

Before the Film and Publication Appeal Tribunal

2/2015

In the matter between:

United International Pictures

Applicant

and

The Film and Publication Board

Respondent

Award

In re: Appeal against the classification of 7-9 PG assigned to the film *Minions*.

Professor Karthy Govender

Background

On the 20th of May 2015, a three-person classification committee unanimously assigned the film *Minions* a restrictive age classification of 7-9 PG (V). The legal effect of this classification was that children under the age of 7 were not permitted to view the film, while children aged 7 to 9 years had to be accompanied by an adult. The classification committee were primarily concerned with the complex themes, an underlying sense of threat and menace,

and low to mild impact violence that in their opinion was frequent. UIP was dissatisfied with the classification as it was of the opinion that the classification was unnecessarily restrictive, and that a PG classification would be appropriate in the circumstances. UIP appealed against the decision, and the appeal was heard on the 23rd of June 2015. Mr Mark Rosin of Rosin, Wright and Rosengarten appeared for the applicant, and Ms Tholoana Ncheke appeared for the respondent. We are grateful to both Mr Rosin and Ms Ncheke for their helpful submissions in this matter. We also acknowledge the efforts of the classification committee, which grappled with the issues and adopted a thorough and thoughtful approach. After watching the film and hearing the arguments, the Appeal Tribunal made the following ruling:

1. The decision of the FPB made on the 20th of May 2015 that the film *Minions* be assigned a restrictive age classification of 7-9PG with an advisory for violence is set aside.
2. The film *Minions* is assigned a PG classification.

We handed down the ruling immediately in order to facilitate the distribution of the film under the less restrictive classification of PG. These are the reasons for the conclusion.

A description of the film

The animated film *Minions* is a prequel/spin-off of the commercially-successful *Despicable Me* franchise.¹ The main protagonists are the Minions, single-celled pill-shaped organisms that have inhabited the earth for centuries. They communicate in an indecipherable language with the odd recognisable word thrown in. Their unusual objective in life is to serve the most despicable villain in history. They have been attempting to do so for centuries, but are wholly inept in fulfilling this objective. Most of the despicable villains perish as a result of the unintended actions of the Minions. We witness famous villains such as T-Rex, Genghis Khan, Dracula, and Napoleon Bonaparte all being served and then succumbing as a result of the Minions' blundering service that has fatal consequences. Finding no villain to serve, they drift into depression, despite their comfortable life in a cave in Antarctica. It is left to a Minion named Kevin to find a despicable leader for them to serve, and he sets off on his

¹[https://en.wikipedia.org/wiki/Minions_\(film\)](https://en.wikipedia.org/wiki/Minions_(film))

quest with guitar-playing Stuart and the young but energetic Bob. When they arrive in the USA in 1968, they are greeted by a giant poster of Richard Nixon that extols his trustworthiness. They don't serve him, but rather travel to the Villain Convention in Florida where, against the odds and despite their efforts, they win a prize to serve the first female super-villain, Scarlet Overkill.

Scarlet Overkill has designs on stealing the crown of the British monarch, and enlists the assistance of the Minions through promises and threats. As Bob and his cohort attempt this task, most veritable British institutions are parodied in a most entertaining fashion. Even their respect for the venerated rule of law is not spared. Bob lands on the sword in the stone, and by managing to extricate Excalibur from the stone, he becomes the new king. In order to placate an incandescent Scarlet, who perceives this as a betrayal, Bob decides to abdicate in her favour. However, in terms of the rule of law, the British Parliament has to be formally convened to authorise the ascension to the throne of the new monarch, Scarlet Overkill. Queen Elizabeth is relegated to working in a public house, and appears to enjoy her newfound freedom to express her views candidly and openly. Scarlet's coronation is interrupted, and the queen is restored to the throne, and the minions who all arrive in England then decide to follow Gru as their new master – thus providing the link to the *Despicable Me* films that have already appeared.

The film will appeal to children, its primary audience, but its lure will be much wider, and its entertainment value would be appreciated by parents as well. There is an excellent sound track, and many of the fleeting scenes were clearly designed to humour parents who may have reluctantly been taken to watch the film. The irony of the Richard Nixon billboard, the nostalgia of the Beatles crossing Abbey Road, the humour of the English obsession with tea-drinking, the extravagant and ceremonial coronations, and the relevance of polo players riding the royal Corgis – all these will probably be lost on children but will be memorable for older audiences. This is a comedic animated film that is laden with adventure and excitement. The applicant correctly submitted that the film is superbly animated, has comedic elements at its core, and has a formidable musical score that nostalgically reflects the cultural scene of the 1960s by featuring the songs of The Doors, The Beatles, KC and the Sunshine Band, and Jimi Hendrix.

