



**Australian Government**  
**Classification Review Board**

30 June 2004

23-33 MARY STREET SURRY HILLS, NSW

**MEMBERS:** Ms Maureen Shelley (Convenor)  
The Hon Trevor Griffin (Deputy Convenor)  
Ms Dawn Grassick  
Ms Jan Taylor  
Mr Robert Shilkin  
Ms Kathryn Smith

**APPLICANT:** The Hon Phillip Ruddock, Commonwealth Attorney-General— not represented.

**INTERESTED**

**PARTIES:** Accent Film Entertainment Pty Ltd (Original Applicant) represented by Mr Peter Campbell (Principal Director); Ms Raena Lea-Shannon (Solicitor, Michael Frankel & Co Solicitors), Mr Douglas Stewart (Classifier, SBS, Expert Witness);

Australian Family Association (AFA) represented by Mr Damien Tudehope (Solicitor, O'Hara & Company)

Communications Law Centre represented by Dr Derek Wilding, Director, University of New South Wales

**BUSINESS:**

- To review the Classification Board's (the Board) decision to classify the 35mm format film *Irreversible* R18+ with the consumer advice 'Strong sexual violence, graphic violence, sexual activity'.

## **DECISION AND REASONS FOR DECISION**

### **1. Decision**

The majority of the Classification Review Board (the Review Board) determined that the film *Irreversible* was classified R18+ with the consumer advice 'High-level sexual violence, graphic violence, sexual activity'.

### **2. Legislative provisions**

The *Classification (Publications, Film and Computer Games) Act 1995* (Classification Act) governs the classification of films and the review of classification decisions. Section 9 of the Classification Act provides that films are to be classified in accordance with the National Classification Code (the Code) and the *Guidelines for the Classification of Films and Computer Games 2003* (the Guidelines).

Relevantly, the Code in paragraph 3 of the Table under the heading 'Films' provides that films (except RC films and X films) that are unsuitable for a minor to see are to be classified 'R'. The Code also states various principles for classifications, and that effect should be given, as far as possible, to these principles including that "adults should be able to read, hear and see what they want" and "the need to take account of community concerns about depictions that condone or incite violence, particularly sexual violence and the portrayal of a persons in a demeaning manner".

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 the:

- (a) standards of morality, decency and propriety generally accepted by reasonable adults; and
- (b) literary, artistic or educational merit (if any) of the film; and
- (c) general character of the film, including whether it is of a medical, legal or scientific character; and
- (d) 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 Guidelines, determined under section 12 of the Classification Act:

- The importance of context;
- Assessing impact; and
- Six classifiable elements – themes, violence, sex, language, drug use and nudity.

### **3. Background and Procedure**

On 30 March 2004, the Review Board exercised its discretion not to hear an application for review of the film *Irreversible* submitted by the Australian

Family Association as it was made out of time. Subsequently in May 2004, the Commonwealth Attorney-General lodged an application for review of *Irreversible* at the request of the South Australian Attorney-General, pursuant to section 42 of the Classification Act.

The Review Board convened in response to the application from the Attorney-General. The Review Board watched the film *Irreversible*, and received written submissions and heard oral submissions from Accent Film Entertainment Pty Ltd's representatives (Original Applicant) represented by Mr Peter Campbell (Principal Director); Ms Raena Lea-Shannon (Solicitor, Michael Frankel & Co Solicitors), Mr Douglas Stewart (Classifier);

Written and oral submissions were also received from the Australian Family Association (AFA) represented by Mr Damien Tudehope (Solicitor) and the Communications Law Centre represented by Dr Derek Wilding, Director, University of New South Wales, as interested parties.

Mr Tudehope submitted that any of the members of the Review Board who had been present at the 30 March meeting should absent themselves from the meeting to avoid the appearance of apprehended bias. The Convenor invited submissions on the matter from Accent Films and the Communications Law Centre. Accent Films and the Communications Law Centre submitted that they did not perceive such bias and that the removal of the members of the original panel was unnecessary.

Ms Shelley advised that the composition of Review Board panels was a matter for the Convenor and that it was her determination that the panel as constituted would consider that matter before it without bias. Ms Shelley determined that the review would proceed with the panel as constituted. Mr Shilkin and Ms Smith advised that they would give no consideration to the previous review.

Mr Tudehope accepted the Convenor's decision stating that he believed the panel would hear the matter without bias. The substantive review proceeded.

#### **4. Evidence and other material taken into account**

In making its determination the Review Board had regard to the following:

- (i) the application from the Attorney-General and the material submitted by him from the South Australian Attorney-General;
- (ii) the written and oral submissions on behalf of Accent Film Entertainment;
- (iii) the Australian Family Association's submission (including written and oral submissions);
- (iv) the Communications Law Centre's submission (including written and oral submissions);

- (v) the relevant provisions in the Classification Act;
- (vi) the relevant provisions in the Code, as amended in accordance with section 6 of the Classification Act; and
- (vii) the Guidelines.

