

1/2002

REPORT OF THE FILM AND PUBLICATION REVIEW BOARD ON AN APPEAL
LODGED AGAINST THE PUBLICATION BOARD'S DECISION TO CLASSIFY THE
FILM BASE-MOI AS XX

1. INTRODUCTION

The Review Board constituted itself on Friday, 25 January 2002, at the headquarters of UIP-Warner, Sandton, in terms of the provisions of Sections 19 and 20 of the Films and Publications Act, 1966, as amended by the Films and Publications Amendment Act, 1999, to consider a complaint lodged by United Pictures International against the Board's decision to classify the French-made film Base-Moi XX. In terms of Schedule 6 of the Act, an XX category is accorded to any film "if, judged in context, it contains a scene or scenes, simulated or real, of any of the following:

- (a) child pornography
- (b) explicit violent sexual conduct
- (c) bestiality
- (d) explicit sexual conduct which degrades a person and which constitutes incitement to cause harm; or
- (e) the explicit infliction of extreme violence or the explicit effects of extreme violence which constitutes incitement to cause harm"

In the absence by prior apology of the Chairperson of the Board, Mr S T Jaggernath was appointed to chair the hearing.

2. SYNOPSIS OF FILM

The film deals with the exploits of two women who go on a killing and sexual rampage after each of them suffers a traumatic experience, one at the hands of men who violently abuse her because of her status as a prostitute, and the other who witnesses her close friend kill herself after being violently raped. Determined to exact revenge the two commit their first murder and are then inured into committing a trail of robberies, sexual encounters and murders. In the end one of the women herself meets a violent death, and the other is cornered by a group of men seeking revenge for these women's actions.

3. BOARD'S DECISION TO CLASSIFY FILM XX

The Board's decision to classify the film XX was based on Clauses (4) and (5) of Section 6, as mentioned above. In essence, in its view, the film is extremely sexually explicit – and hence pornographic, that its sexual scenes are presented in the context of extreme and intense violence and that it contains strong language. The examiners reached the conclusion that the sexually explicit and violent nature of the film amounted to gross prejudice against men and that it would incite viewers to cause extreme harm and pain, or even death, to men.

The film was hence considered unfit even for the type of restricted adult viewing that normally obtains for a pornographic film. The Executive Committee of the Film and Publications Board deemed that it was satisfied that the examiners had applied their minds fairly in arriving at their classification decision.

4. REVIEW BOARD'S OPINION

After viewing the film and considering the representations made on behalf of both sides, the Review Board was faced with the issue of exactly what quantifiable measures could be objectively used in applying clauses (4) and (5), or even (2), of Schedule 6. In as much as clauses (1) and (3) deal with cogent – and hence quantifiable – factors which could be applied by the mere presence of child pornography or bestiality respectively, the other clauses do not lend themselves to such ease of interpretation because of the very fact that they called for qualitative judgements base on assumed benchmarks which have not been clearly spelt out by the Board.

Aside from the difficulty encountered by the factor of inadequacy of language in stating precisely what might constitute explicit sexual conduct of such a nature that would invite a film to be rated XX, or of extreme violence for that matter, the application of these clauses relies on considered opinion and not observable fact. In the opinion of the Review Board, these are issues that the Board is constrained to examine in depth because of the implications it has for the Board's ability to arrive at decisions fairly and in the best interest of the society it serves. In this the Board has to remind itself of its very own credo, "we inform, you choose", a position that it has arrived at in keeping with its subscription to the ethos of a democratic society in which the freedom of expression, though not absolute, is an inalienable right and subject to the cardinal protection that whatever is allowed in the individual or group's right to express itself must not be harmful to children. Clearly then, as far as the conventional democratic values that our society would allow, the watching of any film that falls within the domain of adult viewing must be upheld by an enabling environment for such adults rather than a restrictive one.

It follows, therefore, that the classification of XX would have to apply for any film that is so outrageous in its nature that the mere showing of it would lead to the very harm, degradation or sexual conduct that the clauses in Schedule 6 are purported to cater for.

Base-Moi is indeed a pornographic and extreme violent film, but whether the explicit scenes of sexual conduct, or the intense violence in it, is any worse than the type of films that normally invite an X18, for example, is arguably based on a judgement call and therefore highly debatable. For want of finding anything "redeeming" in the film, the sexual scenes, though explicit, are far less tasteless than the type of filthy and nauseating acts that normally make for pornography. And the violence, though intense and at times shocking, certainly could not be any worse than those that obtain in films of a violent nature that have high restrictions – as opposed to prohibitions – imposed on them.

Notwithstanding the above-mentioned observations, and in the interest of upholding the adult's right to view material that is not within the ambit of the restrictions reflected in clauses (1) and (3), the remaining clauses of Section 6 under which the

Board decided to endorse and XX rating would have therefore had to be applied if the examiners were satisfied that the film violates both letter and spirit of the restrictions so intended. In this, the Review Board could not reach unanimity.

However, guided by the ethic that the Board's duty is to promote an enabling environment for the freedom to express or see-and obviously within the constraints imposed by Schedule 6 – the Review Board felt that the film could have been examined under terms of the provisions of Schedule 9 of the Act, viz. that Base-Moi should be considered a bona fide dramatic or art film and therefore exempt from an XX or X18 classification.

The Review Board is satisfied that Base-Moi so meets the requirements to be deemed a dramatic work

5. DECISION

The Review Board's unanimous decision is:

THAT the decision of the Board to classify the film Base-Moi XX be lifted; further that the film be classified 18SLV with the restriction that it only be exhibited at venues for which Schedule 9 hold reference; furthermore, that the film be publicised and/or exhibited in its original French title with no references whatsoever to its English translation of "Fuck-Me"

S T JAGGERNATH
ACTING CHAIRPERSON

25th January 2002