

Before the Film and Publication Appeal Tribunal

In the matter between:

United International Pictures

and

The Film and Publication Board

2/2012

Award

In re: Appeal against the classification of the trailers of: –

The Dictator
Snow White and the Huntsman
Paranorman

Professor K.Govender
(Chairperson)

The Appeal Tribunal sat on the 10th of February 2012 and viewed the various trailers and heard arguments by the FPB and those made on behalf of the applicant. In order to enable the applicant to advertise the films, the following decisions were made on the 13th of February 2012.

1. The decision of the FPB made on 18/01/2012 that the trailer of the film *The Dictator* be assigned a classification of 10 is set aside.
2. **The trailer of the film *The Dictator* is assigned a classification of PG.**
3. The decision of the FPB made on 30/11/11 assigning the trailer of the film *Snow White and the Huntsman* a classification of 10(M) is

affirmed. and the trailer of the film *Snow White and the Huntsman* is thus assigned a classification of 10(M).

4. The decision of the FPB made on 07/12/2011 that the trailer of the film *Paranorman* be assigned a classification of 10 is set aside.
5. **The trailer of the film *Paranorman* is assigned a classification of 10(M).**

In our decision, we indicated that our reasons will be submitted within two weeks. These are our reasons for the decisions made.

The trailer of the film *The Dictator*

A three-person classification committee on 18/1/2012 assigned this trailer a restrictive age classification of 10. In support of their conclusion, the classification committee reasoned as follows¹:

This is one of Sasha Baron Cohen's rendition following in the same theme of an equal opportunity offender. This time around he's looking at the eruption of the "Arab Springs" as the media has termed it. There are slightly offensive scenes and the use of gun. Some mild sexual innuendos are also present.

Mr Mark Rosin of Rosin, Wright, Rosengarten appeared for the applicant, and the FPB were represented at the hearing by Mr SM Risiba, the Legal and Compliance Manager, and by Mr S Ndebele, a chief examiner. The trailer is very funny and is clearly a parody of the antics of a middle-eastern dictator. It

¹. This is a verbatim quote from the classifiers' report.

is important to assess the actual contents of the trailer, and not to anticipate what may or may not be contained in the film when it is released.

We are of the opinion that Mr Rosen was entirely justified in his complaint that the reasons submitted were unacceptably terse. The reasons, as we pointed out at the hearing, do not adequately and properly explain why the classification committee reached its decision. It is imperative that reasons be adequate in relation to the guidelines and the Films and Publications Act 66 of 1996 (the Act) as amended. This requires classifiers to assess the various scenes in the light of the guidelines and the Act. Supplying adequate reasons is vital, as they inform the applicants of the basis of the decision and enable them to decide, in an informed manner, whether or not to appeal. It also discharges the important constitutional obligation of acting openly and democratically. It is important that classifiers realise that their duties involve viewing the film, making a decision, and then providing reasons that justify the decision. These three aspects are all integral parts of the overall responsibility of examining and classifying the film in terms of section 18 of the Act.

At the hearing before us, Mr Ndebele amplified his original reasons by referring to a scene that may have the effect of reinforcing prejudice against Muslims or Arabs, where one of the Americans tells the dictator that he had better visit the Empire State Building before he or one of his cousins blows it up. This particular comment must be seen in the light of the other scenes, which unequivocally convey the idea that this is a spoof and has to be assessed accordingly. The scene with the gun, which patently looked like a starter's pistol, was frivolous and unreal. There is nothing of concern, except perhaps if you are a Kardashian, in the scene when a semi-nude Cohen recompenses

the actress Megan Fox for sex. Having viewed the trailer twice, we were unanimously of the view that there was nothing in the trailer that would be disturbing or harmful to children. The classification of '10' is excessive and unjustified, and is replaced with a PG classification.

The trailer of *Snow White and the Huntsman*

A three-person classification committee on 30/11/11 assigned this trailer a 10 (M) classification. In support of its decision, the committee found that the trailer may threaten the sense of security of younger viewers who may find it disturbing. In the analysis of the committee, the main classifiable element was violence and the menace and threat conveyed. It was conceded that the violence portrayed was fantastical, and there were no scenes of bloodletting; neither was human suffering portrayed. The applicant was of the view that what was conveyed was action rather than violence, and that in any event, it was contextualised. He also emphasised that there was no bloodletting.

We are of the opinion that a 10(M) classification is the appropriate classification in the circumstances. The scene of the wicked stepmother strangling a lady and obviously deriving satisfaction from it; the swordsman's body disintegrating into splinters; and women turning into a multitude of bats, together with the sense of menace conveyed, strongly suggest that it would be preferable for children under the age of ten to be in the reassuring presence of an adult when watching this trailer. The guidelines provide that the 10M classification requires children under the age of 10 to be accompanied by an adult so as to provide a reassuring counter-balance to potentially distressing

and upsetting scenes. Given the nature of the trailer, which contains brief scenes of mild physical and psychological violence, we are of the opinion that children under 10 should be accompanied by an adult when viewing this trailer. Hence the decision of the examiners is affirmed.

The trailer of the film *Paranorman*

A three-person classification committee assigned the trailer a restrictive age classification of '10' on the 7th of December 2011. The committee was of the view that the trailer was an animated horror film that resembled the 'Halloween' series of films. They were concerned that some of the animated creatures resembled ghosts and were frightening. They concluded that this would threaten the sense of well-being of younger children, who may be unable to distinguish between fantasy and realism. There were a few scenes that may raise the level of anxiety of children, and the musical score may exacerbate this. The classification committee was concerned that the effects of the film when viewed in 3D might enhance the effects and consequently increase the sense of anxiety. The trailer was in fact viewed in 2D, and we are unsure whether it is proposed that the trailer be viewed in 3D format, or just the film. It may be necessary for the distributors to indicate this, and to ensure that the trailer is viewed in the exact format that will be seen by cinema-goers.

In any event, we were of the view that the concerns about increased levels of anxiety could be assuaged by the presence of a reassuring adult. Mr Ndebele conceded that a 10(M) may also be appropriate. In the circumstances, we are of the view that a 10(M) classification would be adequate to protect children below that age.

Concurred by:

Adv. D. Bensusan

Ms H. Devraj

Prof. A. Magwaza

Mrs P. Marek

Revd M. McCoy

Ms K. Moodaliyar