

Decision 4 /98

IN THE MATTER OF_ The Films, Videos, and Publications
Classification Act 1993

AND

IN THE MATTER OF an application for review by United
International Pictures (New
Zealand) of a film entitled

Saving Private Ryan

BEFORE THE FILM AND LITERATURE BOARD OF REVIEW

Sandra Moran (President)
W K Hastings (Deputy President)
Stephen Danby
Pamela Meekings-Stewart
Stephanie de Montalk
Bernadine Pool
Miles Rogers

MEETING at WELLINGTON on the 10th day of December 1998

APPEARANCE: Tim Ord for the applicant

DECISION

United International Pictures (New Zealand) applied on 23 October 1998 under s. 47(2)(d) of the Films, Videos and Publications Act 1993 (the "Act") for a review of the decision of the Office of Film and Literature Classification (the "Office") dated 1 October 1998. The Office classified *Saving Private Ryan* as objectionable unless its availability is restricted to persons 16 years of age and over. The Office also required a notice advising that the film "depicts graphic and realistic war scenes". The Board issued a decision on 11 December 1998 classifying *Saving Private Ryan* as R15, requiring the same notice required by the Office, and stating that reasons for the decision would follow. These are the reasons for that decision.

Saving Private Ryan has a total running time of 170 minutes 47 seconds. It is directed by Steven Spielberg and concerns one week in the lives of a group of American soldiers who survive

the landing on Omaha Beach on 6 June 1944 and who are then sent to rescue Private Ryan behind enemy lines.

The Board received written submissions from the applicant dated 6 November 1998 and from the Office dated 27 November 1998. The Board also received from the Office on 10 December 1998 a submission (dated 9 December 1998) in reply to the applicant's submission. The Board met on 10 December to view the film and to hear oral submissions from Mr Ord who represented the applicant. The Office declined the invitation to make an oral submission in addition to its written submissions.

Mr Ord submitted that the film had significant social and educational merit, and supported his statement with copies of many favourable reviews of the film. He also argued that teenagers would benefit from seeing *Saving Private Ryan* because this would impress upon them the enormous sacrifice made by their grandparents' generation who fought in World War II. Mr Ord submitted that the film should receive either an R13 or RP16 classification so that younger teenagers would be able to see it, in the second case, with their parents or guardians. Both Mr Ord and the Office agreed that the film had extremely high production values. In its submission of 9 December 1998, the Office commented that

it is precisely the quality of these [filmmaking] techniques which make this film so realistic and disturbing. The impact and strength of its depictions were factors in the decision to restrict the film.

The Office also submitted in its letter of 9 December 1998 that

Given the time elapsed since World War II, it is probable that parents or guardians of 'younger secondary school pupils' would themselves have limited knowledge or experience of war. They may be unable to provide their children with a suitable context for the 'frank and horrifying look into the harsh and brutal reality of war' which *Saving Private Ryan* portrays.

In its letter of 27 November, the Office stated that it was of the view that

"the graphic nature and extent of the scenes of violence warranted restriction, and a higher restriction may have been necessary were it not for the balancing of the strength of the depiction with the matters under Section 3(4)".

Turning to the Act, the Board's task is to assign a classification to this film so that its availability is unlikely to be injurious to the public good. Although the film deals with matters such as horror, cruelty and violence in terms of s. 3(1), the Board is satisfied that nothing in this film falls within the automatic ban provisions of s. 3(2). The Board must give “particular weight” to the extent and degree to which, and the manner in which, the film describes, depicts, or otherwise deals with “[a]cts of torture, the infliction of serious physical harm, or acts of significant cruelty” in s. 3(3)(a)(i). There are many such scenes in this film, beginning with a 25 minute sequence of the invasion of Omaha Beach and its horrific consequences. However the Board must also consider the matters in s. 3(4). These include the extraordinarily powerful emotional effect of the film, its cinematic impact (which would be significantly greater than in video format because of more visual detail), its importance as an educational and cultural memoir of the sacrifices made in World War II, and its importance as an example of a well-made film in the war movie genre.

The Board must balance all of these factors, and in so doing is required by s. 4 to use its “expert judgment” to reach a decision on the classification of this film which will best protect the public good from injury. S. 52(2) requires the Board to have no regard to the Office’s decision. This is consequently a review *de novo*. The Board must balance the graphic violence identified as a “particular” concern in s. 3(3)(a)(i) with the film’s obvious merit in s. 3(4). Significant in this regard is the fact that the violence is both realistic and is set in the context of a world war. The Board is satisfied that the violence portrayed in the film is an honest and genuine attempt to convey both the horror of war and the enormous sacrifice made by a generation of young men and women. This sets the film apart from other films that may show significant violence. Given the honest purpose of the film and its significance as a reminder of the horrors of war and the sacrifices made, the Board was of the view that the public good would be served by making the film as widely available as possible, but not to audiences who could be adversely affected by the portrayals of violence. Audiences who could be adversely affected would be those upon whom the educational and historical benefits of the film would be overwhelmed or subsumed by the power and emotional impact of the scenes of violence. The Board was of the view that the public good would be injured if this film were made available to persons under 15 years of age who are likely to be both insufficiently emotionally equipped to cope with the depictions of violence and not as knowledgeable about

the historical context in which events in the film take place. In the Board's view, persons 15 years of age and over are more likely to be emotionally equipped to cope with the scenes of violence and are more likely to have studied in school the history of the twentieth century. They would consequently be able to recognise the significance of the film without being overwhelmed by its depictions of violence.

For these reasons, the Board classified *Saving Private Ryan* as "objectionable unless its availability is restricted to persons 15 years of age and over" with a notice advising that the film "depicts graphic and realistic war scenes". The criteria we have used to limit the availability of this film are prescribed by law. Our classification represents the minimum interference with the freedom of expression consistent with preventing likely injury to the public good. For this reason, the Board is of the view that this classification is demonstrably justified in any free and democratic society in terms of the Bill of Rights Act.

DATED at WELLINGTON this 23rd day of December 1998.

Sandra Moran

President, Film and Literature Board of Review