

**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 Glenda Banks  
Ms Joan Yardley  
Ms Robin Harvey  
Mr Ross Tzannes

**APPLICANT:** AXIS, a division of Adultshop.com Limited

**BUSINESS:** To review the decision of the Classification Board to assign the classification 'RC' under the *Classification (Publications, Films and Computer Games) Act 1995* to the film *Dream Quest*

**DECISION AND REASONS FOR DECISION**

**1. Decision**

The Classification Review Board decided to confirm the decision of the Classification Board to classify the film *Dream Quest* RC Refused Classification.

**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, 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;
- (b) the literary, artistic or educational merit (if any) of the film;
- (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.

The National Classification Code (the Code) requires that Classification decisions are to give effect, as far as possible, to the following principles:

- a) adults should be able to read, hear and see what they want;
- b) minors should be protected from material likely to harm or disturb them;
- c) everyone should be protected from exposure to unsolicited material that they find offensive; and
- d) the need to take account of community concerns about:
  - i) depictions that condone or incite violence, particularly sexual violence; and
  - ii) the portrayal of persons in a demeaning manner.

Within the Code, 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 may be classified “X” if they

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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.

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**

Six members of the Review Board viewed the film *Dream Quest* at its meeting on 9,10 & 17 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, including written submissions in support of that Application.
- (b) the film *Dream Quest*.
- (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 as endorsed by the 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 *Dream Quest* is a film presented almost totally as a fantasy. It contains real depictions of actual sexual intercourse and other sexual activity between consenting adults.
- 5.2 The Review Board considered the three scenes cited by the Classification Board as leading to an RC classification. These were at 98, 102 and 103 minutes. In reviewing these scenes, the Review Board was mindful that the new *Guidelines* prohibit depictions of violence in the X category.
- 5.3 At 98 minutes the scene commences with the heroine (Sarah) and another woman (her guide) riding up to a statue on a horse. There is a warning on the statue not to proceed further. The statue comes to life

and a stylised sword fight follows between the statue and guide and Sarah is told to ride off. Dialogue includes reference that it would be “a shame to slay one so magnificent” and that one of the fighters will “not live to see the dawn”. A majority of the Review Board found this not to constitute a depiction of violence. A minority thought that the combination of action and words did amount to violence, albeit mild.

- 5.4 At 102 minutes there is a sequence where Sarah clashes and has a somewhat heated essentially verbal exchange with the evil Vladimir. This results in Sarah being escorted to prison. The Review Board unanimously found that this sequence did not constitute violence.
- 5.5 At 103 minutes there is a scene where feet are seen walking in the prison cell corridor as a male walks up behind a guard, raises a club. A thump is heard, and the guard falls having been rendered unconscious. The assailant then takes the guard’s keys to rescue Sarah.

The Classification Review Board agreed with the decision of the Classification Board in that it found violence to be present in the scene at 103 minutes of the film. The Guidelines for the X category do not permit depictions of violence. The Review Board considered that it was therefore bound to classify *Dream Quest* RC.

## **6. Reasons for the Decision**

- 6.1 The Review Board based its decision to classify the film “RC” on its content as described in 5.1 and 5.5. above.
- 6.2 The Applicant argued that the Classification Board failed to:
- a) take sufficient account of the tenets of adult films, ie the implicit acceptance of fantasy content and the suspension of disbelief.
  - b) recognise the genre in contextually locating plot and narrative developments away from reality.
  - c) take full account of the wording of the Classification Act and the National Classification Code.
  - d) reasonably apply the Film Classification Guidelines as they related to depictions of violence and sexualised violence.
- 6.3 The Review Board found that these arguments had some validity with respect to the scenes at 98 and 102mins but not in regard to the scene at 103mins.
- 6.4 The recently revised Film Classification *Guidelines* prohibit depictions of violence in the X classification category. In seeking to establish whether the depictions were of acts of violence, the Review Board

consulted the glossary of terms covering “violence”, which state that it “includes not only acts of violence, but also the threat or result of violence.”

In the absence of a clearer or more expansive definition of the term, the Review Board sought to clarify what might reasonably constitute violence, within the meaning of the Code and Guidelines, while remaining consistent with the substance and intent of the regulatory framework. It agreed that violence could be recognised as an overt depiction of a credible threat of physical force, or the actual use of such force, intended to physically harm an animate being or group of beings, in a way that a reasonable person would actually categorise as a depiction of violence. Violence would also include certain depictions of physical consequences against an animate being or group that occurs as a result of unseen violent means.

- 6.5 Regarding the first scene at 98 minutes, a majority of the Review Board found that the display and threats of force were not really credible in communicating an intention to harm. The scene was also highly stylised and conveyed in a way that a reasonable person would not categorise the series of events as violent or a portrayal of violence.
- 6.6 Regarding the second scene at 102 minutes, the Board found that a reasonable person would not categorise the series of events as violent or a portrayal of violence. The conflict in the scene had a low impact and there was a lack of any real force displayed when Sarah was being escorted to prison. Denial of liberty is not sufficient of itself to constitute violence.
- 6.7 Unlike the first two scenes, the Review Board found that the third scene at 103 minutes did constitute violence, and therefore could not be accommodated within the X classification.

While the hitting of the guard over the head is not clearly shown, the lead up (including lifting of club) and the consequences of the implicit impact are clearly evident. The Review Board was of the opinion that the scene as a whole would be viewed by a reasonable person as a depiction of violence, despite the level of violence being significantly less than that contained in many films which are classified M, MA or R, because they do not contain actual depictions of real sexual activity.

The fact that the film is contained almost wholly within the genre of fantasy does not excuse violence within an individual scene. In some films, fantasy has the potential to make violence seem more terrifying. While this is not the case in *Dream Quest*, the Review Board does not

believe that a reasonable person would dismiss an otherwise violent scene simply because it exists in the context of a fantasy.

- 6.8 The Review Board concluded that as the recently revised Guidelines prohibit depictions of violence in a film which contains real depictions of actual sexual activity, the film cannot be classified X, and is accordingly classified "RC".

## 7. **Summary**

The Review Board's decision is to classify the *Dream Quest* "RC" Refused Classification.

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