

## Before the Film and Publication Appeal Tribunal

In the matter between:

**Ster-Kinekor Pictures** 1/2015  
**Appellant**

and

**The Film and Publication Board** **Respondent**

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### Award.

**In re: Appeal against the classification of film: *The Wedding Ringer***

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#### Introduction

On the 12<sup>th</sup> of January 2015, a three-person classification committee assigned the film, ***The Wedding Ringer***, a restrictive age classification of 16 (D), (L), (S), (V). The appellants, the distributors of the film, were aggrieved and contended that the classification was unduly restrictive, and lodged an appeal against the classification. In order to facilitate the expeditious hearing of the appeal, the matter was initially set down for 07<sup>th</sup> February 2015, with a full quorum of members, but the applicant was not available. The matter was then set down for the 13<sup>th</sup> of February 2015. However it was not possible to secure five members of the Appeal Tribunal to hear the appeal on that day. Both parties were afforded the opportunity to have the appeal heard on a later date or, alternatively, to consent expressly to the appeal being heard by four members of the Appeal Tribunal. Both the appellant and the respondent consented to the appeal being heard by four members of the Appeal Tribunal. At the hearing on the 13<sup>th</sup> of February, the appellant was represented by Mr B Govindarajulu, the marketing manager of Sony, and by Ms I Rao, the CEO of Ster-

KinekorDistributions. The respondent was represented by Ms T Ncheke, a legal officer at the FPB, and by the three classifiers who made the original decision. We extend our appreciation to all those who made representations.

### **Description of the film**

In this entertaining romantic comedy, directed by Jeremy Garelick, Doug Harris (Josh Gad), a somewhat awkward but successful tax attorney, is engaged to the glamorous Gretchen Palmer (Kaley Cuoco-Sweeting). Doug and Gretchen are planning a lavish wedding, but because he has no real friends he attempts, without success, to convince some associates of his to act as his groomsmen. A desperate Doug is advised by Edmundo, the exotic wedding planner, to seek the services of Best Man Inc, run by Jimmy Callahan (Kevin Hart), who would pretend to be his best man. In order to match the seven maids of honour selected by Gretchen, Doug requests Jimmy to come up with seven groomsmen within two weeks. The idea is to deceive Gretchen and her family into believing that these are his friends with whom he has shared a rich and varied series of life experiences. Securing this number of groomsmen is referred to as the 'Golden Tux' in wedding planning parlance. Jimmy's initial reluctance is overcome by the generous fee of \$50,000 plus expenses. He assembles an odd-ball group of groomsmen and starts tutoring them, ensuring that they have their trade mark distraction tactics if things go awry. Jimmy's credo is that the groom is paying for a best man, not for a best friend. He is "everyone's best man for a price but no-one's best friend when it counts". Despite this cynicism and the falsity of its premise, we witness a real relationship develop between Doug and Jimmy. Doug begins to enjoy the pleasure of 'grabbing a beer' with friends more and more. These scenes include a memorable dance duet sequence when they attend a wedding to which they were not invited, a riotous slapstick stag party, and attempts to deceive Gretchen and her family during a dinner when her grandmother is inadvertently set alight.

Simultaneously we learn that Doug's relationship with Gretchen may equally be built on very shaky foundations. In his case, it is about being with a glamorous woman, the sort who was never interested in him in the past; in her case it is about finding someone dependable

who can give her the good things in life, after a string of failed relationships. Ultimately truth and honesty prevail in all respects, and the true friends fly out to Tahiti.

