

# CAMPAIGN

AGAINST

# CENSORSHIP

(THE DEFENCE OF LITERATURE AND THE ARTS SOCIETY)

23 Budgen Drive  
Redhill Surrey

RH1 2QB  
PLEASE REPLY TO:-

1st January 1999

To: Robin Duval  
Director  
British Board of Film Classification  
3 Soho Square  
London W1V 6HD  
Dear Sir,

## PUBLIC CONSULTATION

We congratulate the BBFC on organising the series of public meetings of 1998. We note that it would welcome written representations to supplement the necessarily brief oral ones made at the meetings. We accordingly summarise CAC's below. Being an interested party, we look forward to receiving a copy of your eventual published findings.

We fully understand that you have to operate within British law and that contains amongst the strictest anti-obscenity provisions in the world (as Michael Howard, the previous Home Secretary, declared). We believe, however, that you are far too cautious in applying the law.

"Obscene" is defined in English law as likely to deprave and corrupt those who, in the circumstances, are likely to come into contact with the material. Nothing is obscene in itself. It can only become so through circumstances. Explicit sexual images have been found by English courts not to be obscene for consenting adults. Your Board's policy of cutting all close-up views of genitals and all erect penises, even for 18R classified films and video recordings, is thus going beyond the requirement of the law. In any event, no prosecution for obscenity regarding a film or video recording passed by your Board can be instituted without the consent of the Director of Public Prosecutions. Similarly no court in England, or any other jurisdiction, has found the video "Visions of Ecstasy" blasphemous and the BBFC should not therefore have banned it on that ground.

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page 2

We cannot make a definite analysis of the BBFC Guidelines as handed out at last year's public meetings, because they are too vague eg the term "length and strength" of sex scenes (page 14). The statement on page 7 that "the bounds of explicitness are those of the criminal law." is misleading. Nothing is in itself "obscene" under English law. It only becomes such in relation to those to whom it is published. Nothing therefore can be too explicit for 18R films and videos. The guidelines are therefore defective and need redrafting.

The Cinematograph Films (Animals) Act 1937 (1 Edw 8 & 1 Geo 6) merely applies to productions in and only in the United Kingdom. It does not require you to censor all scenes of animal cruelty in all films and video recordings (including foreign ones) shown in this country. That would mean, for instance, banning propaganda films against fox-hunting or bull-fighting. The aim of the law is clearly to protect animals used in the making of British films, not to impose blanket censorship of all animal scenes in all films shown in the United Kingdom. The BBFC is therefore exceeding its legal remit in so doing.

Again the Video Recordings Act 1984, as amended, does not require you to impose stricter censorship for 18 and 18R videos than for cinema films in those categories. No other country pursues such an illogical policy. The Act merely requires you to have regard to certain aspects regarding video recordings. When so doing, you should have the same faith in the ability of British parents to control their minor offspring as Continental classification authorities have in their citizens. Your general policy of preventing all adults seeing certain material to protect the "vulnerable minority" is untenable and unacceptable in a democracy. In any event, such material may well provide a cathartic, escapist safety valve for potential criminals.

Endless introverted insular academic studies conducted in Britain alone cannot prove anything, because there is no element of comparison with what would be the position without censorship. Only comparative studies, involving other European Union countries which have no censorship, are of any use. Comparisons with the United States as a whole are misleading because obscenity there (including on film and video) is within varying local, not one single federal, jurisdiction.

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page 3

In any event, especial reference should be made to the last official British report on film censorship, namely the Williams Committee Home Office Report on Obscenity and Film Censorship (Cmnd 7772). That reached a utilitarian conclusion and adopted the guiding principle of "who is trying to protect whom from what and why."

One of the main aims of the European Union is the harmonisation of laws of the member States, especially relating to saleable commodities, so as to create a level playing field for commerce throughout the Union.. This includes films and video recordings. The BBFC should therefore take action to reduce the difference between its classifications and the ones prevailing on the Continent. Your Board has no justification for believing that British people are less mentally mature than their fellow-Europeans.

In the meantime, the BBFC's general stance is too supine. It is not your role to please the Home Secretary and/or vocal Members of Parliament and local Councillors.. The Video Recordings Act purposely avoids overt State control by prescribing delegation to an appointed body, currently the BBFC. For cinema films the controlling bodies are local authorities, who are free to disregard the BBFC...

The Campaign Against Censorship is committed to the repeal of the censorship provisions in the Video Recordings Act. They are unnecessary because the material is adequately covered by the law of obscenity. Instead these provisions mean State-controlled pre-publication censorship, which is contrary to the values of a democratic society. CAC would support a campaign to tak the BBFC out of the jurisdiction of the Home Office, whose prime concern is the suppression of crime ie negativity. Instead you should demand to be placed (like theatre and television) under the aegis of the Department of Culture, whose main aim is creativity.. You have the authority to make such a demand.

The spirit of openness necessary in a democratic society implies that the classification certification shown on each film advertisement or video recording cover is followed by a statement of the time cut from the original by the BBFC or by the producer in order to gain a BBFC Certificate. This will solve complaints by purchasers about the unknown nature of the film shown in Britain or video recording sold here, which is sometimes shorter than the Continental version.

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page 4

The sexual scenes in the British version of the much advertised adult film "Pyramid," for instance, were extensively cut by its distributor to obtain an 18R certification from the BBFC. British purchasers were then annoyed to find that they were not getting the original version, although the distributor advertised that it had been passed uncut by the BBFC ! It is thus essential that any pre-certification cuts made by the distributor to obtain a BBFC Certificate are stated. If not, distributors will avoid the commercially damaging admission of cuts in the British version and will be able to mislead the public in this country as to which version is available here. People are entitled to know the truth about the products they purchase and the BBFC must therefore avoid being instrumental in deception. The Campaign Against Censorship opposes films or video recordings being cut by the distributor without the full knowledge and consent of the director and producer. Film is an art form and it should be treated accordingly ie remain as its creators intended

In the same vein of democratic openness, you should not allow your Board to be used as an instrument of oligopoly ie to preserve the dominant position of big studios by preventing small scale products from obtaining the legal requirement of classification. Small film and video producers just cannot afford to pay the same high classification fees as the big companies. To encourage wider access to the commercial film and video market, you should introduce a sliding scale of fees, based on the production cost of the work in question, to replace the present immutable flat rate per minute of running time.

We sincerely hope you will take account of the points made by CAC when compiling your findings. The majority of the population of the United Kingdom want and are entitled to freedom of expression for adults, which is enshrined in the European Convention on Human Rights, now part of British law. Even unpopular sexual and political minorities are entitled to this human right. As John Stuart Mill stated (in "On Liberty"):

"If all mankind minus one were of one opinion, mankind would be no more justified in silencing that person than he, if he had the power, would be justified in silencing mankind."

Yours for freedom of expression,

Cllr E Goodman, Chair: CAC.