

Report of the
OFFICE OF FILM AND LITERATURE
CLASSIFICATION
TE TARI WHAKARŌPŪ TUKUATA, TUHITUHINGA



for the year ended 30 June 2002



**OFFICE OF FILM
& LITERATURE
CLASSIFICATION**

Tē Tari Whakarōpū Tukuata, Tūhīrūbinga

The Hon. Minister of Internal Affairs

Minister

Pursuant to section 89(1) of the Films, Videos, and Publications Classification Act 1993, I present to you the Annual Report of the Office of Film and Literature Classification for the year ended 30 June 2002.

Yours sincerely

W K Hastings
Chief Censor of Film and Literature

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VISION STATEMENT

A society which fairly balances the need to protect and encourage freedom of expression and the need to limit any social harm caused by the availability of material which is injurious to the public good.

MISSION STATEMENT

To provide expert classification decisions and information services.



The staff of the Classification Office



THE CHIEF CENSOR'S YEAR IN REVIEW

Introduction

The bright light of public scrutiny shone upon the Classification Office this year more intensely than usual. Readers of this Annual Report will see that this provided the Office with many opportunities to demonstrate that its staff, its systems and its classification decisions were up to its usual very high standards. Not only did this scrutiny show the work of the Office in a positive light, it also encouraged lively public debate on the role of censorship and the value of the freedom of expression. This debate keeps the Office's finger on the pulse of public opinion, which in turn allows the Office to do its work better. Indeed, the Office's performance under such scrutiny has given us more reason than usual to celebrate our achievements this year, and for this we are grateful to our scrutinisers.

Anyone reading press coverage of censorship issues this year could be forgiven for thinking that the Classification Office is some sort of central clearing house for the classification of publications in New Zealand. This is not the case. Although we are charged with preventing the possibility of injury to the public good by restricting the availability of publications, the scope of our jurisdiction is surprisingly limited. For example, we play no role in the classification of programmes that are broadcast on radio and television.

It comes as a surprise to many people that the Classification Office regulates only about 15 percent of the commercial moving image (that is film, video and DVD) market. The other 85 percent of films, videos and DVDs are automatically cross-rated from equivalent Australian and British ratings, or assigned New Zealand ratings by the Labelling Body. Although the range of publications over which the Office has jurisdiction is broad, most of the film and video pre-release classification system is administered by the Labelling Body rather than the Office.

The vast majority of publications are not moving images and are not subject to the pre-release classification system. The Office has limited jurisdiction here as well, and must wait for enforcement agents and members of the public to submit these publications before we can consider them. Although some magazines and CDs bear publisher-printed age-restriction labels, most of these publications never go through any official classification process.

Last year's Court of Appeal decision in *Living Word Distributors v Human Rights Action Group (Wellington)* [2000] 3 NZLR 570 also effectively clipped the Office of jurisdiction it thought it had over some types of content. As a result of this decision, the Classification Office had to classify a print-out from a website as "unrestricted" this year even though it advocated that homosexuality was an "abominable and death-worthy crime" and that homosexuals were "dogs"¹. The content of the website clearly fell within s3(3)(e) because of the extent and degree to which, and the manner in which, it represented that homosexuals were inherently inferior by reason of their sexual orientation, but it did not get through the s3(1) gateway as interpreted by the Court of Appeal and therefore could not be restricted or banned.

It would be very easy to over-estimate the extent of the Office's power by simply reading the press and the open-ended definition of "publication" in the Act. The practical operation of the classification system however paints the Office as anything but a big brother government body that determines what New Zealanders see, hear and read.

Similarly, it would be very easy to let the controversy surrounding the film *Baise-Moi* dominate this year's annual report. Not only would this tend to perpetuate the misperception that the Classification Office has classification jurisdiction disproportionate to what the law actually permits, but a great many other more significant achievements of the Office would be hidden. Perhaps the greatest danger of the *Baise-Moi* debate however, is that it attempts to represent a dichotomy between the work of the Office and the public good. This occasionally made it more difficult to convey our position with respect to that film amid the clamouring of sound bites and media releases. The Classification Office must, however, endeavour to occupy the middle ground to do its job properly, no matter how controversial the immediate publication may be. It is our job to try to reconcile the freedom of expression with social responsibility.

Reflecting this contrast between perception and reality, the 2001/2002 financial year was a year full of contrasts. Internally, the Classification Office strengthened its ability to deal with technological change through investments in staff, our in-house plant, and in our ability to disseminate information more widely and in a more effective manner.

¹ *Against Homosexuality* (www.tencommandments.org/homosexual), OFLC Ref 200192, 4 July 2002, Unrestricted. The website was accessed again in preparation of this Annual Report on 9 October 2002.

This quiet and steady consolidation throughout the year was in contrast to the burst of loud and intense media coverage of the efforts of the Society for the Promotion of Community Standards (the Society or SPCS) to stop screenings of *Baise-Moi*, *Visitor Q* and *Bully* at Beck's Incredible Film Festival and *The Piano Teacher* and *Y Tu Mama Tambien* at the New Zealand Film Festival, all of which were cleared for festival viewing by the Classification Office. Staying with the theme of contrasts, most of these films contrasted the power of sex to build relationships with the power of violence to destroy them.

Another example of contrast this year was a complaint about Alice Walker's Pulitzer Prize winning book *The Color Purple*. The complainant did not think it should be compulsory reading in a Wellington high school because it describes sexual activity, violence and sexual abuse. This reading of the book contrasted with the publisher's defence. The publisher submitted that the book "confronts the abusive treatment of women" but ultimately conveys a message of "hope, redemption and self-affirmation"².

The Office dealt with contrasts between responsible and irresponsible behaviour in various forums this year. It was heartening to see the Auckland War Memorial Museum demonstrate social responsibility by voluntarily submitting material in a body art exhibition³. It was encouraging to see the computer game industry comply with the Act by submitting 60 restricted games for classification. Responsible behaviour was also shown by the AIDS Foundation when it voluntarily submitted a safer sex booklet for classification before distribution⁴. The launch of Family Planning Association's new website by the Prime Minister and the Chief Censor distinguished between responsible internet sex sites (of which the website was an example) and irresponsible internet sex sites. This contrasted with irresponsible behaviour in the form of many unsafe sex practices routinely depicted in explicit sex videos and DVDs, which were the subject of persistent comment from participants in this year's research project.

Health of the Classification Office

The Classification Office ended the year with an operating surplus of \$143,763. This is \$122,483 over the budgeted surplus of \$21,280, and is the fourth year in a row the Classification Office has produced an operating surplus. This has resulted from continued improvements in our internal processes and has enabled us to continue to focus on the longer-term strategic initiatives discussed later in this report. The operating surplus arises from an increase in revenue from the Labelling Body (\$775,600, which is \$50,378 more than last year), greater than expected interest revenue and from lower than budgeted operating and personnel expenditure.

² *The Color Purple*, OFLC Ref 100728, 24 August 2001, Unrestricted.

³ *Piercing: The Hole Story*, OFLC Ref 101846, 5 December 2001, Unrestricted M.

⁴ *Heavy Duty*, OFLC Ref 101608, 7 December 2001, R18.

Increased revenue from the Labelling Body means that more films, video recordings and DVDs have been submitted from the private sector than last year, although once again the total amount was less than we predicted this year. We had budgeted for revenue of \$937,080 from the Labelling Body this year, a 22% increase on the actual revenue received from it last year, on the basis of continued increase in video recording submissions accompanied by an even greater increase in DVD submissions. This budgeted increase of Labelling Body revenue was less than the 56% increase budgeted the year before, but was nonetheless overly optimistic. Our estimates were based on the best information we could obtain from the industry at the time.

The increase in DVD submissions that began to occur in the fourth quarter last financial year was pruned, largely as a result of the decision of the High Court in *Video Ezy v Roadshow Entertainment* [2002] 1 NZLR 855, which held that the subsequent rental of DVDs by Video Ezy breached Roadshow's copyright in those DVDs under the Copyright Act 1994. Although the sale of DVDs was not affected by the decision, the DVD rental market has now been limited to the copyright owners who generally do not offer DVDs for rent. This had a significant effect on our estimates because predictions of increased DVD submissions depended in part on submissions from parallel importers intending to offer DVDs for rent before the titles screened in cinemas. This meant that although revenue we received from the Labelling Body was the largest amount ever, it was still below our budget which is based on submissions half way between minimum and maximum estimates.

