



# **Australian Government**

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## **Classification Review Board**

**4 and 5 May 2010**  
**23-33 MARY STREET**  
**SURRY HILLS, NSW**

- MEMBERS:** Ms Victoria Rubensohn AM (Convenor)  
The Hon Trevor Griffin (Deputy Convenor)  
Ms Ann Stark  
Dr Melissa de Zwart  
Mr Alan Wu
- APPLICANT** The Hon Brendan O'Connor MP, Minister for Home Affairs
- INTERESTED PARTIES** Shock Records (the original applicant for classification)  
Australian Family Association (AFA)  
Family Voice Australia (FAVA)  
NSW Council for Civil Liberties (NSW CCL), and  
Flinders University Film Animation Comics and Television Society (Flinders FACTS)
- BUSINESS** To review the Classification Board's decision to classify the modified version of the film *Salo o le 120 Giornate di Sodoma* (*Salo*) in DVD format R 18+ with the consumer advice 'Scenes of torture and degradation, sexual violence and nudity'.

### **DECISION AND REASONS FOR DECISION**

#### **1. Decision**

The Classification Review Board (the Review Board), by a majority, classified the modified version of the film *Salo o le 120 Giornate di Sodoma* (*Salo*) in DVD format, along with accompanying material, R 18+ with the consumer advice 'Scenes of torture and degradation, sexual violence and nudity'.

## 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**

The Review Board received an application for review from the Minister for Home Affairs on 15 April 2010. On 19 April, the Review Board determined that this application was valid.

The Minister for Home Affairs advised that he would not be making written or oral submissions on the application for review.

Prior to the Review Board's meeting, the Convenor granted 'interested party' status to the NSW CCL, the AFA, FAVA and Flinders FACTS. The original applicant (Shock Records), FAVA and Flinders FACTS provided written submissions to the Review Board prior to their meeting.

On 4 May, five members of the Review Board viewed the 292 minute DVD including the film and additional material described below.

On 5 May, the Review Board heard oral submissions from two persons representing the NSW CCL, and one person representing both the AFA and FAVA.

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 written submissions from Shock Records, Flinders FACTS and FAVA
- (iii) The oral submissions from the two persons representing the NSW CCL and one person representing the AFA and FAVA
- (iv) the relevant provisions in the Act, the Code and the Guidelines, and
- (v) the Classification Board's report

### **5. Synopsis**

Set in the Italian village of Salo (a seat of Fascist Government) during World War II, this film follows four sadistic fascist males (representing the four pillars of the Italian establishment: the Church, Politics, the Nobility and the Judiciary) who detain 16 young males and females and subject them to torture, degradation and sexual violence before executing some of them. A group of young 'black shirts' accompanies the captors. The film follows the narrative structure of the Marquis de Sade's *120 Days of Sodom* and is divided into chapters including Antinferno, Circle of Manias, Circle of Shit and Circle of Blood.

This two-disc DVD release contains substantial additional material including the Italian trailer for the film, a music film clip entitled 'Ostia – The Death of Pasolini' by

Coil and documentary features entitled 'Open Your Eyes!', 'Ai Passi con Pasolini... Walking with Pasolini', 'Salò: Fade to Black,' 'Whoever Says the Truth Shall Die' and 'Ostia' (with director's commentary).

## **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 R 18+ classification contains virtually no restrictions on the treatment of themes. The film is intended as a political allegory, critiquing both the corruption of fascist Italy and the consumerist commodification of Italy in the 1970s. The film is intended as a serious study of the corruption which accompanies the exercise of absolute power. Within this broader context, the highly stylised film follows a narrative of four fascist pillars of society (a bishop, nobleman, judge and politician) who detain 16 young males and females during World War II, and subject them to acts of degradation, torture and sexual violence.

(b) Violence – The film contains both mental and physical violence that is high in viewing impact and implied sexual violence that is high in impact but justified by context.

Examples include but are not limited to:

At approximately 32 minutes a nude female servant is tripped in a banquet hall containing the characters of the film. One of the young male 'black shirts' is depicted unzipping his fly and approaching her. He then has implied anal intercourse with her, although his actions are obscured by the banquet table. A close-up of the servant's face shows her screaming.

At approximately 40 minutes there is a mock wedding scene involving one young male as the groom and a young female as the bride. The couple are then undressed by their captors and commanded to caress each other. Two of their captors then rape them and a third captor has anal sex with one of the captors. These sex acts are filmed at a long distance and without close-up shots or shots of genitalia.

At approximately 51 minutes a large group of young males and females are shown naked, leashed and on all fours. They pant and bark like dogs and are forced to compete for food that the captors throw onto the ground or provide in dog bowls.

