

In a matter before:

4/2002

The Film and Publication Review Board

*In re:*

*Appeal by United International Pictures against a decision of a classification committee that the film How High is not suitable for persons under the age of 18 years..*

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Decision.

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On the 6<sup>th</sup> of March 2002 this film was viewed by four examiners and was assigned an 18 age restriction. UIP appealed against the decision on the following basis:

We feel that the film should not have carried the maximum restriction as this is not a serious film and I think that the Committee erred in its decision to impose an 18 restriction on this film.

Besides this conclusionary statement, we had no further input from UIP. Mr Sobel of UIP indicated to us that he was unaware of our guidelines regarding the submission of a memorandum of appeal made in a previous decision when reviewing the film *Musketeer*. It is regrettable that the guidelines laid down in that decision have not been implemented. Further we are of the opinion that it is necessary that decisions of the Review Board be placed on our web site as soon as they are handed down. This would keep examiners, the public and the film and publication industry informed of our

decisions.

The examiners, in the matter, justified their decision to impose a restriction of 18, by referring to the glamourization of the use of drugs in the film. Other concerns such as stereotyping of African Americans, Asiatics and White people and the frequency of abusive language were also identified. But it is apparent from the reports that it is the glamourisation of the use of drugs that was decisive in their deliberations. Two of the examiners were initially of the opinion that a sixteen restriction would be appropriate and the two others were of the firm view that an eighteen restriction was the correct one. One of the examiners stated in his report that the most appropriate category would be sixteen but that the guidelines left no option but to classify it as eighteen.

It is appropriate at this point to reflect on the powers of the examiners when classifying films. Section 18 (4)(c) the Film and Publication Act 65 of 1996 provides:

If a film examined ... falls--

- (I) ...
- (II) under Schedule 8, the classification committee may determine that the film may be exhibited only to persons of or above a prescribed age, specified by the committee, or that it may be exhibited only after the prescribed consumer advice has been given to viewers.

Schedule 8 of the Act provides:

An age restriction may be imposed only if the classification committee or the Review Board is of the opinion that, judged within context, it is necessary to protect children in the relevant age group against harmful and disturbing material in the film.

Thus the statute confers a discretion on the examiners to determine whether the film judged in its

context contains material that may be harmful and disturbing to children of a particular group. They need to reflect upon the material and determine a suitable age classification. The statute confers a wide discretion upon examiners. In order to structure that discretion and assist in its exercise, the guidelines have been published. Legally the guidelines cannot replace the discretion conferred by statute. Neither are the guidelines to be applied rigidly as if they were a checklist. The guidelines are there to assist the examiners when exercising this broad discretion and to achieve a measure of uniformity. The guidelines are a set of flexible rules that simply give guidance. Ultimately the examiners must be satisfied that the classification is necessary to protect children from harmful and disturbing material in a film. That is the test.

There are many scenes where the characters smoke cannabis and similar drugs and this is central to the plot. However the film is a spoof that borders on the ridiculous. It is intended to be and is a light hearted comedy that is farcical. The central characters are able to secure a place at Harvard because they smoke their dead friend whom they are able to then see and from whom they are able to receive assistance in tests and examinations. They are successful, not because they smoke drugs, but because they are smoking their dead friend. The film is a series of loosely linked scenes, varying in degrees of outlandishness. We have ghosts assisting people, visions of a mother appearing in the sky, the blowing up of pigeons, dead bodies coming to life, and authority figures being one dimensional and simplistic. This film is in the nature of the ninety-three minute music video that provides a platform for rap artists. It is not intended to be a serious film.

Seen in the context, the use of drugs occurs in an unbelievable and outlandish context. It is very unlikely that this film would prejudicially impact on sixteen year olds. The abusive language, brief scenes of nudity, racial stereotyping, simulated sex and cannabis smoking would justify a sixteen age restriction. In the circumstances, we have decided to replace the eighteen classification with a classification of sixteen with a language advisory.

The detailed reports of the examiners assisted us in arriving at our decision. The reports accurately focussed on the issues and we had the benefit of their thinking when we deliberated on this matter. We would like to thank the examiners for their detailed reports. However we respectfully disagreed

with their conclusion of an eighteen classification for the reasons stated above.

**Conclusion:**

**The film is not suitable for children under the age of sixteen. A language advisory is also necessary. This is the unanimous decision of the review board.**

Professor K Govender  
Chairperson.

M Bloem

L Rataemane

A Verster

S Juggernath

Ronald Lasiagh