Expenditure on our personnel and other operating costs was less than budgeted, although more than last year. Other operating costs were \$67,557 below budget but \$162,225 more than last year. Even without expenditure on a Deputy Chief Censor's salary and associated costs (which is always provided for in our annual budgets), personnel expenditure increased by 4.2% to \$1,440,750, or \$60,443 more than last year. Although actual expenditure in all areas except depreciation was below budget, the Office's overall expenditure of \$2,679,215 was 9.5% more than last year. The increase was largely the result of operating costs associated with strategic initiatives. The increase was less than expected largely because of low staff levels during part of the year and funds allocated to training not being spent. The resulting operating surplus of \$143,763 contributed to an increase in taxpayers' equity in the Classification Office at year end to \$2,448,572, which is \$385,270 more than budgeted.

Expenditure on our website, www.censorship.govt.nz, improved its look and content, and made it much more user friendly. Decisions of abolished censorship bodies continued to be entered into our database for eventual online public access which has been delayed because of the discovery of errors in the original data. Staff were hired to correct these errors and work on the database was continuing at year-end. The database

will offer comprehensive coverage of all censorship decisions between 1917 and 1993. As the Office deals primarily with the restricted end of the market, the database will cover only 15 percent of the film, video and DVD market from 1994⁵, and a very much smaller percentage of all other publications.

The Classification Office cannot perform its statutory functions without staff members who are able to contribute to debate on classification issues, who are sufficiently intellectually agile to adjust to challenges brought about by changing technology, and who continue to be intellectually stimulated by their work. In recognition of this, the PSA this year was involved more than ever in decision-making concerning issues of employment in the workplace under the collective agreement and partnership protocol. PSA members participated in an exercise to resize positions in the Office covered by the collective agreement. This was done with an independent consultant. Although it has been a principle of the Classification Office's management to attempt to pay salaries equivalent to the public sector median for each position, the job-sizing exercise resulted in salary increases we could not afford to pay. As a compromise, the PSA agreed with the Office to accept less than the public sector median provided we attempted to achieve the median next year. This resulted in salary increases of, on average, 6 percent, and marked a significant success in the Office's partnership with the PSA.

The Classification Office hosted Rachel Williams, a classification officer at the Australian OFLC, as part of our exchange programme. She participated in all aspects of the Office's work, including observation of one of this year's research project focus groups. Rachel also presented a seminar on Australian OFLC procedures, particularly with respect to *Baise-Moi*.

The Cabinet completed its review of the Deputy Chief Censor position (apparently the only statutory deputy's position in New Zealand apart from the Deputy State Services Commissioner) and decided not to repeal provisions in the Act relating to it. Accordingly, the process to appoint a Deputy Chief Censor was commenced and was run by the Department of Internal Affairs. The process continued beyond the end of the financial year. As the Classification Office has operated with a one-person executive for over three years, filling the Deputy Chief Censor's position will inevitably impact on the current structure of the Office and the job descriptions of its management staff. The precise nature of the impact will be determined by what skills the successful candidate brings to the job. The Department also commenced a review of the Chief Censor's performance over the past three years. The review was done by an independent contractor, was finished in April and will assist in deciding whether or not the Chief Censor will be asked to serve another term.

⁵ The Labelling Body cross-rates the remaining 85 percent of the market.

Health of the Censorship System

The Classification Office receives publications from a variety of sources, in both the public and private sectors. With respect to the private sector, the film and video industry are not allowed by law to submit their product directly to the Classification Office. They must submit their product to the Labelling Body which then submits to the Classification Office those films and videos it cannot cross-rate on the basis of English or Australian classification decisions.

The Classification Office received 7% more films, videos, DVDs and computer games from the Labelling Body this year. Private sector commercial submissions, particularly a surprising increase in DVD and computer game submissions, effectively compensated for the severe downturn in Crown submissions and kept the overall quantity of publications above the minimum we predicted. More importantly, the computer games industry is to be congratulated for showing social responsibility in submitting more games for classification.

The Office has had only one arcade game submitted for classification since its inception in 1994, and has not had any enhanced CDs submitted for classification at all. An enhanced CD is a sound recording, part of which contains moving images which are visible when the CD is played on a computer. These are covered by the definition of “film” in the Act and therefore must go through the classification and labelling process before release. The Office plans to inform the music and arcade games industry of their legal obligations in the same way it informed the computer games industry of its obligations this year.

The Office banned 105, and recommended cuts to 50 of the 1,965 publications it classified this year. Seventy percent of the cuts we requested were to remove material that depicted sexual conduct of a degrading, dehumanising or demeaning nature, material that degraded, dehumanised or demeaned a person or persons, and material that represented a group of people as inherently inferior by reason of a prohibited ground of discrimination. Forty-two percent of the banned publications were banned because they promoted, supported, or tended to promote or support, material in s3(2), such as sexual violence and the exploitation of children for sexual purposes. Only nine of the banned publications were commercial submissions, indicating both that the industry generally knows where the line is drawn, and that the number of bans is very dependent on Crown enforcement activity.

As indicated above, about 85 percent of the films, videos, DVDs and computer games exhibited and supplied to the public in New Zealand are rated in Australia. Comment has been made in previous years’ annual reports that the level of violence tolerated at M in Australia often exceeds that tolerated at R16 by the New Zealand Classification Office. The cross-rating system threw up another issue this year with respect to the new Australian practice of adding descriptive notes to G rated films. In New Zealand,

a G rating is every parent's last refuge. Parents can be assured that there is nothing in a G film that would cause any concern if anyone watched it. Yet the Australians have started to add descriptive notes warning that some scenes in G movies may scare young children. If such a descriptive note has to be added to a G rated film, our view is that the film is not a G rated film. The Chief Censor conveyed this view to the Director of the Australian OFLC and requested the Labelling Body to check any film that the Australians have rated G with a descriptive note with a view to raising the rating to PG and keeping the descriptive note. This should preserve the meaning of the G rating in New Zealand, and better inform parents about the content of a film rated PG before taking their young children to see it.

After the House of Representatives voted against the Films, Videos, and Publications Classification (Prohibition of Child Pornography) Amendment Bill, the Government Administration Committee decided to hold an inquiry into the operation of the Films, Videos, and Publications Classification Act 1993. The Chief Censor and the manager of the Classification Unit assisted the committee as advisors. The committee's terms of reference are wide-ranging, but are generally focused on how well the Act is coping with changing technology and whether or not the Act needs amendment following the Court of Appeal's decision in *Living Word Distributors v Human Rights Action Group (Wellington)* [2000] 3 NZLR 570, discussed at some length in last year's Annual Report. The committee decided to carry over the inquiry following the general election and has asked the Classification Office to continue in its role as advisor.

Film and Literature Board of Review

The newly constituted Board of Review issued only two decisions this year, both the result of reviews sought by the SPCS. The Board agreed with the Office and classified *Avocado*, an erotic novel by New Zealand author Christine Leov Lealand, R18. The Board also agreed with the Office and classified *Baise-Moi* R18, although it did not impose further restrictions limiting exhibition of the film to film festivals and tertiary institutions as the Office had. The Board agreed with the Office that the film did not support sexual violence:

[55] ... when taken in context with preceding or following actions many elements in the film give an alternative reading to one that tends to promote or support sexual violence and the infliction of extreme violence. The two main women characters discuss their ultimate demise. They discuss that they will never have a home, what the media will make of them after they are dead, they talk about ways in which they may end their lives, and the inevitability of their deaths. They are constantly conscious of the fact that the police will find them. Manu is shot in a bungled robbery and is ritually burned by Nadine. Nadine is arrested while contemplating suicide.

[56] The Board finds on balance, although the film chronicles the women's behaviour after being affected by traumatic events in their separate lives, describing these events does not necessarily show the film as a whole is promoting or supporting or tending to promote or support the horrific activities shown in it.⁶

Unhappy with this result, and claiming the Board made several legal mistakes, the Society appealed the Board's classification to the High Court. Justice Hammond issued his decision just after financial year-end (*Re Baise-Moi*, AP 76/02, High Court, Wellington Registry, 23 July 2002), but is reported here for the sake of completeness. Justice Hammond made it clear that it was not his job to reclassify the film. His only job was to decide if the Board made a legal mistake. If he found that the Board made a legal mistake, then he would send *Baise-Moi* back to the Board for reclassification with a direction on how to apply the law correctly.

