

APPEAL TRIBUNAL FOR THE FILM AND PUBLICATION BOARD  
(HELD AT SANDTON, JOHANNESBURG)

CLASSIFICATION NO.: G/2022/0257

In the matter between:

**FILMFINITY (PTY) LTD**

*Appellant*

and

**FILM AND PUBLICATION BOARD (FPB)**

*Respondent*

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AWARD:

SPIDER-MAN: ACROSS THE SPIDER-VERSE (APPEAL DECISION)

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Appeal heard : 13 June 2023  
Decision : 13 June 2023  
For Award Reasons Dated : 13 June 2023  
Chairperson : Siyazi Tyatyam

**BACKGROUND AND INTRODUCTION**

Appellant Represented by : Innes R. Steenekamp Attorneys – ATTORNEYS  
Innes R. Steenekamp, Johanna Makgobane

Respondent : Film and Publication Board – LEGAL COUNSEL  
Mr Pandelis Gregoriou

1.

This is an urgent appeal before the Film and Publication Appeal Tribunal. The Appeal Tribunal's Chairperson, Mr Siyazi Tyatyam, sat as chairperson for the proceeding of this appeal. There were more than the required number of Tribunal members as needed for a quorum. The Appeal Tribunal received the notice of the urgent appeal as lodged by the Appellant. The appeal was heard on 12 June 2023, Sandton, Johannesburg.

The Appellant, Filmfinity (Pty) Ltd, lodged an appeal with the Film and Publication Board in terms of Section 20(1) of the Films and Publications Amendment Act of 2009 against the classification of the film, *Spider-Man: Across the Spider-Verse*, which was awarded the classification of 13LV. The appellant sought in terms of their Notice of Appeal a lesser restrictive classification of 10 – 12 PG with the consumer advice of LV.

The Appeal Tribunal viewed the aforementioned film on the morning of the same day and proceeded to hear the verbal presentation from both the Appellant and the Respondent, respectively and in conjunction with the written heads of arguments, thereafter.

2.

### **APPELLANT'S SUBMISSIONS**

- a. Filmfinity (Pty) Ltd challenged the classification of 13LV and argued that the age rating given by the classification committee was not appropriate to the film and further sought a lower age rating of 10–12 PG with consumer advice LV.
- b. Further, in its grounds of appeal, the appellant submitted that the Chief Classifier's final report also supports a classification award of 10–12 PG.
- c. It was also argued that the Classification Committee of the FPB had identified that the themes of the Film are of ***“moderate, complex, and mature impact within an animation, action-adventure film context”*** which was applicable to the consideration of the classification of 10–12 PG.
- d. The Appellant also noted that the Classification Committee identified two classifiable elements on which the decision for the classification was awarded: which were ***Violence and Language (VL)***.
- e. It was also contested by the Appellant that the content of the film was not threatening to children aged 10 and older and that the classifiable elements of violence and language were arguably rated low to moderate and are further seen as part of the ***bona fide*** story line with the incidences of violence contained in the scenes of the film being depicted as fantastical, cartoon, colourful, and animated with no bloodletting or blood effects hence the general expectation is that the film was not a realistic depiction but an imaginary world of comic books and with the respective characters from which the audience of the target market could easily distinguish.

- f. In the regard of the award of language, the Appellant submitted that, through the Chief Classifier, the report stated that the “**material has frequently low to mild impact language used in an expression form in dialogues and not meant to demean anyone with no disapproval messaging**” which entailed that the proposed classification award of 10–12 PG would be justified in this regard.
- g. Further, the Appellant contended that a similar film in the franchise, being the prequel of *Spider-Man: Into the Spider-Verse*, was awarded the classification of 7–9 PG without advisory after appeal and that other similar films had been awarded similar and/or lower classifications.
- h. Additionally, the Appellant submitted that the protagonist of the film, Miles Morales, was a bastion of moral standing which was of importance in that it was in alignment of the positive message of the theme of the film and a valid lesson to be learnt for young audience members.

3.

### **RESPONDENT’S SUBMISSIONS**

- a. The legal counsel of the Film and Publication Board submitted that the themes present in the film may be threatening and disturbing to children under the age of 13, even though the intention may be to entertain children younger than 13.
- b. It was further submitted that the themes have a moderate sense of threat and menace with animation and adventure tones, and may cause moral harm to children under the age of 13 who may not have moral maturity. Additionally, the complex and mature themes mentioned were as follows:
  - i. A large group of people who want to destroy the Multiverse;
  - ii. Betrayal by close friends; and
  - iii. Miles fighting a group of people in order to save his father.
- c. It was included that children under 13 years of age are still aspirational and the portrayal of successful villains may influence them, whereas children of 13 years of age and older may not be harmed by these themes.
- d. The Respondent identified the classifiable elements as **Language** and **Violence**. The impact level of the **language** was established in reference to the following expressions:

- i. "Maybe you should get off his ass;"
    - ii. "Parenting" "Big ass History;"
    - iii. "I can't see shit;" and
  - iv. "Oh, shit" and "shit" were repeated.
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- e. The Respondent further argued that the language in the film was used to express emotions and the children of the age of 10 may normalise the use of such language in the real world.
  - f. The Respondent, however, recognised that the language present in the film was not used to insult or degrade anyone and it was used conversationally to express opinion and emotion.
  - g. It was also acknowledged by the Respondent that the impact level of the classifiable element of Language was of a low to moderate impact level, however the Classification Committee noted that the Classifications Guidelines prescribes that, regardless of the level of age restriction, the public must be alerted to the occurrence of such elements as Language and Violence.
  - h. The Violence present in the film to inform the impact level was identified as:
    - i. Spider-Woman fighting with a fantastical creature;
    - ii. Spider-Man being kicked in the face and falling off a tall building;
    - iii. Spider-People battling with Spider-Man as they try to stop him from escaping;
    - iv. Spider-Man being hit in the face by an unknown creature;
    - v. Spider-Man beating up a thug who broke into an ATM; and
    - vi. An implied choking scene between Uncle Aaron and the teenage Miles.