The film has received mixed reviews from the critics.<sup>1</sup>

### **The issue**

It was common cause that only two age classifications were applicable. The appellant requested a restrictive age classification of 13, and undertook to abide by any advisory conditions to notify parents of the language used in the film. The respondent submitted that the least restrictive age classification for this film was 16 with advisories for violence, drugs, sex and language. After the hearing, and in order to facilitate the release of the film, we made the following order:

1. The decision of the FPB made on the 12<sup>th</sup> of January 2015 that the film, ***The Wedding Ringer***, be assigned a restrictive age classification of 16 (D), (L), (S), (V) is affirmed in large part.
2. The appellant's request for a lower age classification of 13 is refused.
3. The film, ***The Wedding Ringer***, is assigned a restrictive age classification of 16 (L).
4. No person under the age of 16 is allowed to see this film.
5. Full reasons for the decisions will be given within fourteen working days.

These are the reasons for our decision.

### **The reasons**

The Classification Committee provided a clear explanation for their decision, and we compliment them for grappling with the various issues and for their concerted efforts to assess the film accurately in the light of the Guidelines (2014) and the Films and Publications Act 65 of 1996. We have reached a similar conclusion to that of the classifiers, but for different reasons.

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<sup>1</sup>. [http://en.wikipedia.org/wiki/The\\_Wedding\\_Ringer](http://en.wikipedia.org/wiki/The_Wedding_Ringer). Accessed on the 15<sup>th</sup> of February 2015.

## **The contentions of the parties**

In summary, the classifiers found that the film contains mature themes that are not suitable for children under the ages of 16 and that, in their opinion, could cause them moral harm. The language was strong and frequent, and repeated use was made of profanities. There was some implied sexual activity such as in the scene when, by implication, a dog licks peanut butter off Doug's penis. The classifiers described the violence as being moderate, infrequent, and portrayed in a comedic and slapstick manner. They concluded that the depiction of substance abuse is mild in impact, with one scene during which 'weed'(marijuana) is smoked through a coconut. After an assessment of the various scenes, the classifiers decided upon a restrictive age classification of 16 with consumer advisories for language, drugs, violence, and sex.

In support of their argument that an appropriate classification for the film would be 13 together with consumer advisories, the appellants emphasised the positive messages conveyed by the film. They contended that the ultimate message was that it was morally correct to be truthful despite the immediate costs of doing so. They emphasised the positive outcome of the film. In addition, the appellants referred to the message of inclusivity and accepting people who are different. In this context they pointed to the ragtag group of groomsmen who finally bond together, saying that this conveys the message that people who are different should also be respected. Both in the written submissions and in the oral presentations, the appellants conceded that the language was strong and frequent, but argued that it was communicated within a comedic context and without malice. Finally, they submitted that similar films have been given a much less restrictive age classification in the past.

## **Analysis of the arguments and findings**

It is desirable for classifiers to be consistent in their decisions. However, they are legally obliged to apply the Films and Publications Act and the relevant Guidelines and regulations promulgated in terms of the Act. Each film has to be assessed on its own merits and in terms

of the applicable law at the time of the classification. Referring to previous classifications of other films is often not a particularly productive exercise. Films may appear similar in some respects, but could differ markedly in others— particularly when context, impact, and release format are considered. The real issue is to assess the particular film under consideration on its own merits in accordance with the applicable legal norms.

We do not share the concerns of the classifiers about the complexity of the themes and the potential to cause moral harm to persons under the age of 16. All films have to be assessed in context and holistically. This is what the Guidelines mean when they state that all classification decisions must consider the context, impact, and release format of the material.<sup>2</sup> While Doug in desperation engages the services of Jimmy in order to deceive Gretchen and her family into believing that he has a team of buddies, he chooses to reveal the truth when there is no necessity to do so, and when the team are about to pull off the scheme. He ultimately chooses the morally correct path and veers away from the perpetuation of the deceit. It is not justified to assume that, because improper messages are conveyed for most of the film, it will therefore be morally harmful to children. Viewers generally watch a film from start to finish, which is why it has to be considered as a whole. The impact of the film can only properly be assessed after the film has been viewed in its entirety. The final scenes sometimes change the message and themes materially. This is the case. We are also of the view that there are other positive subtexts. The acceptance of the groomsmen with all their idiosyncrasies conveys the broader message of the need to respect and accommodate people who are different. Further, we see one relationship built on a false foundation develop into a lasting friendship, while another, also premised on incorrect reasons, ultimately flounders. From an objective assessment of the film, we are of the view that the messages and themes ultimately conveyed will not be disturbing or harmful to children aged between 13 and 16.

