

Decision 1/2000

IN THE MATTER

of The Films, Videos, and Publications
Classification Act 1993

AND

IN THE MATTER

of an Application for Review by Rep
Film Distributors (NZ) Limited of a film
entitled **SAVAGE HONEYMOON**

BEFORE THE FILM AND LITERATURE BOARD OF REVIEW

Sandra Moran (President)
Stephen Danby
Stephanie de Montalk
Bernadine Pool
Miles Rogers

MEETING at **WELLINGTON** on the 21st day of February 2000

DECISION WITH REASONS

This decision with reasons follows the interim decision of the Board dated 22 February 2000.

Rep Film Distributors (NZ) Limited (the Applicant) applied under s.47(2)(d) of The Films, Videos, and Publications Classification Act 1993 (the FVPC Act) for a review of the decision of the Office of Film and Literature Classification (the Office). The Office classified the film as objectionable except if the "availability is restricted to persons 18 years" with the descriptive note "contains offensive language and anti-social behaviour".

The story revolves around the Savage family who reside in West Auckland (Westies). Mickey and Louise, the parents, are in love but want to recapture the spirit and passion of their early years together. Following a sequence of odd occurrences which include their son Dean's disruption of the wedding of his ex-girlfriend, their daughter Leesa's narrow escape from the Police on a stolen motorbike, and the imminent discovery of stolen goods on their property, Louise demands that she and Mickey go on a second honeymoon together. Their son

Dean, goes too, because "he was there on the first one". On arrival at their destination they discover that their daughter and Mickey's mother Maisy have also accompanied them.

The film contains scenes in which the principal characters feud and drink hard, but are united as a family.

There are scenes in the film which contain coarse language and violence which, by themselves, would probably not have warranted a restriction but more likely a warning only.

However, a constant factor of the film is the heavy and continuous consumption of alcohol without adverse or realistic consequences.

The Board is conscious of the extensive media commentary on a particular scene in the film in which Mickey throws a gas bottle on a bonfire. That incident occurred during a party where all the characters had been drinking heavily.

While the Board was concerned about the irresponsibility of that action, it was more concerned about the recurrent juxtaposition of drinking and driving.

The Board is of the view that the likely injury to the public good is that young persons could take the message from the film that heavy consumption of alcohol does not bring with it any adverse consequences for themselves or for others.

Young persons could also take the message that any generation can drink to excess and then drive, and if they do not, then they are not having fun.

The Board is also conscious of the recent amendment to legislation lowering the drinking age to 18 years and the social commentary by Police of their difficulties in coping with the young who drink to excess.

The Applicant submitted that "skylarking or foolhardy behaviour with exaggerated and unexpected consequences is inherent in ribald comedy (e.g. Charles Chaplin)" and that "if all the consequences of such behaviour were accurately portrayed, the comic element would be stifled."

A comic depiction does not necessarily mean that it cannot give rise to a message that is likely to injure the public good.

The intention of the film-maker does not automatically dictate the response of, or effect on, the individual viewer.

The Board was of the unanimous view that the various depictions of alcohol use and the conduct which accompanied it, regardless of any comic intention, had the potential for harm.

The Applicant submitted that anti-social behaviour (to which the Chief Censor referred) was not referred to in the present Act in s.3 but was specifically contained in s.13(2)© of the Films Act 1983 (now repealed). That Act, when classifying a film, required the Chief Censor to consider the extent and degree to which, and the manner in which the film depicted, include, or treated anti-social behaviour. However, there is reference in the present Act in s.3 to crime, which in turn would include unlawful behaviour associated with constant consumption of alcohol, as depicted in this film. Further, the matters listed in s.3 of the current Act of sex, horror, crime, cruelty or violence are not confined to these matters. The list of matters is preceded by the words "such as". Further, the case law which has developed around these definitions makes it clear that the list of matters is not an exhaustive one.

The Board had regard to the dominant effect of the film as a whole. It is a romantic comedy about a hard-drinking but united family with their own distinct set of values.

The Board gave particular weight to the matters listed in s.3(3) of the Act, and also to the matters listed in s.3(4), in addition to the dominant effect of the film as a whole.

Having regard to all of those matters, and balancing all factors carefully, the Board came to the unanimous view that persons 15 years of age and over would be sufficiently mature to make the necessary distinction between acceptable and anti-social conduct relating to drinking and to drinking and driving, within the context of this particular film. However, the film should be restricted to persons of that age and over and also should contain an appropriate descriptive note that the film contains irresponsible behaviour associated with alcohol.

Although there is reference above to the Chief Censor, the review is *de novo* and the Board is required to have no regard to the decision of the Classification Office pursuant to s.52(2) of the Act.

No onus of proof rests upon any person or body who may have an interest in the classification. Ultimately, whether a publication is objectionable or not is a matter for the "expert judgment" of the Board as referred to in s.4 of the Act.

With regard to the New Zealand Bill of Rights Act 1990, the Board followed the five step procedure set out in the judgment of the Court of Appeal of New Zealand in the case of *Moonen v Film and Literature Board of Review* which was delivered on 17 December 1999. The Board's application of the criteria to this film are

consistent with the provisions of ss.5 and 6 of the Bill of Rights Act because it results in a reasonable restriction which is no more than is necessary to prevent injury to the public good. The classification which the Board has imposed on the film is a reasonable limit, as can be demonstrably justified in a free and democratic society.

Conclusion

The Board therefore classified the film **SAVAGE HONEYMOON** as "objectionable unless its availability is restricted to persons 15 years of age and over" within the terms of the Films, Videos, and Publications Classification Act 1993, to be accompanied with the descriptive note that the film "contains irresponsible behaviour associated with alcohol".

DATED at Wellington this 18th day of April 2000.

Sandra Moran
Film and Literature Board of Review