At approximately 53 minutes a young female is forced to eat pastry containing nails and blood runs from her mouth as she screams.

At approximately 63 minutes one of the captors, obscured by a banquet table, squats and impliedly defecates. A shot of what appears to be faeces on the floor follows. A nude young female is given a spoon and repeatedly commanded by the captor in a screaming tone to 'eat'. In long shot, the young female is shown placing the brown substance in her mouth, then retching and crying. She is shown in close-up eating

another spoonful of the substance. Two scenes involving urolagnia also occur in the film.

At approximately 83 minutes the captors arrange a contest for the best behind of the young males and females, announcing the prize to be instant death. The four captors inspect with a torch the bare buttocks of young males and females arranged in a circle. However, the detail of the buttocks is obscured by editing and various camera angles. A gun is placed at the temple of the young male winner and the trigger pulled, but the gun is not loaded.

From approximately 107-115 minutes the captors take turns sitting at a window in a high building, looking through binoculars as those young males and females who have transgressed the 'rules of the house' are subjected to implied sexual violence, torture and in some cases, execution, in a courtyard below. The captors listen to classical music, laugh, quote poetry and one captor appears sexually gratified by the activities in the courtyard. The impact of the violence is muted and mitigated by it being viewed mostly at a considerable distance and elevation, in extreme long shot through binoculars and the soundtrack consists of the classical music only. There are no lingering close-ups of the violence and torture. The impact of the violence and torture is further mitigated by the age and relative lack of technological sophistication of the visual effects.

The courtyard sequence includes the implied anal rape of a young female followed by her hanging (no detail of the rape is shown) at approximately 108 minutes. At approximately 110 minutes, a young male's penis is burned with a candle and a young female's nipple is burned with a candle. The tongue of another young male is sliced and the eye of another young male is gouged with a short knife. At approximately 113 minutes, a young female is shown being scalped, with blood and tissue depicted. A young male is branded with a branding iron and others are whipped. Some of these courtyard depictions are also shown in the accompanying documentary features, in the context of an exploration of the director Pasolini's intentions and use of cinematic technique.

(c) Language – Language in the film can be readily accommodated within the R 18+ category, as there are virtually no language restrictions in that category.

(d) Sex – The film contains sex that can be readily accommodated within the R 18+ classification as sexual activity is implied.

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

(f) Nudity – The film contains nudity that is of high viewing impact. Full frontal nudity occurs throughout the film in the context of scenes of torture, degradation and implied sexual violence.

## *National Classification Code and Guidelines*

The National Classification Code states, inter alia (in Item 1, sub-paragraph (b)), that films that:

- (a) 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)

should be refused classification.

The Review Board notes that in two submissions to its review there are differing claims which relate to this issue. The submission of Family Voice Australia claims that one of the actors playing a young male was under the age of 18 at the time the film was made, citing a website as a source. However, the submission of the film's distributors, Shock Records, states that the actors are over the age of 18. Further information has not been available to the Review Board on this matter. In terms of whether the actors playing young males and females 'appear' to be under 18, the Review Board observes that this is a subjective judgement and notes that all the relevant actors are clearly sexually mature. The Review Board does not consider that the latter part of this provision requires that the actors appear to be mature adults, rather, it requires that they neither be under 18 nor appear to be under 18. The Review Board is of the view that the potential for community offence caused by either the description (in stories related during the film) or depiction of such a 'person' is mitigated by the context, purpose and the stylised, detached cinematic techniques of this modified version of the film.

The Guidelines for Refused Classification also state that a film is to be refused classification if it contains, among other things:

'Descriptions or depictions of child sexual abuse or any other exploitative or offensive descriptions or depictions involving a person who is, or appears to be, a child under 18.'

In respect of these Guidelines, the Review Board reiterates its comments above relating to the relevant section of the National Classification Code, as to whether an actor is 18 or 'appears' to be under 18. It is the view of the Review Board that the film does not contain descriptions (in stories related during the film) or depictions of child sexual abuse which are exploitative or offensive, or any other exploitative or offensive descriptions or depictions involving such a 'person' given the context, purpose and cinematic techniques of this modified version of *Salo* in DVD format referred to below in these reasons.

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

The Review Board notes that the original film incorporated in this modified version of *Salo* in DVD format has experienced a varied and lengthy classification history in Australia, a previous version of the film having most recently been refused

classification in July 2008. From 1993-1998, the film was classified and shown in Australian cinemas.

It is the opinion of the Review Board that the inclusion of additional documentary features in this modified DVD format version of *Salo* facilitates wider consideration of the historical, political and cultural context of the film, and this would mitigate the level of potential community offence and the impact of classifiable elements to the extent that the film can be accommodated within the R 18+ classification.

