

# Call for public scrutiny of classification system

*Now that Romance has been given the R classification it should have received in the first place, it's time to address the larger issues behind the uproar over the banning of the film, says Tina Kaufman.*

**F**rom the media and public reaction to the refusal by the Office of Film and Literature Classification (OFLC) to classify the film early this year, it's quite evident that Australia's current conservative classification regime is both locally unpopular and quite out of step with international trends, particularly in view of the film's uncut release in many other countries – and its uneventful screening at the Melbourne Film Festival last year.

It's the disclosures, made at various stages during the *Romance* saga, of questionable processes within the OFLC that cause most concern, although there's also the prospect of a number of controversial films needing classification in the next few months, as well as claims that Australia's classification system has become a problem for overseas distributors, with films being cut to gain release. An enquiry is urgently needed, not only into the classification system and the current guidelines, but also into how decisions are actually being reached; if the OFLC is to fulfil its mandate to reflect and respond to public concerns and community standards, surely it is essential that the process be both transparent and accountable.

## The saga

On January 14 the OFLC refused classification to the French film *Romance*, despite describing it as "a serious artistic work". Apparently the film was narrowly passed by the first panel of classifiers, but eventually seen by seventeen members of the Classification Board, with the vote a narrow nine to eight in favour of refusing classification. It was revealed during the extensive media coverage that three additional classifiers had been brought in (including one whose term had officially expired) to get the initial decision reversed. On January 28 the appeal by the film's distributor was upheld by the OFLC Film Board of Review, and the film was released with an R 18+ rating and a consumer warning that it contains "high level sex scenes".

During the furore the lobby group Watch On Censorship (WOC) wrote to the OFLC calling for urgent reforms to the procedures and public accountability of the organisation. (Watch on Censorship, originally formed at a public assembly in Sydney in 1996 in response to the unwarranted tightening of censorship regulations, has as its object 'to protect and promote the rights of adult Australians to freedom of speech and expression in all media'; it has continued to comment upon the growing conservatism of the classification system.)

WOC argues that the *Classification (Publications, Film and Computer Games) Act 1995* (Cth) acknowledges the right of adults to see, read or hear what they like, presupposing that those adults are in a position to form their own opinion about whether or not to view a particular film. WOC believes, however, that the OFLC has hindered informed debate through its failure to adequately publicise its decisions and publish its reasons. Reform measures recommended

include: the prompt publication on the OFLC website of board decisions, with majority and minority reasons and numbers; an online database of titles at time of submission for classification, and the status of review or classification, with accurate running times and a listing of cuts, if made; the results of all research regarding community attitudes conducted by the OFLC or on the OFLC's behalf, to be available from its website; and publication of the appointment of all classifiers, full-time, part-time and temporary, along with their qualifications.

It's been four years since the classification system was tightened, and in that time censorship has maintained a high media profile. There have been media debates over the banning of *Tras El Kristal*, the rebanning of *Salo*, the temporary threat to *Dead Man*, the cutting of *Hustler White*, and extraordinary and extended coverage over *Lolita* and now *Romance*, a long period of intermittent media speculation over the implicit (pro-censorship) requirements of independent Senator Brian Harradine in his negotiations with the government for his Senate vote on a number of issues, and comment on the undue influence of the Senate Select Committee on Community Standards, with its strongly conservative bent and attitude of patronising prudery. After Senator Harradine lost his power to affect government decisions at the last election, however, the conservative climate continued; it must now be recognised as genuinely conservative rather than expedient, with the draconian Internet censorship regulations as a recent example.

The OFLC has also had its own problems over this period. Former

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Chief Censor and then first Director of the Classification Board, John Dickie, after overseeing the introduction of the new Classification Act, saw his term expire in January 1998; a year without a director was brought to an end with the welcome appointment of Kathryn Paterson in January 1999, only to return with her sudden and tragic death nine months later. (The former chief censor of film and literature in New Zealand, Paterson was a former member of the Australian Censorship Board and a deputy chief censor, respected for her professionalism and common sense; it was under her leadership that *Lolita* was classified R, inspiring calls from politicians and conservative lobby groups that it be banned!) A new appointment has yet to be made.

## The Classification Act

The current classification regime was initially presented, and accepted, as a practical and long overdue revision of an outdated system. *The Classification (Publications, Films, and Computer Games) Act* came into operation on 1 January 1996, having been developed to address the structural problems of the old system, under which material had to be classified in accordance with differing regulations and classification requirements of each state and territory; films and publications could be banned or released under certain conditions in some states or not in others, with changes or amendments having to be made to legislation in each state, often causing delays. (For instance, classifications for computer games were drawn up in 1993, but only a few states had them in their legislations by 1996.) Both classification requirements and enforcement legislation are now detailed under the federal Classification Act, supported by

uniform legislation in all states and territories.

With the establishment of the new Classification Board (the old Censorship Board), and the Board of Review, terms for board members were strictly limited to seven years. To cope with the increase in workload brought about by the addition of computer games and multimedia to the classification process, additional board members were needed, but in line with the government's new requirement that they be broadly representative of the Australian community, the background and qualifications of applicants are closely scrutinised in a rigorous selection process which includes consultation with censorship ministers from all states and territories. (This process has not prevented a number of applicants being rejected by the federal Cabinet.) The OFLC was also required to become financially more self-supporting; the range of charges for classifications and appeals has increased dramatically over the last four years (in some cases to almost four times what they were), and making appeals is especially prohibitive for small film distributors.

The revised guidelines were attached without the recommended three month public consultation process, and have made the actual classification of film and video much more open to interpretation. The general principles state that: (a) adults should be able to read, hear, and see what they want; (b) minors should be protected from material likely to harm or disturb them; (c) everyone should be protected from exposure to unsolicited material that they find offensive; and (d) the need to take account of community concerns about: (i) depictions that condone or incite violence, particularly sexual violence; and (ii) the portrayal of persons in a demeaning manner.

There have been allegations that public submissions to the OFLC on the film guidelines review weren't even taken into account, due to the hurried nature of their completion; the OFLC Annual Report 1995/96 says revised guidelines were circulated at the February 1996 meeting of the Standing Committee of Censorship Ministers and 'further changes were made in accordance with input from Ministers'.

## Meanwhile . . .

Meanwhile in Britain, which has for years been seen as more conservative than Australia, a new classification regime has launched into an unprecedented bout of public consultation to find out how much sex, violence and swearing the nation thinks should be allowed in films. New guidelines, setting out clearly for the first time exactly how the censors will classify cinema and video releases, are to be published as part of the process. In the biggest shake up of cinema and video censorship since the birth of the British Board of Film Classification (BBFC) in 1912, the BBFC's recently appointed director Robin Duval and president Andreas Whittam Smith have advocated a new policy of openness and decisiveness. The threat of legal challenges in the UK courts after the Human Rights Act comes into force later this year is probably one reason for this decision to revise regulations and consult the public. Under the European Convention of Human Rights, restrictions on freedom of speech, which include the BBFC's classifications, must be set out clearly. Given the current government's ambivalent attitude to Human Rights Conventions, it's questionable whether a similar threat could affect Australian censorship. <

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