



Australian Government

Classification Review Board

6 August 2008
23-33 MARY STREET
SURRY HILLS, NSW

- MEMBERS:** Ms Maureen Shelley (Convenor)
The Hon Trevor Griffin (Deputy Convenor)
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 *Bondage Mansion* R 18+ with the consumer advice 'High level animated sex scenes and themes'.

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 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 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.

It was found that the DVD submitted to the Review Board was not the same as that submitted to the Classification Board in that it contained trailers and extra material.

Mr Griffin, Ms Stark and Ms Shelley met on 6 August as a three-member panel of the Review Board to consider the matter including viewing Episode I again. The Review Board determined that the film is classified R18+ subject to confirmation from the Convenor that Episode II was the same as viewed by the panel prior to 30 July. Following this meeting, the Convenor reviewed Episode II of the film and confirmed it was the same as viewed by all members prior to the 30 July meeting.

Mr Griffin, Ms Stark and the Convenor held a teleconference on the matter on 13 August 2008 where they discussed the material further and commenced drafting the reasons for decision.

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 young female and male live in the mansion owned by the young man's father. The father on his death bed extracts a promise from his son that he will contact his cousin and invite him to live at the mansion. The cousin proposes a three month trial where the cousin who sexually satisfies the young female the most will win her, the mansion and the family fortune. The son is at first reluctant to agree but the young female persuades him. The sexual depictions involving bondage become more explicit as time passes. The son dies during one sexual act, the cousin kicks his dead body, the young female is depicted with twin sons one with blond and the other with black hair and the mansion is crumbling.

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 coercion in regard to sex is depicted as is bondage fantasies in considerable detail.

(b) Violence – there are some scenes of violence, apart from the sexualised violence in the film, including shooting of birds with wound and blood detail and the shooting of one of the male characters with blood detail and the kicking of the body of a deceased male character. The impact of these scenes, in the context of a bondage fantasy animated feature, is high.

(c) Language – there is some use of coarse language in the film.

(d) Sex – Various scenes of sexual activity are depicted including digital vaginal stimulation, fellatio, cunnilingus, penile rear entry vaginal penetration, penile anal penetration, digital anal penetration, penile frontal vaginal penetration, fetishes and other sexual practices such as the use of hot wax and slings, a “scold’s bridle”, hand restraints, whipping, vaginal penetration using implements including a battery-operated dildo and the handle of a sickle, threesomes, and sexual intercourse in the presence of others including male and female servants being ordered to watch sexual activity.

The depiction of sex scenes with the sickle at 1 and 2 mins of Episode II was noted. The tool has a sharpened edge, glints in the light, is depicted as having a thick, long handle and is used by a slightly menacing character (referred to as the caretaker) to sexually stimulate the lady of the family. The scenes contain some sense of menace although the female is depicted in appearance and through voice over as consenting to the activity from which she appears to derive pleasure.

The lady is shown as remembering the scene and feeling some remorse.

(e) Drug Use – there is limited depictions of drug use in the film. The blond “villain” of the piece is depicted as a smoker.

(f) Nudity – there is full and partial front and rear nudity of male and female characters mostly in sexual settings. One scene depicts the “lady of the family” sitting before a basin with legs spread with partial frontal female nudity of the pubic area.

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.

The submission of the NSW CCL did not provide much assistance to the Review Board given that much of it related to a comparative assessment of films classified 12 years earlier or relied on community standards pertaining to a period during the last

century. Mr Blanks remarks in relation to the application of the guidelines were of assistance.

The Review Board noted the offence taken by the representatives of the AFA regarding the content of the film in relation to the bondage theme, the cumulative impact of the scenes and the sexualised violence depicted, and the sense of menace in the “sickle” scenes.

The Review Board also noted the Classification Board’s reasons for allowing the film to be accommodated within the R 18+ classification.

The Review Board determined that the impact of the film, while high, was greatly minimised by the animated character of the film, its likely audience, the genre and the stylisation of the genre that impacts on the visuals, and the very unrealistic plot line. The Review Board concluded that the film would, nonetheless, be very likely to be offensive to some adults.

The Review Board noted the principles contained in the Code that adults should be able to read, hear and see what they want, that minors should be protected from material likely to harm or disturb them, and the need to take account of community concerns about depictions that condone or incite violence, particularly sexual violence; and the portrayal of persons in a demeaning manner.

It may be the view of some adults that the characters are portrayed in a demeaning manner however, it was the Review Board’s determination that the portrayal of the male and female characters – while offensive to some – was not demeaning in terms of the definition within the Guidelines.

In regard to the community’s concern regarding sexual violence, as articulated by the AFA, the Review Board determined that the depictions – while offensive to some – were not such that the film should be refused classification. Should the film have contained the same content and been a live action film, with real people, then such a film may be refused classification.

However, the animation and the anime genre remarkably diminish both the impact and the realism of the violence, sexualised violence and the sexual activity in the film. The Review Board agreed that there may be animated films with similar content that may be refused classification but it was the unanimous determination of the panel that this was not one of them.

An R 18+ classification is a legally restrictive classification that should prevent minors from seeing the film, and allow adults who want to see such a film to do so. The DVD cover, while explicit, is of a standard that is generally accepted for R 18+ films and those who did not wish to view such a film would be protected from seeing the depictions contained therein by the visual cues given on the DVD cover.

8. Summary

The film is classified R 18+ with the consumer advice high level animated sex scenes and themes.