



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

**21 November 2003**

**23-33 MARY STREET  
SURRY HILLS, NSW**

**MEMBERS:** Ms Maureen Shelley (Convenor)  
Ms Jan Taylor  
Ms Dawn Grassick

**APPLICANT:** LJ Digital World Pty Ltd

**BUSINESS:** To review the Classification Board's decision to Refuse Classification (RC) for the computer game *Silverball Product Version 8* under the *Classification (Publications, Films and Computer Games) Act 1995*.

**DECISION AND REASONS FOR DECISION**

**1. Decision**

A three-member panel of the Classification Review Board unanimously determined that the computer game, *Silverball Product Version 8* is classified M15+ with the consumer advice "Contains some nudity".

**2. Legislative provisions**

The *Classification (Publications, Film and Computer Games) Act 1995* (the 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 classification guidelines.

Relevantly, 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.

### **3. Procedure**

The Review Board convened in response to an application from the applicant, which sought leave to be represented by Gary Robb & Associates.

The Review Board received a written application for review and supporting written submissions from the Applicant's representative, Mr Gerard Rees.

At the Review Board's meeting on 6 November 2003, three members of the Review Board viewed the computer game, which was submitted in the format of an amusement machine containing more than 100 games including quizzes, puzzles and card games.

Mr Rees also made an oral submission on behalf of the Applicant and was attended by three personnel from the Applicant, [Please insert names Luke Phillips demonstrated some of the games but was unable to demonstrate the classifiable games to all levels of play.

The Review Board then met in camera to consider the matter on 6 November 2003. The Convenor had viewed all the images from the amusement machine in CD Rom format and reported her findings to the panel. The Review Board re-convened by teleconference on 21 November 2003.

### **4. Matters taken into account**

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

- (i) the applicant's application for review (including written and oral submissions);
- (ii) the computer game *Silverball Product Version 8*;
- (iii) the relevant provisions in the Classification Act;
- (iv) the relevant provisions in the Code, as amended in accordance with section 6 of the Classification Act; and
- (v) the *Guidelines for the Classification of Films and Computer Games*, as amended in accordance with section 12 of the Classification Act.

## **5. Synopsis**

The game console Silverball Product Version 8 is a personal computer hard and softwired to provide access to approximately 113 arcade-style and computer games. These include action games, standard card games, general knowledge quizzes and other games. Of these games 15 games on the console reviewed were listed under the heading Erotica. These games contained some partial and total nudity.

## **6. Findings on material questions of fact**

The Review Board found that approximately 98 of the games were standard computer or arcade-style games that would be accommodated by a G or G(8+) rating.

The Review Board found that 15 games under the heading Erotica contained static photographs of partially nude men and partially nude and nude women.

The Review Board found that none of the photographs of men portrayed nudity.

The Review Board found that of the more than 550 photographs of nude or partially nude women 525 were very mild in impact, 20 were mild in impact and five were moderate in impact. The majority were of the standard that can be viewed in unrestricted magazines in most newsagents.

The Review Board found that the poses were for the most part those characterised as “glamour shots” rather than sexually explicit.

The Review Board found that the five photographs that were moderate in impact could only be accessed in the games “Striptease” and “Striptease 2”. These photographs could only be accessed at the highest level of play, which Mr Phillips was unable to achieve in prolonged and repeated play during demonstration before the Review Board.

## **6. Reasons for the decision**

The Guidelines state

“Impact may be higher where a scene . . . encourages interactivity” and “Interactivity includes the use of incentives and rewards, technical features and competitive intensity. As a general rule . . . except in material restricted to adults, nudity and sexual activity must not be related to incentives or rewards”

The Guidelines further state

“. . . some visual impacts have less impact than others; for example, an incidental depiction may have less impact than a direct one.”

In this matter the Review Board accepted the submission of the applicant that the general rule did not apply for some games. The Review Board found that the general rule did not apply for the following reasons:

- The photographs are static pictures with little accompanying sound (the words “Oh yeah” are repeated in some activities). The photographs can not be manipulated by the player in anyway. The player can not control the duration

of the photograph's presence, nor the size of the picture. In all games, the pictures are present for moments or seconds.

- The photographs are, at most, moderate in impact
- The interactivity is with the game play rather than the photographs for the games *Striptease* and *Striptease 2*, which contained the photographs with moderate impact.
- Whilst the interactivity was with the photographs in *Match It Girls* and *Match It Boys*, the pictures diminish in size and duration as the complexity of the game increases. As the player becomes more skilled in matching pairs of pictures, more pictures appear, the pictures decrease in size and any impact they may have had as depictions of nudity is diminished.

The Review Board accepted the applicant's submission that the nudity was incidental to play rather than reward for play for some games.

Further, the Review Board found that the quizzes contained educational material regarding health matters.

The Review Board also considered persons or class of persons to or amongst whom the game is published or is intended or likely to be published. The Review Board accepted the applicant's submission that the *Silverball* console had been commercially unsuccessful in gaming arcades and that its intended and likely audience was patrons of hotels and clubs.

The Review Board noted that a casual glance at the console would not afford a passerby a view of offensive material either in its "standby" mode or when it was being played. Also, the only invitation to play the *Erotica* games was provided by the symbols for male and female. It appears that the manufacturers of the product have taken steps to ensure that casual observers are unable to view unsolicited material.

## **7. Summary**

The Classification Review Board unanimously determined that the computer game, *Silverball Product Version 8* is classified M15+ with the consumer advice "Contains some nudity".