The Society argued six, and won one, ground of appeal. Significantly, the Society argued that no reasonable Board could have reached the decision it reached (the R18 classification) having viewed the film. Justice Hammond disagreed, saying that it "could not be said that no reasonable tribunal could have reached that view". The Society also argued that the Board should have imposed more restrictive conditions on the film once it found the film to be injurious to the public good. Justice Hammond said that this proportionality argument was "more plausible", but he disagreed with the Society. The view taken by the Board, that adults should be able to make up their own minds, was open to the Board. Justice Hammond agreed, however, with the Society that the Board made a legal mistake by failing to consider the impact of *Baise-Moi* in mediums other than film (such as video and DVD), which consequently also required it to consider display conditions. He sent the film back to the Board for consideration of this point.

In a nutshell, Justice Hammond said that the Board made no legal mistake when it decided that *Baise-Moi* did not promote or support sexual violence and would not injure the public good if restricted to adults. He did not direct the Board to produce any particular classification. He instead directed the Board to consider quite a narrow point, which was whether or not the public availability of *Baise-Moi* on video, DVD or TV might affect the Board's R18 classification of the film. At the time of writing, the Board had not issued its new decision.

Concern was expressed in last year's Annual Report at the previously constituted Board's practice of stating that it "had regard to the five step process set out in *Moonen*"⁷ without demonstrating how it had applied the test. This concern was shared by Justice

⁶ Board of Review, *Baise-Moi*, 13 March 2002.

⁷ Board of Review, Decision 1/2001, *Belles Bottom Boys*.

Durie in his decision in *Re Triple X Nr 31* (AP 101/00, High Court, Wellington Registry, 11 April 2002). Justice Durie sent a video recording back to the Board for classification because it had failed to give adequate reasons for its decision to require excisions:

[41] Were it not for the Bill of Rights I think the minimal position would have to be that the Board is obliged to give such reasons as can assure interested parties, and the public generally, that those matters that the Board is obliged to consider by statute, have in fact been considered and properly weighed. That requires more than mere assertion to that effect.

To its credit, the currently constituted Board is careful to demonstrate its reasoning in full, particularly its application of the Bill of Rights. In its second Moonen decision, *Moonen v Film and Literature Board of Review* [2002] 2 NZLR 754, the Court of Appeal reiterated the optional nature of the “five step test” in *Moonen I* for assessing whether a classification is an acceptable restriction on the freedom of expression in the Bill of Rights (*Moonen v Film and Literature Board of Review* [2000] 2 NZLR 9):

[15] Clearly, it was not intended to be prescriptive. “May” means may. The five-step approach may be helpful. Other approaches are open.

Notwithstanding its optional nature, the current Board has, to date, applied the five-step test to explain why its restrictions on the freedom of expression are reasonable and demonstrably justified in a free and democratic society, as is required by the Bill of Rights.

Interim Restriction Orders

The President of the Board has the power to issue an interim restriction order on any film that is the subject of an application for review that has been given leave to proceed by the Secretary of Internal Affairs. This year, the President issued more decisions than the Board because of the high number of review applications brought by the Society.

The Society obtained interim restriction orders to stop screenings of *Baise-Moi*, *Visitor Q* and *Bully* at the Incredible Film Festival⁸. The Society was unsuccessful in stopping screenings of *The Piano Teacher* and *Y Tu Mama Tambien* at the New Zealand Film Festival. All five films were classified R18 by the Classification Office.⁹ Some reports have said that the three Incredible Film Festival films were “banned”. It is more accurate to say that the exhibition of the films was temporarily stopped.

⁸ The interim restriction order against *Baise-Moi* was granted by Justice Hammond in the High Court. The other four decisions (two granting and two declining interim restriction orders) were made by the President of the Board of Review.

⁹ The Classification Office further restricted *Baise-Moi* and *Visitor Q* to film festivals and tertiary institutions. On a review sought by the Society, the Board removed the further exhibition restrictions from *Baise-Moi*, and as a result of an appeal by the Society to the High Court, *Baise-Moi* is now unclassified. The classification of *Visitor Q* remains the same.

An interim restriction order can be put on a film only after someone is dissatisfied with the classification of a film and the Secretary of Internal Affairs has given leave for the film to be reviewed by the Board of Review. Once the Secretary gives permission for a film to be reviewed, the person seeking a review, or anyone else likely to be affected by the review, may apply to the President of the Board for an interim restriction order. An interim restriction order can be granted if the President is satisfied “that it would be in the public interest” to grant it. The Classification Office has no power to grant an interim restriction order.

The Act does not say when it is in the public interest to grant an interim restriction order. The three decisions granting interim restriction orders on *Bully*, *Visitor Q* and *Baise-Moi*, say that it will be in the public interest to grant an interim restriction order if it is intended to exhibit the film either before the period in which a person may seek a review has expired, or before the substantive hearing can be held. The reasoning is that it is in the public interest that a review is “meaningful”, and exhibition of a film before it can be reviewed makes the review less meaningful. Justice Hammond granted the *Baise-Moi* interim restriction order because he could not “unequivocally say that there is no prospect of this appeal succeeding” (Re *Baise-Moi*, AP 76/02, High Court, Wellington Registry, 12 April 2002).

The two decisions refusing interim restriction orders on *Y Tu Mama Tambien* and *The Piano Teacher* say that it is not in the public interest to grant an interim restriction order when the person seeking the film’s review cannot make out an arguable case for review because it has not seen the film. The reasoning is that unless an arguable case has been made out that the Classification Office is plainly wrong, then it is in the public interest that confidence in the integrity of the classification system is maintained by allowing exhibition of the film to go ahead.

The President’s decisions to refuse interim restriction orders seem to be much more consistent with the Court of Appeal’s decision in *Fahey v TV3* [1999] 2 NZLR 129 where it stated at 132 that “any prior restraint of free expression requires passing a much higher threshold than the arguable case standard”. Although the case was not cited or distinguished in Justice Hammond’s decision to grant an interim restriction order, the Court of Appeal’s test would appear to apply to any application that has the effect of a prior restraint on the freedom of expression, including interim restriction orders made subject to a “public interest” test.

An interim restriction order has very specific effect. It is *not* a classification. It says nothing about whether or not the film has been classified correctly. It simply treats the film as though it were objectionable for very particular purposes, in order to preserve the position of the person seeking a review until the review hearing is held. It is at the review hearing, not the interim restriction order hearing, where argument on the film’s classification will be properly considered.

An interim restriction order means that a film cannot be supplied, advertised or exhibited to the public for gain, it cannot be shown to anyone under the age of 18, and it cannot be exhibited or displayed in a public place. It remains legal for the film to be possessed, imported, given or viewed in private, in accordance with its current classification. An interim restriction order can be revoked by the President at any time, and anyone affected by it can apply to have it revoked. It expires automatically when the Board finishes its review and issues its classification. At the time of writing, the President and Justice Hammond had revoked all interim restriction orders

As stated above, any person may seek a review of a film's classification, but unless the person is a Crown official or has rights in the film, permission from the Secretary of Internal Affairs must be obtained first. To date, the Secretary has never withheld permission. This is of some concern if confidence in the classification system is to be maintained. The Act does not say what the Secretary must consider when deciding whether or not to give permission. Although the Office is never notified of the Secretary's reasons for granting leave, it appears that if the Secretary is of the opinion that the review is not "frivolous or vexatious", then he or she will give permission for the review to go ahead.

Although a grant of leave cannot be taken as any sort of decision on the merits of the complaint, and should consequently be seen as requiring an applicant to clear a low threshold, once leave is granted, the applicant is a party to the proceedings and will be entitled to the full appeal process allowed in the Act.

The Act establishes two classes of persons who may bring a review: officials and those who have rights in the publication; and others. Only the "others" require leave. If neither the Crown, representing the public interest, or the film owner, representing a private commercial interest, is sufficiently dissatisfied with a classification to bring a review, the Secretary might consider carefully why anyone else should be granted leave to bring a review. What considerations have the Classification Office, Crown officials and the owner missed?

Certainly an assessment of whether or not an application is frivolous or vexatious should be made, but it is difficult to see how the Secretary can decide if an application is frivolous without seeing the film that the application complains about. There is no danger of predetermining the substantive case by viewing a film to see if the application passes over a threshold lower than that applied in the review itself.

