



# Australian Government

---

## Classification Review Board

13 October 2016

23-33 MARY STREET  
SURRY HILLS, NSW

<b>MEMBERS:</b>	Fiona Jolly (Chair) Peter Attard Richard Williams
<b>APPLICANT</b>	Transmission Films
<b>INTERESTED PARTIES</b>	Transmission Films
<b>BUSINESS</b>	To review the Classification Board's decision to classify the film Embrace MA 15+ with the consumer advice 'Strong nudity'.

### DECISION AND REASONS FOR DECISION

#### 1. Decision

The Classification Review Board (the Review Board) unanimously classified the documentary film M, with the consumer advice 'Nudity'.

#### 2. Legislative provisions

The *Classification (Publications, Film and Computer Games) Act 1995* (Cth) (the Classification Act) governs the classification of films and the review of classification decisions.

##### *The Review Board*

Part 5 of the Classification Act outlines the provisions relevant to the Review Board and its procedures.

Section 42 of the Classification Act sets out the persons who may apply for review of a decision:

- (a) the Minister
- (b) the applicant for classification of the film, or the likely classification of the film under section 33
- (c) the publisher of the film, or
- (d) a person aggrieved by the decision.

Section 43 sets out the conditions regarding the manner and form of applications for review, including time limits. Under section 44, the Review Board must deal with an application for review in the same way that the Board deals with an application for classification of a film.

#### *Classification of Films under the Classification Act*

Section 9, subject to section 9A, provides that films are to be classified in accordance with the National Classification Code (the Code) and the classification guidelines. Section 9A states that a computer game that advocates the doing of a terrorist act must be classified RC.

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.

#### *The National Classification Code*

Relevantly, the Films Table of the Code provides that:

Films (except RC films, X 18+ films and R 18+ films) that depict, express or otherwise deal with sex, violence or coarse language in such a manner as to be unsuitable for viewing by persons under 15 are to be classified M.

The Code also sets out various principles to which classification decisions should give effect, as far as possible:

- (a) adults should be able to read, hear, see and play 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
- (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.

## *The Guidelines*

Three essential principles underlie the use of the *Guidelines for the Classification of Films 2012* (the Guidelines), determined under section 12 of the Classification 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 met on 13 October 2016 in response to the receipt of an application from Transmission Films on 30 September 2016 to conduct the review of the film *Embrace*, which had previously been classified MA 15+ by the Classification Board. The Review Board determined that the application was a valid application.

The Review Board was provided a written submission from the Applicant.

The Review Board viewed the film.

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) Transmission Films' application for review
- (ii) Transmission Films' written submission
- (iii) a written submission received from the Taryn Brumfitt
- (iv) the film, *Embrace*
- (v) the relevant provisions in the Classification Act, the Code and the guidelines, and
- (vi) the Classification Board's report.

### **5. Synopsis**

*Embrace* is a documentary film that discusses body image for women and follows Tara Brumfitt on a journey around the world to talk to women about their views on their bodies and explores why women dislike their bodies.

### **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 documentary explores the theme of women and girls’ body image. The impact of this element is no higher than moderate and can be accommodated at the M level.

(b) Violence – There is no violence in the documentary.

(c) Sex – There is no sex in this documentary.

(d) Language – There are a small number of uses of the word ‘fuck’. The impact of this element is no higher than moderate and can be accommodated at the M level.

(e) Drug Use – There is no drug use in the documentary.

(f) Nudity – The film contains a number of images of naked women, images of women’s breasts, before and after photographs of breast enhancement and labiaplasty, and images of naked women being photographed. Of particular note are:

At 28 minutes there is a scene where a cosmetic surgeon shows and discusses the image of a labiaplasty which depicts a woman’s genitals before and after surgery. It was a brief image depicting the results of a medical procedure in the context of a discussion about cosmetic surgery. The nudity was justified by the context of a discussion about cosmetic surgery and the impact of this scene was no higher than moderate.

At 29 minutes there is a depiction of multiple photographs of female genitalia in a close up of images from a book which are scrolled through on screen as a female narrator discusses the different appearances of healthy female genitalia. This scene is relatively brief. This nudity is in the context of a discussion about the differences in female bodies and is justified by the context of the theme of the documentary which encourages the acceptance of the diversity of women’s body types. The impact of this element is no higher than moderate.

Overall the impact of this element is no higher than moderate and can be accommodated at the M level.

## **7. Reasons for the decision**

The Review Board considered that the documentary centres on body image and aims to change the way women and girls feel about their bodies. This theme results in a focus on how women’s bodies look and consequently there are a number of scenes depicting naked women. The scenes in which the photographs of women’s vulvas are viewed in the context of demonstrating the different appearance of women’s genitals and are relatively brief. The Review Board considered that these scenes are justified by context of the documentary and their impact is no higher than moderate.

## **8. Summary**

The Review Board determined that the documentary film Embrace should be classified M with consider advice of ‘Nudity’.