



Australian Government
Classification Review Board

5 December 2013

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

MEMBERS: Ms Victoria Rubensohn (Convenor)
Mr Peter Attard
Dr Melissa de Zwart

APPLICANT Roadshow Film Distributors

**INTERESTED
PARTIES**

BUSINESS To review the Classification Board's decision to classify the film *American Hustle* MA 15+ with the consumer advice 'Strong coarse language'.

DECISION AND REASONS FOR DECISION

1. Decision

The Classification Review Board (the Review Board) unanimously classified the film *American Hustle* M, with the consumer advice 'frequent coarse language'.

2. Legislative provisions

The *Classification (Publications, Films 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(1) 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(1), 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 film 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 under paragraphs 4 and 5 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 MA 15+.

Films (except RC films, X 18+ films, R 18+ films and MA 15+ films) that cannot be recommended for viewing by persons who are 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 Thursday 5 December 2013 in response to the receipt of an application from Roadshow Films on 3 December 2013 to conduct the review of the film *American Hustle*, 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 heard an oral submission from the Applicant.

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) Roadshow Films application for review
- (ii) Roadshow Films written and oral submissions
- (iii) the film, *American Hustle*; and
- (iv) the relevant provisions in the Classification Act, the Code and the guidelines.

5. Background

The Review Board noted the Board's decision report of *American Hustle*.

6. Synopsis

American Hustle is a US film said to be based on a true story. When con man Irving Rosenfeld and partner-in-crime, Sydney Prosser, are caught in an extensive money lending scam by the FBI, FBI agent Richie DiMaso does a deal with them to uncover high level graft and corruption. The film depicts the scam perpetuated by Rosenfeld and Prosser, under the direction of the FBI, and its consequences for the large cast of characters, including the Mayor of Camden, Carmine Polito.

7. 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 film deals with themes such as crime, corruption, fraud and deception.

The impact of these themes is no higher than moderate and can be accommodated at the M level.

(b) Violence – The film contains some instances of violence which are justified by context and are infrequent. These include Sydney smashing Richie across the face with a picture frame (93 min) and Richie hitting his boss with the telephone and threatening him with a gun (98 min). There is also an execution scene (77 min) viewed in longshot where Victor Tellegio is depicted shooting someone in the head. There is no blood or wound detail.

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

(c) Sex – The film contains sexual references and some scenes of implied sexual activity (at 20 mins and 59 mins).

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

(d) Language – The film contains frequent coarse language. This consists of frequent use of the word “fuck” and its derivatives, such as “motherfucker” and “fucko”. The context of the use of this language is as part of the normal conversational tone between the main characters. Coarse language is used aggressively infrequently in the film and is justified by context.

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

(e) Drug Use – The film contains a number of references to drug use, which are justified by context and can be accommodated at a lower level.

(f) Nudity – There was mild nudity in the film which can be accommodated at a lower level.

8. Reasons for the decision

The film contains frequent coarse language, in particular use of the word “fuck” and its derivatives. The word “fuck” is used repeatedly throughout conversation between several of the key characters. It is also used within a sexual context in several scenes. The impact of the use of the word is no higher than moderate as it is justified by context. Coarse language may be used. Aggressive or strong coarse language should be infrequent and justified by context.

9. Summary

Material classified M is not recommended for persons under 15 years of age. The Review Board determined that the film should be classified M with the consumer advice ‘frequent coarse language’.