The classifiers also appeared concerned about the mild to moderate and infrequent violence. They referred to Doug falling through a glass table, the comical game of American

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<sup>2</sup> . Section 3(1) of the 2014 Guidelines published in Government Gazette 38051 of 3 October 2014.

football, and some clumsy scenes of falling and crashing. They obviously appreciated the comedic nature of these activities. In our award in *Agent 2000*<sup>3</sup> we stated:

More was made about scenes that were described as containing violence in the oral presentation than in the written reports of the classifiers. The action sequences cannot be classified as violence. The major fight scenes involving Walter du Toit and the Executioner are more akin to a choreographed dance sequence than a genuine fight between protagonists. The impact of the blows is not portrayed, there is no gore or blood, and the characters are not portrayed as worse for wear as a result of their activities. The bruise that Walter suffers after one of the encounters miraculously disappears in the next scene. The fight scene on stage in the theatre is so non-threatening that the audiences deem it to be part of the performance. Some of the acts and responses are exaggerated and unrealistic. These are non-threatening action sequences, and are most unlikely to negatively impact on children even as young as seven. These action scenes are innocuous, and would be tolerable for a seven-year-old.

Similarly, the action sequences in this film cannot be described as violent. When Doug falls through a glass table, he appears more perturbed and hurt by his inability to secure a best man than by the consequence of the fall. No consequences of the fall are depicted. The football match that pitches veterans of the past against the groomsmen includes a person in a wheel chair attempting to move in a field of mud. No one is hurt and no gore or blood is portrayed. The simple message is that determination and perseverance ultimately prevail. Finally, the slapping and shoving can accurately be described as slapstick. Indeed, the classifiers described it as such. It would be inaccurate to describe these comedic action and slapstick scenes as being violent. They are integral to this comedic genre, and the objective is to amuse and not to scare or frighten. It is unlikely that these scenes will be harmful or disturbing to children aged 13 to 16, and they cannot be regarded as an aggravating factor justifying a more restrictive age classification.

However, materially different considerations apply in respect of the language used. The profanities and strong language are not used throughout the film, but they are used repeatedly, intensely, and forcefully in certain scenes. The frequent and high impact use of profanities results in the viewer being almost assailed by the rapid fire use of them in some

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<sup>3</sup> . *SterKinekor v Film and Publication Board – re Agent2000* 2/2014 (FPAT).

scenes. This technique of using profanities in a high impact manner is repeated over a few scenes. In some instances it enhances the comedic effect, but in other scenes it is jarring.

The 2014 Guidelines provide that in the 13 age classification there may be scenes containing instances of *moderate* impact language that is justified by the context.<sup>4</sup>In contrast, these Guidelines provide that in the 16 age classification scenes may contain instances of *strong* language justified by the context. As pointed out earlier, the appellants accepted that strong language is used in this film, and we agree with that description. The frequency and intensity of the language, particularly of the profanity, suggest that a restrictive classification of 16 would accord best with the intent of the Guidelines.

However, it is important in this context to determine whether the comedic context of the film mitigates the harshest effects of the profanities. Generally the profanities were not accompanied by threat or menace.

As we have stated previously, it is important that the classification process have regard to context, impact, and release format of the film. In considering context, the Guidelines<sup>5</sup> direct that regard must be had to:

- a) the expectations of the public in general and the target market of the material;
- b) the theme of the material;
- c) the manner in which an issue is presented;
- d) the literary, artistic, dramatic or educational merit of the film;
- e) the apparent intention of the filmmaker, as reflected in its effect.