Distributors pay fees expecting that the Classification Office will get it right most of the time. If a great many applications for review are granted in a short time, public confidence in the classification system will be shaken until the reviews and appeals have run their course. This could take a long time. When the reviews and appeals have ended and the original classifications are substantially intact, the Secretary should arguably take that into account as well with respect to new applications for review.

Exhibitors, distributors and producers were sufficiently concerned by these events that they asked the Labelling Body to invite the Chief Censor to its annual general meeting for the first time. The Chief Censor reviewed the law of interim restriction orders and advised that once the members of the Board of Review acquire more experience, it is likely that the Board will hear reviews more quickly, and possibly in division. Applicants will then be less likely to require interim restriction orders to preserve their position until the review hearing can be held.

However, if someone has been granted leave to seek a review of a film, and that film is scheduled for exhibition before the review period has expired or a review can be held, then it may still be vulnerable to the grant of an interim restriction order. Since the review period begins to run for 30 working days from the tenth working day of the month after the month in which the film's classification was made, some films could have a period in which a review (and hence an interim restriction order) application could be made of up to three calendar months. Other review periods could be as short as six weeks¹⁰. The Chief Censor advised that it was prudent for exhibitors to wait three months after classification before exhibiting a film if they wanted to be sure that no review would be taken. The Chief Censor was told that that sort of prudence (as well as democracy and the law) was expensive because distributors cannot afford to have expensive prints sit in warehouses becoming so dated by the time of release that their diminished box office makes them not worth screening.

Public Opinion

The Office and the Board performed their functions this year under the intense scrutiny of the Society. By way of example, in the quarter ending 30 June 2002, the SPCS issued 17 media releases in which a film festival film, interim restriction order or the Chief Censor was mentioned. This included two releases issued on the morning of the *Baise-Moi* appeal hearing in the High Court and one, issued three days before the President was due to release her decision on the *Visitor Q* interim restriction order, which claimed that the Chief Censor called *Visitor Q* "accomplished and funny" in a radio interview on 27 March 2002. Although artistic merit is something that censors must by law consider when classifying a film, the Society's own transcript of the interview revealed that the Chief Censor did not say these words.

The Classification Office is aware of 43 media releases in the fourth quarter alone issued by individuals and organisations offering various comments on these films, the Chief Censor, the Board of Review and classification procedures. Occasionally the

¹⁰ Variable review periods have resulted from the Board's interpretation of s48(1)(b) in its first *Baise-Moi* decision, that time runs from the date of publication of the monthly list of decisions rather than from the date a film's classification is recorded.

debate seemed to be in danger of being reduced to personality clashes and allegations of abuse of process, but for the most part it remained a more principled exchange of views about what society tolerates at the outer edge of acceptable expression. This sort of public discussion can only be a good thing.

The Classification Office continued its research into public opinion on sexually explicit video material. This research helps the Classification Office to stay in touch with what New Zealanders consider to be the boundary between what is acceptable for adults to watch, and what is not. It is important that the Classification Office does not censor in a vacuum.

The Classification Office particularly wanted to know

- how people interpreted the words “degrading, dehumanising and demeaning” (a criterion for classification in the Act that censors must give “particular weight” to) and how they applied those words to sexually explicit depictions;
- if people thought the material treated men or women as “inherently inferior”, which is another statutory criterion that censors must consider; and
- whether people thought it was the manner in which the video clips presented sexual activity, or whether it was specific acts themselves, that caused any particular clip to be considered degrading or to represent men or women as inherently inferior.

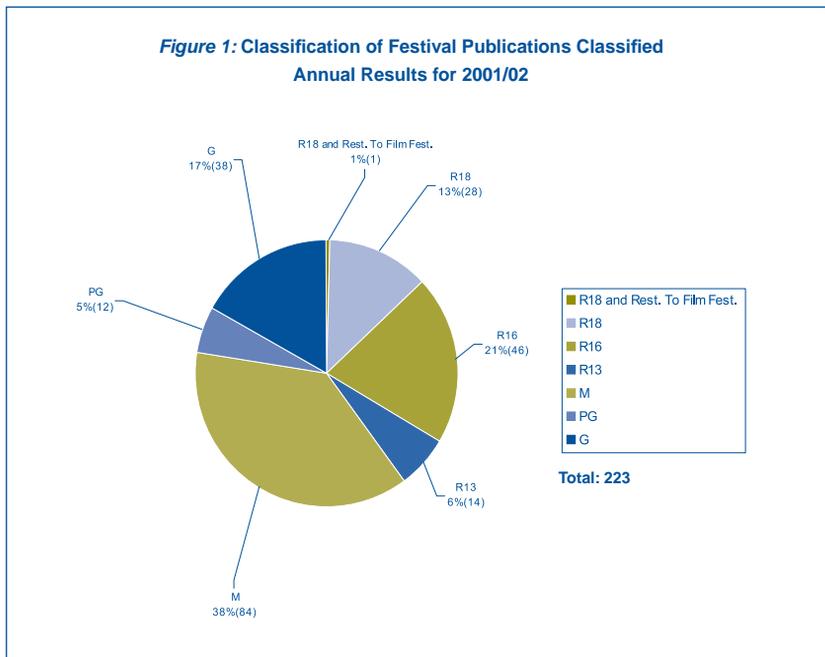
This is the second year we have conducted this type of research. This year’s research builds on last year’s by focusing on particular segments of the New Zealand public, and by exploring attitudes in some areas more deeply. Two of this year’s focus groups were of young people aged between 18 and 23, and two were entirely Maori. The remaining two were a cross-section of New Zealand society. The same clips were shown to each of the six groups. Of particular and disturbing interest in the research report is the divergent views of Maori men and women.

The two most common concerns expressed by participants were that the absence of safer sex practices in most of these clips could undermine personal and public health initiatives, and that these clips promote an inaccurate picture of women’s sexuality which could be harmful, particularly in the hands of young and more inexperienced people. The majority of participants said that they would classify the clips R18. The research report is available from our website.

The Office held its popular “Censor for a Day” programme in Hamilton and Wellington this year. We use “Censor for a Day” to provide senior high school students with information about the classification system, and it provides an opportunity for us to stay in touch with teenagers’ views on how films should be classified. This year, Buena Vista International provided the Office with a print of *Crazy/Beautiful*. The majority of students agreed with its actual rating of M. The Chief Censor was also invited to speak at a conference on violence against women in Sydney, at two tertiary institutions

in California and at two in New Zealand. He also spoke to community groups in places as far afield as Waipukerau, Dunedin and Tauranga.

The Classification Office often consults members of the public on films that offer up sensitive classification issues. We consulted members of the public with respect to the classification of the films *Baise-Moi* (R18 and further restricted to film festivals and tertiary institutions, subsequently reduced to R18 by the Board of Review), *Salo* (R18) and *Monster's Ball* (R16). The Office has the power to consult experts if we feel they may be of assistance in determining the classification of any publication. This year, we asked experts in the prevention of sexual violence and a senior lecturer in film for their views on *Baise-Moi*; the Human Rights Commission, the Human Rights Action Group, the Vicar of Gisborne and the Society for their views on *Against Homosexuality* www.tencommandments.org/homosexual (the Society declined our request); and the Police for their views on *The Big Book of Secret Hiding Places* submitted by Customs. The Classification Office is enormously grateful for the assistance of these experts who freely volunteer their time and intellect to assist us in the more difficult classifications.



Film Festival Submissions

Film festival submissions were up again this year. The Classification Office classified 223 film festival features and grouped shorts this year. This compares with 148 last year, and 243 the year before. Notwithstanding the allegedly extreme nature of some of the films in this year's festivals, 134, or 60 percent, of this year's festival films were given unrestricted classifications, up from 49 percent last year, and comparable to the 68 percent the year before. One reason for the increased number of festival film submissions is that there are more film festivals and they are showing more films. The Latin American ambassadors, for example, have recently joined the Italian ambassador in regularly hosting festivals of films from their own countries. There is also greater awareness among smaller festival organisers of their classification obligations which the Office helps them to meet by waiving 75 percent of the classification fee, and by grouping shorter films together and treating them as one film for fees purposes.