## 5. Synopsis

The Classification Board stated in its report regarding *Irreversible*:

*"In a Paris sex club, Marcus and Pierre are on a frenzied night time search for a man. Overcome by rage and despair, they are involved in a brutal act of violence. The reason is revealed as the story plays out in reverse. Marcus' girlfriend Alex is brutally raped and bashed after a party. The complex relationship between Marcus, Pierre and Alex also unfolds and the film ends with Marcus and Alex as yet untouched by the horror that awaits them."*

The Review Board accepted this view of the product.

## 6. Findings on material questions of fact

The Review Board found that *Irreversible* contains aspects or scenes particularly worthy of mention under various classifiable elements

- (a) **themes** – there are strong themes in the film including a discussion of incest with passing reference to family breakdown at approximately 5 minutes; a racist assault on a taxi driver involving violence and racism at approximately 28 minutes; discussion of revenge for Alex's rape with two "thugs" – a matter of crime at 39 minutes; discussion of sexuality including the use of sex workers and issues of sexual orientation, impotence or abstinence from approximately 57 minutes to 59 minutes 46 seconds. The verbal treatment of these matters requires a mature perspective.
- (b) **violence** – At approximately 20 minutes Marcus threatens a man with a glass bottle saying he will bash the bottle in the man's face – he repeatedly hits the man; at approximately 22 minutes a scene of high-level violence is shown where Marcus bashes Tenia's companion with a fire extinguisher repeatedly – the man's face caves in and the sound of bones crunching can be heard; at approximately 28 minutes Marcus hits the taxi driver, pulls him out of the car and steals his taxi; at approximately 36 minutes is a strong scene where Marcus threatens Concha a transgender sex worker – he threatens to "bash the tranny whore"; at approximately 41 minutes Alex is taken away on a stretcher – her face is bloodied and swollen, she appears to be in a coma; at approximately 44 minutes Tenia hits Concha; the high-impact scene involving the implied anal rape of Alex commences at approximately 46 minutes and continues until approximately 53 minutes – in addition to the implied anal rape Tenia threatens Alex with a knife, pulls her hair, explicitly hits her and explicitly and implicitly kicks her. The implied anal rape – while a high-impact scene – is restrained in its portrayal of a deeply offensive act. The man is fully clothed throughout; Alex is clothed for the most part and only partially naked at the end of the scene after

her dress is torn; Tenia's penis is not shown throughout the rape – although there is a fleeting depiction of his tumescent penis when he rolls off Alex; the rape of Alex is implied only – no penetration is shown. The impact of the scene is established by the elapsed time of the scene and the assaultive language used by Tenia to Alex and from her depiction of distress and terror. From approximately 55 minutes to approximately 56 minutes 28 seconds Tenia implicitly hits and kicks Alex. Saying she is now “dead meat” he spits on her and walks away. The sexual violence of the anal rape scene is implied violence and is justified by the context. The violence, while high in impact, is justified by the context.

- (c) **sex** – at approximately 14 minutes two men are implicitly shown having sex, there is groaning; at approximately 15 minutes an erect penis is shown and a person is masturbating (actual sex) – the image is fleeting; at approximately 17 minutes two men are implicitly having sex, there are groans; at approximately 18 minutes two men are implicitly having sex, there are sounds of beating and groans; at approximately 19 minutes there is a projected image on a screen of two men having what appears to be actual fellatio; at approximately 19 minutes 40 seconds a man is shown in a S&M cradle asking passers by to “fist me”; at approximately 20 minutes, whilst Marcus is threatening a patron, a man is explicitly masturbating his penis in the background (actual sex) – the image is fleeting; from approximately 46 minutes to 53 minutes is the implied anal rape of Alex. The scenes of actual sex are fleeting and the impact diminished by the low light during the scenes. Throughout the film are verbal references to homosexual and heterosexual sex (“suck me”, “suck my big cock”, “we make each other come”, “I fucked like a rabbit”) – cumulatively these references add to the high impact of the film.
- (d) **language** – there is extensive use of coarse language and sexually assaultive language throughout the film. It commences with a discussion between two men about the sex one man had with his daughter at approximately 5 minutes (“I slept with my daughter, she was so cute” his friend responds “We fuck up”); continues when the scene at the sex club, The Rectum, is shown – dialogue starts “Blood flowed out of that shithole”, “You’re gonna get your ass fucked in prison”, includes repeated use of the words fuck, ass, faggot, phrases like “fucked to death”, “fucking faggot” and “felching fuck club” and racist epithets such as “dirty chink fuck”, “your slant-eyed friends, asshole”, “you chink fuck” and “you filthy yellow fuck”. During the anal rape scene Tenia uses sexually assaultive language to Alex from “spread your legs bitch”, “don’t move cunt”, “you shit on me you’re dead you fucking high-class swine” to his commentary that includes “you bleeding, you open up your ass real good, so fucking good” to demands for her to “call me daddy, call me daddy, fucking cunt”. He refers to her as a “sweet hole”, a “little fucking whore”, a “piece of shit dead meat”, a “fucking sow” and a “fucking dog” – the language used by Tenia to Alex throughout the rape scene increases its impact to high. Under the Guidelines there are virtually no restrictions on language at the R classification.

