



To: **FILM AND PUBLICATION BOARD (FPB)**
Per e-mail: classificationguidelines@fpb.org.za

Re: Discussion Document on the Review of the Classification Guidelines:
FOR SA's written submissions

Date: 3 April 2018

Dear Sir / Madam,

1. We refer to the invitation by the Film and Publication Board ("the FPB") for written submissions on its Discussion Document on the Review of the Classification Guidelines ("the Document").
2. *Freedom of Religion South Africa* ("FOR SA") is a non-profit organisation working to protect and promote religious freedom in South Africa, and representing over 6 million people. As such, we have a direct interest in this matter as freedom of religion and freedom of expression, which may be influenced by classifications, are closely intertwined.
3. We make the following submissions to the FPB with regard to the Document:
4. Consolidation of Perspectives – Blasphemy:
 - 4.1. Mandatory advice:

The first question posed by the FPB is whether (in light of blasphemy making up 12% of complaints received from viewers), it should become a mandatory advice – i.e. where it is mandatory to inform viewers (and/or parents) that a specific piece of footage contains blasphemy.

In this regard, firstly, it is important to note that the definition of "blasphemy" as per the 2012 Guidelines, relates specifically to offensive expressions about any



religion. This (narrow) definition of blasphemy is also congruent with the legal, and social, understanding of blasphemy.

In this context, FOR SA **supports** blasphemy being made mandatory advice, as many believers may not want to expose themselves or their children to content that makes offensive expressions about religion, and this will certainly assist them in making informed choices.

4.2. Expanding “Blasphemy” to include cultural practices and spiritual representation:

The second question posed by the FPB, is whether blasphemy should be extended to cover cultural practices and spiritual representation. The example Mrs Mashele, the FPB’s Acting COO, used during the FPB’s Public Consultation Session in Cape Town, was the use of the “K word” in a movie which people may find offensive and thus movies containing this word will have to be distributed with the letter “B” classification from the FPB.

In this regard, the following:

While it is not clear at all what is meant by “spiritual representation” (which is also not defined in the Document), FOR SA submits that the term “religion” in the existing definition of blasphemy (as per the 2012 Guidelines) is probably general and broad enough to include “spiritual representation”, and that the definition of blasphemy need therefore **not** be extended to specifically include same.

In so far as the proposed extension of the definition to include “cultural practices” is concerned, FOR SA does **not** support this proposed extension of the definition as it is not congruent with the legal and social understanding of “blasphemy” (as already explained above), and will cause unnecessary confusion and uncertainty.

Moreover, such extension will unduly infringe upon the constitutional rights to freedom of expression (which includes the right to receive information) and



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freedom of conscience, religion, thought, belief and opinion (which includes the right to teach, preach and practise one's belief).

Section 16 of the Constitution does not limit speech that one might find offensive, but only that which is propaganda for war, incitement to imminent violence and which advocates hatred based on the listed grounds. To therefore require classification for something which is merely offensive, will unduly limit the constitutional right to freedom of expression.

The reality is that, as culture shifts, the definition of what is "offensive" shifts and what may be regarded as non-offensive today, may well be regarded as offensive tomorrow. In any event, what one person (or culture) may find "offensive", another person (or culture) may regard as completely non-offensive, with the result that the enquiry becomes completely subjective and (also legally) uncertain. Who will determine whether content is potentially "culturally offensive" or not, and what will be the benchmark?

The concern, from a religious freedom point of view, is that the extension of the definition of blasphemy to content which is "culturally offensive", may have certain unintended consequences and potentially unduly restrict, and unnecessarily burden (from an administrative and cost point of view), religious organisations from distributing or exhibiting content of a religious nature. For example, it is very possible that even basic tenets of the Christian faith – such as that the God of the Bible is the only true God – may be deemed "culturally offensive" to persons of other faiths or no faith at all, with the result that religious sermons containing such basic doctrines of the Christian faith will have to be submitted for classification.

5. Consolidation of Perspectives – Gender Based Violence ("GBV"):

5.1. FOR SA is **not** in support of a separate GBV classification, as violence is violence – whether the motivation behind the violence is related to someone's gender or not. There is no reason why violence perpetrated against someone

because of their gender, should receive “special treatment” over for e.g. violence perpetrated against someone because of their race or socio-economic status. Although well intended, this would amount to unequal treatment and unfair discrimination.

5.2. Given the existence of the violence and sexual violence categories, such an additional classification is unnecessary as the aforementioned categories already achieve the same purpose.

5.3. FOR SA proposes that rather instead of creating a new GBV category, the violence classification be expanded to capture to include emotional and psychological violence in addition to physical violence.

6. Consolidation of Perspectives – Imitable behaviour:

FOR SA **supports** that imitable behaviour be made a mandatory classification, because this will assist parents in making appropriate viewing choices for their children.

7. Consolidation of Perspectives – Violence, Sexual Conduct:

See paragraph 5 above.

8. Consolidation of Perspectives – Cultural Representation:

FOR SA does **not** support that cultural representation be classified for the same reasons as covered in paragraph 4.2 above.

We trust that you will find these submissions of assistance, and would appreciate any feedback or information regarding developments in this regard.

Kind regards,



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