This year the Chief Censor granted 131 fee waivers to single features and grouped short films at a cost to the Office of \$99,675. This was a significant increase on last year's figures of 96 waivers at a cost of \$67,425. Once again, the question arises as to whether the Classification Office is the most appropriate vehicle for delivering a \$100,000 arts subsidy. Classification fees are based on cost recovery, and festival film classifications do not cover costs. However, 17 films were subsequently commercially re-exhibited after festivals and the Office was able to recoup from distributors the difference between the waived fee and the full fee to a total of \$13,125.

DVD Fee Waivers

This is now the third year in which the Office has classified DVDs under Regulation 8, which requires that DVDs containing previously classified features and additional content must be re-examined to determine if the additional content alters the original classification. A fee waiver is granted in recognition that the feature has already been classified. The size of the fee waiver depends on how much additional material must be examined. This year we received 108 applications for DVD fee waivers, down from last year's 131. One hundred of those applications were granted. The revenue generated from DVDs classified under the fee-waiver system this year was \$45,375. The impact on revenue caused by the DVD fee waiver system was \$73,425. This assumes of course both that these DVDs would be submitted without the fee waiver system and that charging full fee is fair. Neither assumption is correct, given that videos have never had to comply with Regulation 8 and that it is obviously unfair to charge again for a feature that has already been classified. Essentially, the Office received \$45,375 in revenue from DVDs it would not have received without the DVD fee waiver system. The industry is now used to the system and fully complies with the law.

Although we received 108 DVD fee waiver applications, we received 223 DVDs. This means that 115 DVDs were submitted to the Office for classification without a waiver

application. This is the first year that the number of DVDs containing new, previously unclassified material has exceeded the number of DVDs containing material previously classified on film or video. DVD is increasingly the medium of choice for new, non-theatrical, releases.

Conclusion

This report shows that the Classification Office has continued to perform to its usual excellent standard in a year of intense public scrutiny. It is encouraging that this scrutiny has provided the Office with many opportunities to demonstrate that the systems we have in place are solid and transparent, that the reasons we write explain how our classifications are reconcilable with the freedom of expression, and that the Office's staff are able to deal professionally with the variety of publications submitted to us for classification. Indeed, the Office's performance under such scrutiny has given us more reason than usual to celebrate our achievements this year, and for this we are grateful to our scrutinisers.

Although we cannot please everyone all the time, we must always be accountable to every taxpayer. If we continue to balance the freedom of expression with social responsibility in our decision-making, and if our decisions are well explained, legally sound and reasonable, then the public of New Zealand can be assured that the Classification Office is carrying out Parliament's intention that the exercise of state power on individual freedoms should be limited to preventing likely injury to the public good.



W K Hastings
Chief Censor of Film and Literature

ESTABLISHMENT OF THE CLASSIFICATION OFFICE

On 1 October 1994, the Films, Videos, and Publications Classification Act 1993 took effect and the Office of Film and Literature Classification officially commenced operation.

Up until 30 September 1994 there were three separate censorship bodies in New Zealand. They were:

- the Indecent Publications Tribunal;
- the Chief Censor of Films; and
- the Video Recordings Authority.

These three bodies operated under three separate Acts of Parliament. They were:

- the Indecent Publications Act 1963;
- the Films Act 1983; and
- the Video Recordings Act 1987.

In 1989, the Ministerial Committee of Inquiry into Pornography recommended the development of one comprehensive classification system for the material already covered by the existing censorship laws and an extension of the scope of the law to include a wider range of mediums.

This led to the development of the Films, Videos, and Publications Classification Act which was passed by Parliament in 1993.

THE ROLE OF THE CLASSIFICATION OFFICE

The Classification Office is made up of:

The Chief Censor of Film and Literature: W K Hastings

The Deputy Chief Censor of Film and Literature: This position is vacant as at 30 June 2002.

A team of Classification Officers supported by a **Registry**.

The Classification Office also has an **Information Unit**. This Unit is responsible for providing research services for the Classification Office, disseminating information to the public, and dealing with complaints and inquiries.

A Corporate Services Unit, consisting of technical, projection and administration staff assisting the Classification and Information Unit staff.



The Classification Office Management Team: Alison Hopkins – Registrar, Cathrine Austin – Information Unit Manager, Nic McCully – Classification Unit Manager, W K Hastings – Chief Censor of Film & Literature, Julia Ewing-Jarvie – Corporate Services Manager.

FUNCTIONS AND RESPONSIBILITIES

Classifying Publications

The Classification Office is responsible for the classification of *publications*.

The Act defines a *publication* as:

- “a) any film, book, sound recording, picture, newspaper, photograph, photographic negative, photographic plate, or photographic slide;
- b) any print or writing;
- c) any paper or other thing:
 - (i) that has printed or impressed upon it, or otherwise shown upon it, any word, statement, sign, or representation; or
 - (ii) on which is recorded or stored any information that, by the use of any computer or other electronic device, is capable of being reproduced or shown as any word, statement, sign or representation.”

This definition means that the Classification Office is responsible for the classification of a wide range of material, including films, videos, magazines, computer discs, computer games, CD-ROMs, printed clothing, posters, sound recordings and playing cards. The number and variety of digital publications being submitted is increasing as technology develops.

The Classification Office is deemed to exercise expert judgement in respect of determining whether or not a publication is objectionable. Judgements made by the Classification Office may be used as proof of a publication’s status in a New Zealand court of law.

The video recording entitled Baise-Moi is classified as:

Objectionable except if the availability of the publication is limited for the purpose of study in a tertiary media or film studies course or as part of a film festival organised by an incorporated film society, and in both cases to persons who have attained the age of 18 years.

This classification is due to the manner in which the publication depicts graphic violence, explicit sex and sexual violence.

The Chief Censor of Film and Literature directed the Secretary of Internal Affairs under s13(3) of the Films, Videos, and Publications Classification Act 1993 (FVPC Act) to obtain and submit the publication under s13(1)(b). The publication was examined as a video recording. Originating in France, the publication centres around two female characters who meet and together embark on a violent crime spree, culminating in the death of one woman and the arrest of the other.

Of particular note is the manner in which the publication combines and juxtaposes the depictions of violence and sex. While the publication depicts the use of violence to compel a person to submit to sexual conduct, and acts of extreme violence, as outlined under s3(2) of the FVPC Act, the publication does not do so in such a manner that it promotes or supports, or tends to promote or support, those activities.

In terms of s3(3) of the FVPC Act, the publication has been addressed under s3(3)(a)(i), (“the extent and degree to which and the manner in which the publication depicts acts of torture, the infliction of serious physical harm, and acts of significant cruelty”), and

s3(3)(a)(iii), (“the extent and degree to which and the manner in which the publication depicts sexual violence and violence in association with sexual conduct”). The publication depicts both these things to a high extent and degree, with the impact further heightened by the manner of presentation. Of particular concern is the way in which the publication juxtaposes acts of extreme violence with scenes which explicitly depict sexual activity, and a scene depicting a shot of vaginal penetration during a brutal rape.

In terms of s3(4) of the FVPC Act, the dominant effect of the publication as a whole is of the unrelenting and shocking presentation of violence, and the explicit depiction of sexual activity. The publication has artistic merit, and will be of particular interest to those in the area of film and media studies. There is some concern at the possible harm that may result from the publication being made privately available on either video or DVD format, including the potential for the publication to be edited and recompiled outside of its existing context.

The Classification Office consulted widely over the classification of this film, including a consultation with members of the public. Submissions were received by various interested parties, and the classification of this publication in other jurisdictions has been considered. In classifying this publication, the option of excising part or parts of it were considered but found to be impractical. A restriction to adults only is not sufficient to minimise the likely injury that has been identified therefore the publication is also restricted to both a specified purpose or to a class of person.

Publications can be submitted to the Classification Office by the lower level labelling body; the Comptroller of Customs; the Secretary for Internal Affairs, who is responsible for Inspectors of Publications; the courts; and with the leave of the Chief Censor, any other person. There are fees for submitters with a commercial interest in a publication and significantly reduced fees for members of the public.

Meaning of Objectionable

The legal test of an objectionable publication is whether it “describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good”.

Publications which promote or support, or tend to promote or support, the sexual exploitation of children, sexual violence or coercion, acts of torture or extreme violence, bestiality, necrophilia, urolagnia or coprophilia are specifically prohibited by the Act. The availability of these publications is, by definition, considered likely to be injurious to the public good.