According to the Classification Guidelines:

‘Context is crucial in determining whether a classifiable element is justified by the story-line or themes. In particular, the way in which important social issues are dealt with may require a mature or adult perspective. This means that material that falls into a particular classification category in one context may fall outside it in another.’

*Salo*, made in 1975, applies the structure and events of Marquis de Sade’s 18th century novel *120 Days of Sodom* to Fascist Italy during World War II. The additional material in this modified DVD version explores exhaustively the film’s historical, political and cultural context, the thematic foci of the film and the director’s intentions and cinematic techniques. These extra DVD features provide the viewer with salient interpretations of the film’s narrative, as well as additional context and elaboration of the purpose of the film. For example, in the documentary ‘*Salo: Fade to Black*’, the director, Pasolini, explains the film as ‘a metaphor for what power does to the human body’, and describes the film as exploring consumerism and fascism’s attempts to reduce the human body to a ‘saleable commodity’. The film is intended to deliberately shock its audience in order to powerfully illustrate its themes of the evils of fascism and the corruption inherent in the exercise of absolute power.

The Review Board also considers that the impact of *Salo*, now 35 years old, is reduced by its age, its dated and sometimes technically unconvincing visual effects and construction of the film’s narrative through mostly obscured long or extreme long shot visuals and editing techniques. The extensive, discordant usage of classical music, ornate costumes and highly stylised mise-en-scène gives the film a surrealist quality. The film employs a detached style, which is totally devoid of any sense of titillation. Overall, the characterisation and tone of the film encourages viewer distance rather than engagement.

The additional material included on the DVD, especially of extensive behind-the-scenes footage revealing the director’s approach to filming and his attention to detail in his camera shot-making, supports this view. During the documentary feature ‘*Open Your Eyes!*’ Pasolini is shown on set carefully selecting camera angles and staging scenes in a meticulous manner. The extensive footage also reinforces the fictional and highly stylised nature of the film.

*Salo* is high in viewing impact and ‘may be offensive to sections of the adult community’. It therefore warrants an R 18+ classification.

## 8. Minority view

A minority of members of the Classification Review Board is of the view that the DVD should be classified RC (Refused Classification).

There are two principal grounds on which the minority reached that view.

The first ground relates to the National Classification Code, Item 1, sub-paragraph (b) under the section relating to films. That provides:

‘Films that:

... (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):

are to be classified RC’.

This provision is also referred to under ‘Crime or violence’ in the Guidelines for Refused Classification. A film is to be refused classification if it contains, among other things,

‘Descriptions or depictions of child sexual abuse or any other exploitative or offensive descriptions or depictions involving a person who is, or appears to be, a child under 18 years.’

The second ground relates to the classifiable element of sexual violence, the Guidelines for R 18+ under ‘Violence’ providing that ‘sexual violence may be implied if justified by context’.

In respect of the first ground, the youthful appearances of the victims – no facial hair on the young males’ faces; at approximately 11 minutes the boy victims, being lined up, have trousers pulled down and shirts up, displaying youthful genitalia; repeated references to the victims as ‘boys and girls’ and addressing them as such; reference at approximately 16 minutes to a young female victim as a girl taken from a convent school; young naked female victims consistently showing pink nipples as opposed to the darker, developed nipples of a mature woman are some of the features which, in the opinion of the minority, involve depictions of a person who is or appears to be under the age of 18 years. In addition, from approximately 24 minutes, an older woman prostitute speaking to the ‘boys and girls’ (Senora Maggi) relates the story of her mother offering her as a seven year old virgin to an adult male, which heightens the sense that the young victims are children under 18. (The story telling would, of itself, offend against the provisions of the Code and Guidelines.) Thus, in the opinion of the minority, *Salo*, and excerpts from the film such as the theatrical trailer on the second disc, contain exploitative and offensive descriptions and depictions of child sexual abuse not justified by context, irrespective of the age of the actors playing the young people.

With respect to the second ground, the minority is of the view that, while much of the sexual activity would fall within the description of implied sexual activity, when taken as a whole and when combined with the violence which accompanied that

activity, the cumulative impact is very powerful and very high and therefore the DVD must be Refused Classification as the impact of material classified R 18+ should not exceed high.

The minority is also of the view that the additional material on the DVD following the film does not mitigate the impact of the classifiable elements of the film to the extent that it can be accommodated at the R 18+ classification.

## **9. Summary**

The modified version of *Salò* in DVD format is classified R 18+ with the consumer advice of ‘Scenes of torture, degradation, sexual violence and nudity’.