



Australian Government

Classification Review Board

30 July 2008
23-33 MARY STREET
SURRY HILLS, NSW

- MEMBERS:** Ms Maureen Shelley (Convenor)
The Hon Trevor Griffin (Deputy Convenor)
Mrs Gillian Groom
Mr Rob Shilkin
Ms Kathryn Smith
Ms Ann Stark
- APPLICANT** The Hon Robert Debus, Minister for Home Affairs
- INTERESTED PARTIES** Australian Family Association (AFA) represented by Ms Angela Conway and Mr Damien Tudehope; and NSW Council for Civil Liberties (NSW CCL) represented by Mr Stephen Blanks and Dr Brent Waters
- BUSINESS** To review the Classification Board's decision to classify the film *T & A Teacher* R 18+ with the consumer advice 'High level animated sex scenes, Violence'.

DECISION AND REASONS FOR DECISION

1. Decision

The Classification Review Board (the Review Board) classified the film R 18+ with the consumer advice 'High level animated sex scenes and sexualised violence'.

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

Films that:

- (a) 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; or
- (b) describe or depict in a way that is likely to cause offence to a reasonable adult, a person who is, or appears to be, a child under 18 (whether the person is engaged in sexual activity or not); or
- (c) promote, incite or instruct in matters of crime or violence, are to be classified 'RC', and

Films (except RC films and X 18+ films) that are unsuitable for a minor to see are to be classified R 18+.

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

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; 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.

Three essential principles underlie the use of the *Guidelines for the Classification of Films and Computer Games 2005* (the Guidelines), determined under s 12 of the Act:

- the importance of context
- the assessment of impact, and
- the six classifiable elements – themes, violence, sex, language, drug use and nudity.

3. Procedure

Prior to the review meeting, the Convenor determined that given the provision of Regulation 21 (2) (d) the application was of sufficient complexity that a decision would be not likely to be completed within 20 business days as more than one application of a similar nature had been received at the one time and that the Convenor had agreed to hear submissions from interested parties namely the NSW CCL and the AFA.

The Review Board met on 30 July 2008 in response to the receipt of an application from the Minister for Home Affairs on 18 July 2008 to determine its validity.

The Review Board determined that it had received a valid application from the Minister and noted the Convenor's decision regarding the complexity of the application and that it would be likely to be processed within 40 business days.

The Minister had advised in writing on 18 July that he would not be making written or oral submissions on the application for review. The original applicant made an undated written submission received by the Convenor on 25 July 2008 and distributed to the Review Board prior to the review meeting.

Six members of the Review Board viewed the film prior to the meeting on 30 July 2008. Arrangements were made for the NSW CCL and the AFA to view the film prior to the meeting on 30 July 2008.

The Review Board heard oral submissions from Dr Brent Waters and Mr Stephen Blanks representing the NSW CCL and from Mr Damien Tudehope and Ms Angela Conway from the AFA. No written submissions were made by the NSW CCL or the AFA.

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) The Minister's application for review
- (ii) The original applicant's written submissions
- (iii) The oral submissions from the NSW CCL and the AFA
- (iv) the relevant provisions in the Act, the Code and the Guidelines, and
- (v) the Classification Board's report

5. Synopsis

A teacher, who is proficient in martial arts, expresses bewilderment by her almost uncontrollable sexual urges that result in her masturbating on school premises, digitally stimulating a male student's penis through his clothes during his martial arts class and engaging in sexual activity with another student.

The teacher also strikes out impulsively injuring a student following his sexual harassment of another teacher and injures a further student following a consensual sexual experience. This student is hospitalised and she visits him in hospital and engages in sexual activity with him while he is wearing a neck brace.

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 theme of the abuse of positional power is depicted. The teacher is also depicted in a sexually provocative pose in front of the principal, who is also her father.

(b) Violence – There are several violent scenes, two that result in injury to students following sexual behaviour or activity thus sexualising the violence.

(c) Language – There is little use of coarse language.

(d) Sex – There are detailed and graphic depictions of sexual activity including masturbation, cunnilingus, fellatio, digital and penile anal and vaginal penetration, and ejaculation.

The depictions of male and female genitalia are anatomically correct and are presented in close up and are present as part of sex scenes.

(e) Drug Use – There is little drug use depicted in the film.

(f) Nudity – There are animated depictions of male and female full and partial nudity including frontal and rear nudity mostly involving sexual scenes.

7. Reasons for the decision

The Review Board noted the conflicting submissions of the NSW CCL and the AFA in regard to the classification of the film and took into account the views expressed. While the submission of the NSW CCL did not provide much assistance to the Review Board, the Review Board noted the very real offence taken by the AFA regarding the content of the film, particularly in relation to the teacher-student relationship.

Whilst some adults may find the themes and sexual depictions offensive, the Review Board unanimously determined that the film could be accommodated by the R18+ classification because the impact of the sex scenes and sexualised violence was greatly diminished by the animated character of the film.

However, given the community's concerns regarding sex violence, the Review Board determined that the film should carry consumer advice regarding the impact of the sexualised violence as well as the high impact of the sex scenes.

8. Summary

The Review Board unanimously determined that the film should be classified R18+ with the consumer advice “high impact animated sex scenes and sexualised violence”