

33RD MEETING

9, 10, 17 NOVEMBER 2000

23-33 MARY STREET

SURRY HILLS NSW

8 DECEMBER 2000 (BY TELECONFERENCE)

PRESENT: Ms Barbara Biggins (Convenor)
Ms Robin Harvey
Mr Ross Tzannes
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 *Joey Silvera's Butt Row Unplugged* (said to be *Buttrow Unplugged*)

DECISION AND REASONS FOR DECISION

1. Decision

The Classification Review Board decided to confirm the decision of the Classification Board to classify the film *Joey Silvera's Butt Row Unplugged* 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, 17th 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 *Joey Silvera's Butt Row Unplugged*
- (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 content of the film was a variety of vignettes of real depictions of actual sexual activity between couples and threesomes.

- 5.2 The Review Board considered the scene cited by the Classification Board as leading to an RC classification. This occurred at 117 mins in which a female with a rubberised bullet bandolier over her shoulder and rifle in hand fires at a bullseye target draped over the buttocks of a female bending over masturbating with her back to the camera.
- 5.3 The Review Board found that this scene constituted a scene of sexualised violence.
- 5.4 The Review Board also reviewed the scenes at 113mins and 116mins which a minority of the Classification Board considered also warranted an RC classification. The scene at 113 minutes portrayed a young women dressed as a guerilla fighter, wearing a rubberised bandolier over her shoulder and carrying a rifle which she fires at some sporting targets. There was some verbal interaction with the 'photographer filming the action' at this point which contained some sexually suggestive material. The scene at 116 minutes portrayed the same female, holding the gun in a non threatening but sexually suggestive manner, engaged in sexualised activity with a second female.
- 5.5 The Review Board found that the scene at 113 minutes could be incorporated into the X category but the scene at 116 minutes constituted implied sexualised violence.
- 5.6 The Review Board also found that the three scenes in sequence constituted a depiction of ongoing, implied sexualised violence that had higher impact than when each scene was considered separately. Accordingly, the Review Board found that the film was appropriately 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 5.2 to 5.6 above.
- 6.2 With regard to the scene at 117 minutes, the Review Board concluded that the association of a gun, which had been realistically fired in a previous scene, with the sexualised activity of masturbation constituted sexualised violence albeit at a low level. Although this scene had a light hearted approach, the strong association between the gun, which would be regarded by most reasonable adults as an instrument of violence, and the sexual activity of masturbation were sufficiently connected to fall within the meaning of sexualised violence as used in the Code and *Guidelines*. This association was enhanced by the sound of a gun firing during this scene, although no evidence of the consequences of this shot was seen on film.
- 6.3 The Review Board also concluded that the scene at 116 minutes was framed to encourage viewers to perceive the gun as a 'phallic' symbol. In this scene, the two females were viewed in profile kissing and participating in sexualised activity with the gun briefly but prominently displayed in front of their faces.

One of the females had her hand wrapped around the barrel of the gun in a way that was sexually suggestive. Although no actual violence was portrayed, the intimate association of the gun (an instrument of violence) and the sexualised activity portrayed was considered to be an example of low level sexualised violence.

- 6.4 The Review Board concluded that the scene at 113 minutes did not constitute sexualised violence. This scene occurred before the portrayal of any actual sexual activity in the vignette and there was no close association between any sexual activity and the shooting of targets with the gun. The Review Board considered this scene could be viewed as an attempt to develop character and plot. However, the Review Board also concluded that when the three scenes cited in this decision were considered in sequence, the association between implied violence and sexualised activity had more impact. The ongoing use of the gun as an instrument of ‘play’ in these scenes containing actual sexual activity suggested that this association was an integral part of the vignette and as such was not acceptable under the Guidelines.
- 6.5 The applicant argued that the Classification Board failed to:
- (a) take sufficient account of the comedic nature of the scene on which the decision to classify the film RC was based.
 - (b) take full account of the wording and intent of the Act and the National Classification Code.
 - (c) reasonably apply the Film Classification Guidelines as they relate to depictions of violent activity.
- 6.6 The Review Board took the view that in its own considerations,
- (a) It had fully considered the tone, style and context and content of the film
 - (b) Fully taken account of the wording and intent of the Act, and the Code
 - (c) Applied in a reasonable manner the Guidelines as they apply to sexualised violence.
- 6.7 The Review Board concluded, for reasons set out in 6.2 to 6.4 above, that the film was one that contained a strong association between an instrument of violence and sexual activity, leading to implied sexualised violence. As the film also contains real depictions of actual sexual activity in a way that is likely to offend a reasonable adult, the film cannot be classified X and is appropriately classified as “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 Joey Silvera's Butt Row Unplugged "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