



Australian Government
Classification Review Board

19, 20, 23 June 2006 and 3, 5 July 2006

23-33 MARY STREET
SURRY HILLS, NSW

MEMBERS: Ms Maureen Shelley (Convenor)
The Hon Trevor Griffin (Deputy Convenor)
Mr Rob Shilkin
Mrs Kathryn Smith
Mrs Gillian Groom
Ms Ann Stark
Mr Anthony Hetrih

APPLICANT: Commonwealth Attorney General, the Hon Philip Ruddock
MP, not represented.

INTERESTED PARTIES: NSW Council for Civil Liberties.

BUSINESS: To review the Classification Board's decision to classify the film *Jihad or Terrorism* 'PG (Parental Guidance)' with the consumer advice 'Mild themes'.

DECISION AND REASONS FOR DECISION

1. Decision

The Classification Review Board (the Review Board) in a unanimous decision classified the film *Jihad or Terrorism* 'PG' (Parental Guidance) with the consumer advice 'Mild themes'.

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 6 of the Table under the heading 'Films' provides that:

Films (except RC films, X 18+ films, R 18+ films, MA 15+ films and M films) that cannot be recommended for viewing by persons who are under 15 without the guidance of their parents or guardians

are to be classified 'PG'. The Code also sets out various principles to which classification decisions should give effect, as far as possible. Section 11 of the Classification Act requires that the matters to be taken into account in making a decision on classification 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 publication or film; and
- (c) the general character of the publication or 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 *2005 Guidelines for the Classification of Films and Computer Games*, determined under s.12 of the Act:

1. The importance of context;
2. Assessing impact; and
3. The six classifiable elements – themes, violence, sex, language, drug use and nudity.

3. Procedure

The Review Board convened on 19 and 20 June 2006 in response an application dated 5 June 2006 from the Attorney General, the Hon Philip Ruddock MP (the Applicant).

The original application for classification of the film was lodged by the Australian Federal Police on 15 December 2005 (application reference T05/7147). The Classification Board classified the film as PG (Parental Guidance) on 23 December 2005.

Seven members of the Review Board viewed the film, received oral and written submissions from Mr Drew Kovacs representing the New South Wales Council for Civil Liberties. At its meeting on 19 June 2006 the Review Board determined it was not able to reach a decision without obtaining translations of those parts of the film that were in languages other than English.

The Review Board reconvened on 3 July 2006 and considered the translations provided by the Community Relations Commission. The Review Board convened again via teleconference on 5 July 2006 to consider the substance of the application and, after careful consideration of all of the issues, determined that the film be classified 'PG' with the consumer advice 'Mild themes'.

4. Evidence and other material taken into account

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

- (i) The Attorney General's application for review;
- (ii) The NSW Council of Civil Liberties' written and oral submissions;

- (iii) The film *Jihad or Terrorism* (T05/7147);
- (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) Translations of the Arabic portions (both written and oral) of the film;
- (vii) The Classification Board's report; and
- (viii) The *2005 Guidelines for the Classification of Films and Computer Games*.

5 Synopsis

This film is a recording of a lecture presentation given by Sheikh Khalid Yasin entitled *Jihad or Terrorism*. The lecture is ostensibly presented as an academic discussion of the nature of Jihad and an explanation of how it differs from acts of terrorism.

It is a filmed lecture of 92 minutes that is comprised of primarily of a single camera shot of Sheikh Kalid Yasin delivering the lecture. Sheikh Yasin refers to what he describes as historical terrorism including the African slave trade and the Spanish invasion of South America.

6 Findings on material questions of fact

Classifiable elements of sex, drug use, violence, coarse language, nudity and themes

The Review Board found that the film contains aspects or scenes of importance, under various classifiable elements:

In regard to the elements of sex, drug use or nudity there are no descriptions or depictions of these elements. The use of coarse language is infrequent and mild.

However, there is some exploration of the theme of terrorism and of violence. The theme of terrorism has a low sense of threat or menace and is within the context of a lecture. The lecturer refers to violence such as suicide bombing, genocide, slavery. These references are verbal only and mild in impact.

The lecture also includes Sheikh Yasin's views on the behaviour and obligations of modern Muslims. Some of the "facts" he presents may be questionable but this is not relevant to the assessment of the video's impact.

The presentation was non-confronting, as Sheikh Yasin states that the matter is a "provocative subject but [he is] not delivering [it] in provocative manner". He discusses the idea presented in the media that jihad and terrorism are synonymous. His discussion of this is not done in a manner that incites. The lecture starts with a conciliatory statement.

Sheikh Yasin explains "Jihad" from a Muslim perspective in terms of protecting the honour of Islam against a criminal or intruder or someone who has no respect for others. He states that Islam requires a submission to being peaceful, surrendering to the law/system.

Overall the presentation of the lecture is low in impact and there is only a mild sense of threat or menace notwithstanding some references to deaths in Afghanistan and Vietnam.

Promotion, incitement or instruction in matters of crime or violence

The video does not in any way promote, incite or instruct in matters of crime. Sheikh Yasin explicitly states that suicide bombing is not justified by Islam and that Muslims in non-Muslim countries are not permitted, under Islam, to attack the Governments or societies in which they live.

7 Reasons for the decision

The Review Board considered the class of persons to whom it is intended or likely to be published as required under the section 11 of the Act. The Review Board determined that the video is unlikely to have a broad or wide audience.

Further, the Review Board considered the submission by the NSW Council for Civil Liberties that “while the material may be politically and socially controversial, as it does not present a threat to Australian society, it ultimately serves an educational purpose”. Whilst not determining that the material was educational, the Review Board did accept that this video would not “present a threat”.

The Guidelines state that material classified PG "*may contain material which some children may find confusing...it is not recommended for viewing...by persons under 15 without guidance from parents or guardians*".

In light of the impact of the classifiable elements stated above, while viewers may not agree with the Sheikh's interpretation or his views, they are expressed in a non-menacing manner and can be accommodated within the PG classification. In light of the descriptive title of the film, the appropriate consumer advice is “Mild themes”

8 Summary

It is a video that is mild in impact and describes what Islam is about and how Islam is a world view. It does not justify terrorism. The Classification Review Board in a unanimous decision classified the film *Jihad or Terrorism* ‘PG’ (Parental Guidance) with the consumer advice ‘Mild themes’.