An appraisal of the arguments made

It was apparent from the arguments that only PG or 7-9 PG classifications were feasible options. The ultimate conclusion of the classification committee was that some content may unsettle younger viewers under the age of 7. In support of this conclusion it pointed out that there was an underlying sense of threat or menace. The classifiers were of the opinion that the themes such as the use of power, betrayal, good versus evil, and seeking a purpose in life are complex and confusing, and exacerbate the underlying sense of threat and menace. The classification committee also supported its conclusion by noting that there was low to mild violence that appeared frequently and was prolonged. However, it also conceded that this was an animated film and that much of the violence was unrealistic.

Ms Ncheke in her oral presentation developed these ideas in more depth. She highlighted the various scenes of violence, such as the car chase after the bank is robbed and shots being fired at the police, the torture scene in the dungeons when Herb Overkill attempts to deal with the Minions, and the various fight scenes, especially those involving Scarlet and a giant-sized Bob. She also expressed concern at some of the underlying themes, such as what was described as the glamorisation of evil. The main protagonists are thrilled at the prospect of working with Scarlet, and readily accept the assignment of stealing the crown. Ms Ncheke also expressed concern at the impact on young viewers of the distortion of the tale of the three little pigs by Scarlet, who uses it to threaten and coerce them to do her bidding. She also submitted that Scarlet extracting revenge in the way in she does may also confuse and perhaps upset younger children.

Mr Rosin pointed out that this is a high quality, superbly animated film that has grown out of the *Despicable Me* series, the latter having garnered both critical and commercial success. He submitted that this film is laden with adventure and comedy, and has much comic relief and excitement. In his oral argument, he submitted that the Minions have become part of popular culture, and that children are now familiar with the genre and expect this type of archetypal behaviour. He took issue with the contention that a sense of menace pervaded the film. He countered by pointing out that Scarlet herself was not a particularly frightening character, being similar to Cruelle de Ville in *101 Dalmatians*. However, Scarlet is ultimately defeated, the Minions do the right thing, and the crown is restored to the Queen of England. He drew our attention to the factual finding by the classification committee that the themes were not harmful and that the violence was unrealistic and set in a comedic

context. Mr Rosin, basing his comments on an observation that the Appeal Tribunal made when hearing the appeal in respect of the film **Agent 2000**, argued that action of this nature should not be regarded as violence. He concluded by submitting that whatever mild concern there may be will be met by the reassuring presence of adults who will be able to explain or assuage any feeling of anxiety or confusion.

Reasoning of the Appeal Tribunal

The starting point of our analysis is the guiding principle that all classification decisions must 'consider context, impact and release format of the material.'²Section 3(2) of the guidelines directs that, when considering context, regard must be had to the following factors:

- (a) The expectation of the public in general and the target market of the material;
- (b) The theme of the material;
- (c) The manner in which the 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.

This film is a spin-off from the popular **Despicable Me**, featuring the Minions who had the same objective of serving the meanest villain. The target market, both parents and children, will be reasonably familiar with the high action intensity of these films. Based on the previous films, they will be expecting the same level of excitement and will anticipate being on a bit of an emotional roller coaster. Particularly relevant is that this is an animated film, which immediately communicates that the viewer is being invited into an unrealistic environment of animated persons and creatures.

In their reasoning, the classification committee accepted that the themes were not harmful, but were of the view that the themes were complex and conveyed an underlying sense of menace and threat. Ms Ncheke sought in her oral presentation to argue that the themes were confusing and potentially harmful, as the film blurred the distinction between good and evil and appeared to glamorise villains. We are of the opinion that the themes are not harmful to young viewers. In assessing the effect of the themes, the film must be judged in context and assessed holistically. This is an animated film about single cell organisms that are pill-shaped and wish to serve the meanest villains in history. They are excited about

2. Section 3 (1) of the Guidelines published on the 3 October 2014 No. 38051 (1994 guidelines)

being selected to work for Scarlet, but things fall apart quickly, and the story ends with Scarlet not getting the crown and being defeated. The overall theme is that their blundering efforts result in the villains not getting what they desire, and that good triumphs. It is apparent that they are not evil; and their conduct, either advertently or inadvertently, results in a positive end. We are satisfied that the themes are not harmful. Both the PG and the 7-9(PG) classifications require that the theme not cause any moral harm.