Material not automatically prohibited must be assessed against the legal test, having regard to a list of statutory factors in the Act. The Classification Office must take into consideration the manner, extent and degree to which the publication describes, depicts or deals with matters such as torture, physical cruelty, acts of sexual violence, sexual acts with children, acts of a degrading or dehumanising nature or a masochistic character, or which represent a particular class of persons as inherently inferior. It must also take into account the character of the work, the impact of the medium in which

it is presented, its overall effect, its likely or intended market and the circumstances in which the publication is likely to be used.

The Classification Office may prohibit or restrict a publication after assessment against these factors.

The Classification Office also considers the Bill of Rights Act when it classifies publications. Of primary consideration in censorship is the freedom of expression contained in s14 of the Bill of Rights Act:

“Everyone has the right to freedom of expression, including the freedom to seek, receive and impart information and opinions of any kind in any form.”

Section 5 of the Bill of Rights Act allows the freedom of expression to be limited as long as the limit is “reasonable” and “prescribed by law” and “demonstrably justified in a free and democratic society.” When it classifies each publication submitted to it, the Classification Office consequently balances the freedom of expression with Parliament’s intention that the availability of publications likely to be injurious to the public good should be restricted or prohibited.

Classifications

A classification is a legal statement about the persons to whom a publication may be made available.

After examining a publication, the Classification Office can assign one of the following types of classifications:

- a) unrestricted;
- b) objectionable; or
- c) objectionable except in one or more of

The New Zealand Bill of Rights Act 1990 has been applied throughout the consideration of this publication. The classification represents the minimum interference with the freedom of expression consistent with preventing likely injury to the public good.



*The book entitled Nanny Mango is classified as:
Unrestricted.*

The book is an illustrated narrative for children with a bicultural focus. It contains images in pen, coloured pencil and crayon and a text in English and Maori. The book tells the story of a modern-day kaitangata ngarara (man-eating monster) and contains some matters of violence. These are in the form of images and text regarding the female monster eating her human victims, for example an image of the large female figure biting the head off a victim. The images are sometimes graphic but are not gory. They are dealt with in a comic and heavily stylised manner which reduces their realism and impact. Furthermore the violent acts of the central character are not those of a human and the book’s rhyming text, moral core and central themes of magic and monsters are reminiscent of many standard children’s story classics.

The provisions of the New Zealand Bill of Rights Act 1990 (NZBR Act) have been taken into account in determining this classification. While the publication deals with matters of violence, it does not do so in a manner that would make it injurious to the public good if made available to a general audience. The classification therefore imposes no limit on the freedom of expression as outlined in the NZBR Act.



*The book *The Colour Purple* is classified as:
Unrestricted.*

The book is a novel by American author Alice Walker, first published in 1983. It was submitted for classification following a complaint by a member of the public regarding its use as a school text. The major issues considered are the book's treatment of matters of sex and sexual violence, with other matters of cruelty and violence affecting the classification to a lesser extent.

The artistic merit and cultural and educational importance and value of *The Colour Purple* has earned it a recognised place in 20th century literature. The story explores universal issues of poverty, racism and sexism, and the allied concerns of sexual abuse, early pregnancy, and family violence. There are passages describing a sexual relationship between two women that is tender and loving, and marked by mutual respect. The vividness and immediacy of the language used to describe sexual abuse gives this material a harsh reality and it is likely to have a strong emotional impact. However, while this writing has great power, it does not have a high level of detail and the overall story places the abuse within a social and historical context. The cruelty and violence dealt with in the book is similarly contextualised. The dominant effect of the book is of warmth, hope and self-affirmation.



*The booklet entitled *Heavy Duty* is classified as:
Objectionable except if the availability of the publication is restricted to*

the following circumstances:

- (i) if the availability of the publication is restricted to persons who have attained a specified age;
- (ii) if the availability of the publication is restricted to specified persons or classes of persons; or
- (iii) if the publication is used for one or more specified purposes.

Classifications are legally enforceable. For example, it is illegal to make a video which is restricted to persons who have attained the age of 18 years available to someone who is less than 18 years of age.

Display Provisions

The Classification Office may impose conditions on the public display of any publication that it classifies as a restricted publication.

In determining whether or not display conditions should be imposed, the Classification Office must consider the reasons for restricting the publication, the classification it was assigned, and whether or not the public display of the publication would cause offence to reasonable members of the public if it were not subject to display conditions.

If the Classification Office considers that the public display of the publication would be likely to cause offence to reasonable members of the public, it must impose display conditions on the publication.

The Act provides certain display condition options for films, and different options for publications other than films. In respect of films, the Classification Office can require that:

- the film or any associated film poster is publicly displayed only in premises, or a part of premises, set aside for the display of restricted publications;
- the film or any cassette or case in which it is kept must be publicly displayed only in a package made of opaque material; and
- the film or any associated film poster available for supply may only be shown to persons who make a direct request for that film or that poster.

In respect of publications other than films, the Classification Office can require that:

- the classification is provided on the publication or the package in which it is displayed;
- the publication is displayed in a sealed package;
- the publication is displayed in a sealed package made of opaque material;
- the publication or any advertising poster is only shown to persons who make a direct request for that publication or that poster; and
- the publication is displayed in premises or part of premises set aside for the display of restricted publications.

Labelling of Films

The Act requires that all films that are intended to be supplied to the public are labelled, unless they fall into the limited categories which are specifically exempted under s8 of the Act.

The Act defines film as meaning:

“a cinematographic film, a video recording, and any other material record of visual moving images

persons who have attained the age of 18 years.

The classification is due to the booklet’s treatment of matters of sex. The booklet is a publication of the New Zealand AIDS Foundation. The booklet explicitly depicts and describes sexual activity between men that might broadly be described as sadomasochistic, for the purpose of framing sexual health information in a pertinent and engaging manner for the target audience. The titillatory effect of the material is low to mild. The overall effect of the material is informative and non-judgemental, so as to provide men with information to assist them in their sexual decision-making rather than prescriptive codes of behaviour. Some of the material has a politicised tone, and is intended to raise reader awareness of broader issues related to HIV infection and the ongoing health crises for gay men.

Consideration has been given to the relevant provisions of the New Zealand Bill of Rights Act 1990 as they relate to this publication. Given the explicit sexual content and the purpose for which it is intended to be used, the restriction on the availability of the publication is considered to be reasonable and demonstrably justifiable.



*The publication entitled Piercing – The Hole Story is classified as:
Unrestricted: Suitable for mature audiences 16 years of age and over.*

The publication is a video recording which focuses on the practice of body piercing. Through interviews and depictions of piercing, the publication presents various aspects of this subject in a documentary

style of filming. The video recording was submitted to the Office of Film and Literature Classification by the Auckland War Memorial Museum in order that it may be shown as part of an exhibition on body adornment.

The video recording contains depictions of piercing, some of which are graphic in nature, and which constitute a crime under the Crimes Act 1960. There are also several references to sexual activity. However, these images are presented amongst extensive material which has a strong emphasis on health and safety issues, as well as aesthetics and social attitudes. There is merit in the publication being made available to a wide audience in that body piercing appeals to a range of people, including young persons, for whom the video recording contains informative and interesting content. The unrestricted availability of the publication is not considered likely to be injurious to the public good.



The compact disc sound recording Snoop Dogg Presents Tha Eastsidaz is classified as:

Objectionable except if the availability of the publication is restricted to persons who have attained the age of 18 years.

The album is in "gangsta" rap style. The main issues in the classification decision are the album's treatment of violence, including the threat of violence used to coerce women in a sexual context, the role of the material in the formation of attitudes which might lead to criminal activity, particularly in at-risk groups of young people, the presentation of cannabis use as an accepted feature of the rappers' way of life, the misogynistic

that is capable of being used for the subsequent display of those images; and includes any part of any film, and any copy or part of a copy of the whole or any part of a film."

Films are given different coloured labels according to the rating or classification they receive:

- films which are suitable for everyone (G) are given green labels;
- films which are unrestricted but have an age recommendation (PG, M) are given yellow labels;
- films which are restricted are given red labels.

There are no labels for objectionable films as they are not to be made available to the public.