High impact profanities are used on a recurring basis. Deliberate choices were made to use this pattern of high intensity language in certain scenes. When such choices are made, there is always the risk that the film will attract a more restrictive age classification. While the themes are sound and the film carries a positive message, we were concerned with the scene when it is implied that a dog licks peanut butter off Doug's penis. His obvious enjoyment is short-lived, as the dog develops lock-jaw and Doug has to be rushed to the emergency room. This rather unfortunate scene is resurrected at the end of the film; and the

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<sup>4</sup>. Section 15(3)(e) of the 2014 Guidelines.

<sup>5</sup>. Section 3(2) of the 2014 Guidelines.

scene and its aftermath are also accompanied by strong language. Scenes of this nature, coupled with the strong language of high intensity, shift the equation in favour of the more restrictive age classification of 16.

The crisp issue that we had to confront was this: What would be the impact of this high-impact use of language by the main protagonists on 13-year-olds? The scene with the dog, the smoking of weed in the coconut, and the high impact profanities may suggest to 13-year-olds that language and conduct of this nature are socially acceptable, especially as they used by the main protagonists who are portrayed as successful people. A 13-year-old is more likely to be influenced by the language and conduct than a 16-year-old in these circumstances. It is more probable than not that material of this nature is age-inappropriate for children below the age of 16. The language and certain scenes make this film more appropriate to a more mature audience than to children aged 13 to 15. This is reinforced by the age classifications assigned to this film internationally<sup>6</sup>:

Australia:MA15+ / Canada:14A(*British Columbia*) / Ireland:15A / Netherlands:12 / Philippines:R-13 / Singapore:NC16 / Sweden:11 / UK:15 / USA:R

While these age classifications vary, with the exception of Sweden and Netherlands, most countries opted for a classification higher than that of 13. This supports the view that the contents may be age-inappropriate for children aged 13 and below.

Having considered the film holistically, and having had regard to the high intensity and frequent use of profanities in some scenes, together with some implied scenes of deviant sexual behaviour, we are of the view that a restrictive age classification of 16 would be appropriate, as we are concerned about its impact on 13-year-olds who view this film. There is no intermediate age classification between 13 and 16, and we thus had to choose between these options.

The film is not about drug abuse, and sexual conduct was not actually portrayed. The classifiers indicated that they were constrained by clause 4 (2)(a) of the Guidelines to require the consumer advice of D to be included. The clause reads as follows:

(a) 'D' alerts to scenes of substance (drugs and alcohol) abuse.

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<sup>6</sup><http://www.imdb.com/title/tt0884732/parentalguide>



- (i) Any scenes of substance abuse must be considered in the allocation of an appropriate age restriction.
- (ii) Regardless of the level of age restriction, the public must be alerted to the occurrence of substance abuse of a mild, moderate or very strong impact, where applicable.

Although it was accepted by the classifiers that the single scene of smoking weed through a coconut could probably be classified as mild, they took the view that they had no discretion in the matter and were obliged to include the consumer advice of 'D'.

We are of the view that the last phrase 'where applicable' does indeed vest a discretion in the classifiers to determine whether, assessed in context, it is necessary to include the consumer advisory. This subsection must be read with the definition of 'substance abuse', which provides that substance abuse "means the sustained or sporadic excessive use of substances, and includes the use of illicit substances and the unlawful use of substances". We are of the view that the scene depicting the smoking of weed through a coconut cannot be described as "the sustained or sporadic excessive use of substances". The single incident could legitimately be considered in deciding on an appropriate age classification. Having decided that a restrictive age classification of 16 would be appropriate, we are of the view that it is unnecessary to add the consumer advisories for drugs, violence, and sex. Such advisories may convey an inaccurate assessment of the film itself. It was for these reasons that we decided not to include advisories for drugs, violence, and sex.

In the circumstances the following order is made:

***Order:***

***The film, The Wedding Ringer, is classified 16(L).***

Concurred by:

Advocate D Bensusan

Ms H Devraj

Revd M McCoy

Dated at Durban on the 2<sup>nd</sup> day of March 2015.