The film is a comedic adventure of thrills and spills without blood and gore being depicted. The film is meant to excite and thrill, not to frighten. As stated earlier, we agree with the contention that this is a well-made and enjoyable film that is voiced by leading actors. Given the success of the *Despicable Me* films, this formula is commercially successful and particularly enjoyable for children. All these factors cumulatively point in the direction of a PG classification, which is the less restrictive of the classifications.

However, it is also important to have regard to the impact and the release format of the film. There is a material difference between the PG classification and the 7-9PG classification in relation to the impact of the classifiable elements. A PG classification is appropriate if the film contains classifiable elements that are of low impact.³ A 7-9PG classification is to be assigned if the classifiable elements have low or mild impact.⁴ Thus, if the conclusion is reached that the classifiable elements had a mild impact, then the more appropriate classification would be a 7-9PG as opposed to a PG classification.

It was clear that the classification committee was concerned with the sense of threat or menace in the film. We were not convinced that there was an underlying sense of threat or menace. The lead antagonist, Scarlet, could have been portrayed as a much darker and more threatening figure. Rather she is portrayed as an outlandish and colourful character with bizarre ambitions, the archetypal comic villain. Her ability to fly with the aid of mechanical instruments emphasises that she is an unrealistic character. Her frailties are demonstrated by her being defeated by the Minions. Her character is unlikely to be particularly threatening to children.

³ Section 11(2) of the 2014 Guidelines.

⁴ Section 12 (2) of the 2014 Guidelines.

There was a suggestion that the scene in the dungeon, when Herb attempts to slip a noose around the necks of the Minions, could be threatening. However, Herb was attempting to slip a noose around the heads of pill-shaped figures, which in itself would be difficult to accomplish. This scene clearly demonstrates how easily the Minions are able to slip out of Herb's grasp, and it is portrayed with a comic touch. The Minions never appear to be in distress, and escape relatively easily. The scene communicates no more than that Herb had devious intentions, but failed to execute them with any level of competence. We are of the view that this scene is more likely to cause mirth than distress.

The classifiers grappled with the issue of violence. They concluded that the film contained scenes of low to mild impact violence. They formed the view that some scenes were prolonged but unrealistic. Specifically, they were concerned with the fight scenes between Scarlet and various opponents, the explosions, car collisions and pile-ups, a pyramid collapsing on the pharaoh, various shoot-outs, a stampede, and a Minion being hit on the head with a stick when an attempt is made to steal the crown. While they acknowledged that the violence is unrealistic and contains comedic elements, they took the view that a 7-9PG classification is appropriate, as the impact of this classifiable element can be described as mild.

In our award in *Agent 2000*⁵ 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-

⁵ *Ster-Kinekor Entertainment v Film and Publication Board 2/2014 (FPAT)*.

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.

In our assessment, the various scenes can more accurately be described as non-threatening comedic action sequences rather than being scenes of violence. The key issue is whether a child aged 6 or less would find these scenes tolerable, or whether they could cause him or her distress or harm. All the action is unrealistic and conveyed by animated characters as part of a fantasy comedy. No blood or gore is conveyed, and neither are the consequences of violence portrayed. None of the parties involved appears worse for wear as a result of the action, and none suffers any ill effects. This is slap-stick and inconsequential action that is designed to entertain and humour rather than to frighten and cause anguish and fear. It is also apparent that this film is meant to entertain young children. In our opinion, it would not be correct to conclude that, given the fantastical nature of the film, the comedic and unrealistic action can be described as 'mild violence'.

Having said that, we are of the opinion that there were occasionally visual scenes that could have the effect of increasing tension levels. Some of these include the scene with the polar bears and the invasion of the unhatched larvae. However, we concluded that the reassuring presence of adults would be sufficient to assuage any concerns that might arise from these scenes. Hence our conclusion that younger children should be accompanied by adults.

A classification decision must be made after applying the Films and Publications Act 65 of 1996 and the 2014 classification guidelines issued in terms of that Act. It may sometimes be useful to have regard to the classifications assigned to the film in other countries. From our research it appears that the film has been assigned a PG classification in Canada, a G classification in Australia, a U classification in the UK, and a PG classification in the USA. These classifications appear consistent with our conclusion that the film should be classified PG.

Order

In the circumstances the following order is made:

1. The film ***Minions*** is assigned a PG classification.

Dated at Durban on the 8th of July 2015.

Concurred by:

Adv. D Bensusan

Ms H Devraj

Ms Penny Marek

Revd M McCoy

Prof. K Moodaliyar