The Labelling Body

The labelling body is an organisation established by the Act and approved by the Minister of Internal Affairs. The Act established the labelling body to rate films (as defined in the Act) at the unrestricted end of the spectrum. It also issues the labels that must be affixed to films before they can be supplied to the public.

If a film has already been rated or classified in New Zealand the labelling body will use the existing rating or classification or its equivalent. Where no New Zealand classification exists, the labelling body refers to the decisions of nominated overseas classification bodies (currently either the Australian Office of Film and Literature Classification or the British Board of Film Classification). If the film has been rated as unrestricted by either of these two bodies,

the labelling body must assign the film the equivalent New Zealand unrestricted rating.

Where there is no Australian or British classification, the labelling body viewing committee can view the film and assign the rating it considers appropriate. This committee includes members of the community.

The labelling body may not rate films which have been restricted by the nominated overseas bodies. In the case of films not previously rated overseas, the labelling body is not permitted to rate films which would be likely to be restricted if they were submitted to the Classification Office for classification.

Currently, the Film and Video Labelling Body Inc., based in Auckland, is approved to act as the labelling body by the Minister of Internal Affairs.

Offence Provisions

While it is only films that by law must be rated, classified and labelled, all publications must comply with the law.

Under the Act, individuals and corporate bodies may be fined or imprisoned if they do not comply with the classification assigned to a publication by the Classification Office, or that would be assigned by the Classification Office if the publication were submitted for classification. It is an offence to breach any display conditions that the Classification Office has, or would have, imposed on any publication. Penalties may be imposed whether or not the individual or corporate body knew the classification of the publication(s) involved.

Depending on the nature of the offence,

language and attitudes expressed in the lyrics, and the extent and nature of the sexual references included.

The possibility exists that the album's portrayal of ghetto life may render the anti-authority attitudes expressed attractive to impressionable young people. While adults are likely to recognise the album as essentially characteristic of the genre and be able to make a balanced evaluation of the material, young people may be less inclined to question the album's pervasive misogyny, its casual attitude to drug use, and its macho preoccupation with violence and criminal behaviour. There is a danger that vulnerable and impressionable teenagers, particularly teenage boys, may express these attitudes in aggressive or destructive ways.

The classification of this sound recording is consistent with Parliament's intention that the availability of publications that are likely to be injurious to the public good should be restricted, and it is the lowest possible restriction on the freedom of expression consistent with this intention.



The computer printout entitled PIERRE16M is classified as: Objectionable.

The publication is a computer printout, consisting entirely of text, of an Internet Relay Chat session between two participants identifying themselves as a 35-year-old man and a 16-year-old boy. The printout was obtained from a "log" file, which records the contents of an Internet chat session, saved on the hard drive of a computer. The publication contains explicit descriptions of sex

between adults and children and sexual violence committed by adult men on children.

The computer printout promotes and supports the exploitation of children for sexual purposes by presenting explicit and salacious descriptions of sexual activity between adults and boys. The two participants reinforce to each other that boys are appropriate and desirable sexual partners for adults, and thereby promote and support the exploitation of boys for sexual purposes to each other.

The computer printout also promotes and supports the use of violence and coercion to compel children to participate in, and submit to, sexual conduct. It does this by presenting explicit and salacious descriptions of sexual violence perpetrated on children.

The computer printout meets criteria under s3(2)(a) and s3(2)(b) of the Films, Videos, and Publications Classification Act 1993, and is therefore deemed to be objectionable. A classification of "objectionable" places a limit on the right to the freedom of expression as set out in s14 of the New Zealand Bill of Rights Act 1990. However, in relation to this publication, the classification is considered to be a reasonable limit prescribed by law that can be demonstrably justified in a free and democratic society.



The publication entitled Soldier Of Fortune II is classified as: objectionable except if the availability of the publication is restricted to persons who have attained the age of 18 years, due to the publication's graphic depictions of violence.

individuals can be fined up to \$20,000 for some offences or imprisoned for up to one year. A body corporate can be fined up to \$50,000. It is an offence to possess an objectionable publication. Individuals may be fined up to \$2,000 for possession. A body corporate may be fined up to \$5,000 for this offence.

Public Access to the Classification Office

The Classification Office has an Information Unit which has statutory responsibilities for providing research services to the Classification Office, disseminating information about the Classification Office and its classification decisions and for receiving inquiries and complaints about the classification system established under the Act.

Members of the public may, with the leave of the Chief Censor, submit publications to the Classification Office for classification.

The Classification Office also gives public talks to community groups, academic groups and other organisations.

A register of classification decisions is available for inspection during normal office hours.

The Classification Office has a website that provides information on the Office and the censorship system. It also includes downloadable versions of key documents such as annual reports, research reports and a range of information sheets.

ACHIEVEMENTS DURING 2001/02

Output 1: Examination, Classification and Registration of Publications
An analysis for the year of classification services

Introduction

Computer games, Internet Relay Chat logs, image and text files from the Internet and controversial films have provided a challenging year for the Classification Office. A total of 1,972 publications were received and examined and 1,965 publications classified and registered in the 2001/02 year. Overall, a 2% percent increase in submission activity from the previous year is a result of third party (labelling body and any other persons) activity. In comparison, Crown submissions have decreased significantly, particularly in relation to court referrals.

Third party submission activity has gradually increased over the last 6 years with a 7% increase between 2000/01 and the current financial year. This increase reflects film festival activity and an increase in the number of DVDs and computer games submitted to the Classification Office. A total of 61 digital games were submitted this year, a marked increase on the 22 games submitted in the previous year. In order to facilitate the efficient servicing of digital games the Classification Office has employed an expert game player on a casual basis to physically play the game while a classification officer records the relevant information during the examination process. The Classification Office's increasing expertise and ability to examine and classify games has led to

The publication is a computer game. The original publication examined was the beta version of the game. During examination the final version of the game was supplied to the office. This had some effect on the considerations in s3(3)(a)(i) of the FVPC Act due to a slight increase in the graphic nature of the violence.

Under s3(1) of the FVPC Act the publication deals with matters of violence and cruelty. The main point of the game is to kill combatants with a large array of military style weapons including pistols, sub-machineguns, assault rifles, grenades and other destructive devices. The killing can be graphic and bloody.

The game does not however, promote or support extreme violence. The difficulty of game-play requires that the player must concentrate on completing the levels and thereby advance through the game, rather than dwelling on the game's graphic elements. This causes the graphic nature of the violence to be secondary to the game-play. The player is not rewarded for the violence other than with the preservation of the player's character. It is possible that the game could be played simply to inflict violence upon a character. There are elements in the game-play, however, which reduce the likelihood that the game will be played merely to inflict extreme violence on the characters. These include the fact that all the enemies in an area look alike and react in the same way. The game-play also inhibits playing the game this way because the player loses ammunition, attracts additional enemies and increases his exposure to additional enemies and their weapons. These elements in the game-play tend to offset any curiosity value that the game's graphic elements might have.

The game-play acts as a disincentive if the player plays the game merely to inflict violence on a character, and rewards a player who plays the game to achieve its object.

The game-play of other less graphic but similarly violent games such as *Kingpin* (OFLC: 9901617 classified R18 on 08/09/1999), or *State Of Emergency* (OFLC: 200247 classified R18 on 27/02/2002), takes place in an urban crime setting. The setting of *Soldier Of Fortune II* is military. No innocent civilians can be targeted, wounded or killed in this game. The role-play of the game is consequently removed from the reality of its players' lives. The setting of, and disincentives within, the game-play indicate therefore that the publication does not support or promote extreme violence.

The impact of the medium is also important. War movies, which depict graphic military violence, are watched passively. Computer games depicting the same level of violence however, require the viewer to interact and direct much of the violence. Therefore, given the nature of the game-play which permits a player to inflict combat violence, a restriction to an adult audience is considered sufficient to preserve the freedom of expression while limiting any injury to the public good that might be caused by the game's wider availability.

Due to the offence that would be caused to reasonable members of the public by the display of the game's active state, restrictions on display have been imposed under s27 of the FVPC Act.

