of the naked boy in the opening scene was very high in impact. The later depictions of boys dressed only in underpants was high in impact given the context of the scenes.

The Review Board found that the overall impact of the material was very high. Scenes were dealt with in a realistic yet restrained manner. However, whilst they were not gratuitous they were nevertheless exploitative. The scenes of very high impact were not justified by the context in which they were presented nor by the theme of the film.

Further, the film did not have a satisfactory resolution. Although Karl is killed and therefore some "justice" is meted out, Angelo appears to be taking on his mantle, and Rena takes on the mantle of Angelo. In the end it appears that the violence and abuse of children will continue.

It is clear that this film has been made by a talented film maker with a serious intent of examining the issue of child abuse, torture and the treatment of people in concentration camps. This is not a film intended to titillate. However, the impact of the film is very high and the scenes involving children are offensive because they depict shocking scenes of torture and abuse of those children in a manner that is beyond what can be accommodated under the Australian classification system.

7 Reasons for the decision

The Review Board based its decision to refuse classification 'RC' for the film *Tras El Cristal* based on the content of the film as set out above.

Tras El Cristal is a serious film that confronts a range of complex and disturbing issues. Its treatment of those issues is generally restrained in manner. Clearly, the film has serious artistic intent and merit. However, the detailed and graphic depiction of the torture and murder of children for the sexual gratification of two men is depicted in such a way that the film is offensive to reasonable adults.

Whilst the disturbing scenes are not glamorised and it is clearly the film-maker's intent that this torture and murder is not to be condoned, the material presented is beyond what can be classified under the Australian system.

The Review Board therefore found that the treatment of the very strong themes was not justified by context. The portrayals of children being tortured and killed in sexualised settings was also not justified by the context. Further, the Review Board found that the impact of the material was very high.

It was also not clear from the director's commentary on the DVD whether some of the child actors were in actual pain during filming or not. The quality of the DVD supplied was such that this matter was unclear. However, regardless of any actual pain that the actors may, or may not have experienced, the film cannot be classified due to the very high impact of the depictions contained within the film.

The Review Board carefully considered the artistic nature of the film, its general character as a serious film exploring the issues of torture and abuse of children in a sexualised context and that any likely audience would be serious and educated film goers interested in art house cinema. However, the Review Board found that these matters did not outweigh the community's concern over the depiction of people – particularly children – in offensive circumstances. It was the Review Board's determination that the depictions of cruelty and violence were such that they would offend reasonable adults.

8 Summary

The classifiable elements and the impact in the overall context of the film *Tras El Cristal* warrant a refused classification (RC). They depict, express and deal with matters of sex, cruelty and violence in such a way that they offend against the standards of decency and propriety generally accepted by reasonable adults to the extent that the film should not be classified.

Further, the film depicts in a way that is likely to cause offence to a reasonable adult, persons who are, or appear to be children under 18. Some of these depictions involve

children in a non-consensual sexual context. Other depictions relate to the torture and murder of children.

The decision of the Review Board was unanimous.