4.

## **REASONING AND FINDINGS**

The Appeal Tribunal, after viewing the film and considering the written and verbal arguments from both the Appellant and the Respondent, underwent a closed deliberation and discussion of the appeal and its merits.

a. In respect of Violence:

During the deliberations, The Classifications Guidelines, The Films and Publications Act, the unique South African context, and The Constitution were considered in shaping the award of the appeal. While the Appeal Tribunal noted that both the Appellant and the Respondents were of the same opinion that the

impact level of Language and violence were at the low to moderate level, it is prescribed that consumers must be alerted of such occurrence(s) in the film. In the film, the violence presented may be animated but is of a mature nature and may cause harm to viewers under the age of 13. The Classifications Guidelines states that if there are scenes of such a nature, they must be justified within context and the material must convey a strong message against it. The implied choking scene in which Uncle Aaron is about to choke the teenage Miles is an act of domestic violence without a strong message of disapproval accompanying it.

Section 18(3)(d) of the Films and Publications Act states that should the material contain a scene which may be disturbing or harmful to children, an appropriate age restriction should be imposed in order to protect children from the potential harm and exposure to such material. Thusly, the Tribunal took cognisance of this provision of the Act. Additionally, the Classification Guidelines prescribes that, regardless of the level of the age rating, the public must be alerted of the occurrence/s of such a classifiable element.

b. In respect of Language:

The film contains scenes with language that is meant to express emotions such as anger and frustration. There is, however, no strong message against such language and this may cause children under the age of 13 to normalise and emulate the use of such language.

While the Tribunal noted that the material has low to moderate impact language, it is however prescribed by the Classification Guidelines that regardless of the level of the age rating, the public must be alerted of the occurrence/s of such a classifiable element.

c. In respect of theme:

The classification award takes into consideration the development of the cognitive abilities of children with respect to differentiating between the fantastical world of the film and the real world. Albert Bandura's Social Learning Theory and Jean Piaget's Childhood Development theory were considered in this aspect. During the 'formal operational stage' (from 12 years to adulthood), children develop the ability to think logically and systematically, and to understand abstractions and concepts of causality and choice as presented in the material. Whilst the style and setting of the film is of a fantastical, comic book, fictional world, it is accepted that loss is canon of Spider-Man, as indicated in the material. Even in the realm of a fantastical world, such a thematic element weighs heavily with heightened anxiety and is a sustained concept throughout the film contending not just with the loss of one life but also multiple losses of canon's one life and with the collapse of the entire multi-verse, i.e., the last of which threatens all lives and all existence.

The complexities arising from the material include a shifting between antagonists, protagonists, the proverbial good guys and bad guys. Although the more pronounced characters of Miles and Gwen may be considered as constants in this regard, the familiar variations of the Spider-Man character and Spider-People switch from heroes to villains in a sustained chase-and-battle scene with Miles, negotiating through themes of right and wrong, betrayal and loyalty. These pronounced characters lie and deceive their parents, even as the heroic Spider-Man and Spider-Woman, which increases the complexities in this thematic representation in the material.

In terms of Section 4.1(1) of the Classification Guidelines, it is mentionable that the cumulative and sustained impact of the complex nature of the themes, the unabating sense of threat and menace, and the anticipation of harm to the protagonist/s runs and the shifting nature of heroes and villains occurs frequently throughout the material which has a stated running time of 140 minutes on the Chief Classifier's Final Report.

The Films and Publications Act, 1996 (Act No. 65 of 1996) as amended, has the purpose of **protecting** children from exposure to **potentially** disturbing or harmful material and from **premature** exposure to the adult experience (own emphasis included). Both the Appellant and the Respondent were in agreement of this point. Furthermore, it was noted that the material did not contain disapproval messages where relevant in instance/s and the evidence of a positive or pro-social message was not substantive including, and in respect of, the nature of it being a sequel and part of a trilogy, and the aspect of a cliffhanger ending. The decision-making ability and the understanding of abstract concepts and causality of children at the relevant age/s, the frequency and cumulative impact of the thematic elements as well as their intensity and sustained representation were considered in their appropriateness to the material, the potential harm and the classification award.

After consideration and deliberation of all evidence and the arguments submitted by the Appellant and Respondent, the Films and Publication Act, The Constitution, the unique South African context, and the Classification Guidelines, the Appeal Tribunal unanimously agreed to uphold the classification rating of 13LV for *Spider-Man: Across the Spider-Verse*.

With consensus of the Tribunal members present:

Mr SiyaziTyamtyam (Chairperson)  
Miss Sohani Natasha Chundhur  
Ms SisandaNkoala  
Ms Shandkani Mulaudzi  
Dr LithekoModisane  
Ms NomaswaziShabangu-Mndawe  
Mr James Shikwambana  
Ms Manko Buffel

Dated this day the 21<sup>st</sup> of June 2023.