- (e) **drug use** – there are some scenes of implied drug use in the film and they are justified by the context. At approximately 20 minutes, Tenia’s friend is smoking and appears drugged; during the anal rape scene Tenia sniffs something from a bottle (approximately 50 minutes and 53 minutes); at approximately 58 minutes Marcus takes some substance in a bathroom with a number of women – possibly cocaine; at approximately 67 minutes Alex asks Marcus “what are you on? Don’t touch me”; at approximately 75 minutes when Marcus and Pierre are talking one passes the other “a pill I’ve saved and never used”. The scenes are justified by the context.
- (f) **nudity** – at approximately 33 minutes Concha lifts her dress to show her penis; at approximately 55 minutes part of Alex’s breast is shown during the anal rape scene; at the end of the film a post-sex scene is shown of Alex and Marcus – at approximately 82 minutes and 83 minutes Marcus’ flaccid penis is seen as he rolls out of bed and walks across the room; at approximately 88 minutes Alex’s breasts are shown and a glimpse of Marcus’ penis is depicted. The nudity is justified by the context.

The Board found that while the overall impact of the material was high, there was not sufficient strength in the behaviour of the protagonists to cause a higher level of impact for any individual scene or cumulatively. Scenes were dealt with in a realistic yet restrained manner that was neither gratuitous nor exploitative. Each scene was justified by the context in which it was presented and the overall theme of the film. The film techniques used by the film-maker – of low lighting, mid to long range shots (rather than close ups), and fleeting glimpses of action (such as in the sex club) rather than slow motion, meant that elements that may have had a very high impact were reduced in impact to high or strong.

## 7. Reasons for the decision

The Review Board based its decision to classify the film *Irreversible* R18+ with the consumer advice ‘High-level sex scenes, graphic violence, sexual activity’ on the content of the film as set out in 6 above.

The Review Board accepts Accent Film Entertainment’s submission that the film is a serious film of some artistic merit. The Review Board notes the film-maker uses confronting sound and camera techniques to challenge the viewer from the outset.

It is also noted that the director uses allegory to unravel the tale of what happens to two men when they descend into “the bowels of the Earth” and visit a sex club called The Rectum pursuing an act of revenge. The film appears to take a moral stance. It shows scenes of light, beauty and soft music when Alex and Marcus are engaged in heterosexual lovemaking and contemplating Alex’s possible pregnancy. It depicts scenes of darkness, dirt and violence when Marcus and Pierre pursue Tenia through the red-lit, winding passages of The Rectum with each scene unfolding yet another room of anonymous homosexual and/or sado-masochistic sex accompanied by

grunts, groans and gyrating music. Regardless of its artistic intent or merit, by its nature the film contains material that may be offensive to sections of the adult community. Such material can be accommodated by the R18+ classification.

The film contains fleeting depictions of actual sex as detailed in 6 above. The Review Board determined that while the general rule under the Guidelines, is “simulation yes – the real thing no” that these scenes were so brief and so incidental that the general rule should not apply in this instance. The Review Board believed that the various potentially controversial scenes were depicted in context and were neither gratuitous nor glamorised.

The Board found that the treatment of violence, including sexual violence was justified by context, as were the actual sex scenes. Further, the Board found that the impact of the material was high, but not so high as to warrant a Refused Classification rating. However, the Board found that to allow unrestricted viewing to persons under 18 years would fail to protect minors who would likely to be harmed or disturbed by the film.

## **8. Summary**

While the classifiable elements and the impact in the overall context of the film *Irreversible* do not justify an RC classification, they do make the film unsuitable for persons less than 18 years of age and warrant specific consumer advice relating to the sexual violence, graphic violence and actual sex contained in the film.

The minority was of the view that the impact of the rape scene, in particular, was very high and that, generally, all the classifiable elements in the scenes referred to above cumulatively made the film one of very high impact. As a result, the minority was of the view that the film *Irreversible* should be Refused Classification.