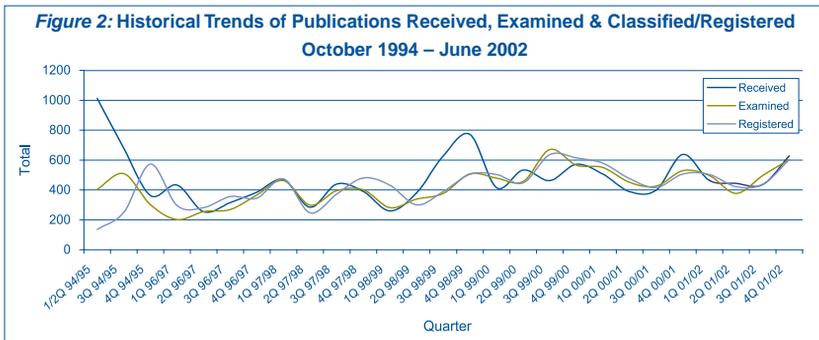
increased industry compliance in submitting their games, a very pleasing result.

Technological advances in the rendering of game graphics including full motion video footage, highly realistic violence and a high level of interaction have significantly changed the nature of games. Three games received an R18 classification this year; *Grand Theft Auto III*, *Soldier Of Fortune II* and *State Of Emergency*. The Classification Office will continue to monitor this trend of increasingly violent games and the relevant research findings into the effects of such game play.

Material from the Internet continues to be submitted to the Classification Office via enforcement agencies. While the volume of this material has dropped from the previous financial year, the nature of this material remains extreme. Images and text files involving the sexual exploitation of children and images depicting the preparation of a human foetus for consumption were among the most disturbing material submitted for classification.

Comment on Publication Volume Estimates

The projected volumes in the 2001/02 Memorandum of Understanding between the Chief Censor and the Minister of Internal Affairs are between 2,006 and 3,084 publications. These estimates are derived from probability analysis based on previous years' volumes across all submission channels and medium types. Information from the film and video industry and relevant Crown agencies regarding likely submission activity was also taken into account in determining these estimates. The figures in the estimated range have been rounded.



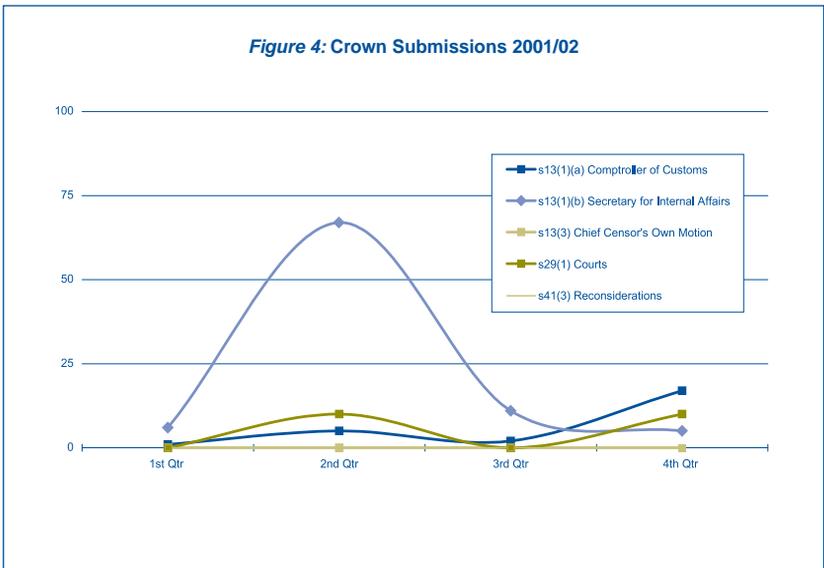
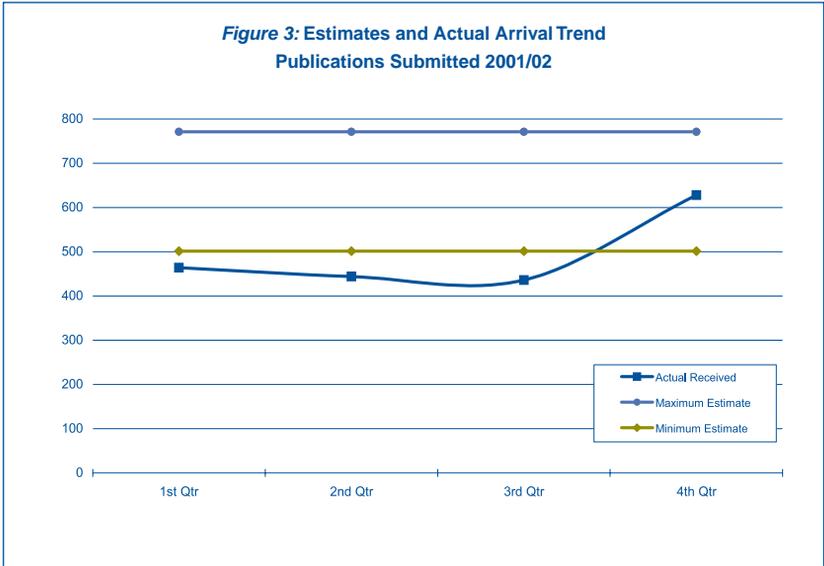
Actual Publications Submitted

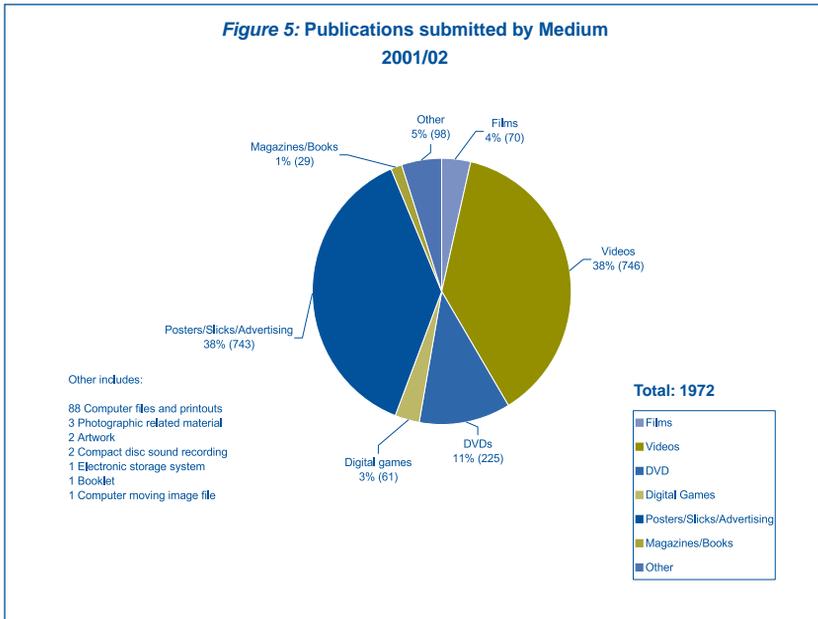
The Classification Office received a total of 1,972 publications for the 2001/02 year, which is 2% below the projected minimum of 2,006 publications. The total number of publications submitted this year reflects a 2% increase in submissions from the previous financial year (see Table 2: Comparison of Publications Received 1994-2002). This overall increase in submissions is primarily due to a 7% increase in s12 activity from the previous financial year. In particular, this result is due to the marked increases in DVDs and digital games being submitted to the Office.

The volume of publications submitted during the 2001/02 year remained relatively constant across the quarters with the expected increase in submission rates occurring in the fourth quarter as a result of film festivals. This consistent submission rate allowed for the steady processing of material through the classification system with few bottlenecks resulting. Bottlenecks have been an issue in previous years due to major submission fluctuations between the quarters.

Section 12 Labelling Body submissions have continued to increase every year since 1996. However, Crown work continues to decline, with a 28% decrease in Crown submissions noted from the 2000/01 financial year. This decrease is primarily the result of a significant drop in court referred publications, which in turn has led to the overall estimates of expected submissions not being realised.

The drop in court referred publications is not readily explained. One court order referring five publications to the Classification Office this year was subsequently withdrawn prior to examination as the result of a guilty plea. This case may be indicative as to why other cases are not referred to the Classification Office.





Types of Publications Submitted for Classification

The Classification Office continues to receive a wide variety of types of publications submitted for classification. Figure 5 provides a proportional breakdown by medium type of publications submitted.

Video recordings and their associated advertising material continue to make up the largest proportion of medium types submitted. However, DVD submissions have increased by 22% from the previous financial year and comprise 11% of the total number of publications received this year. Despite this increase in DVD submissions, volumes dropped following the first quarter of this year as a result of the decision of *Video Ezy International (NZ) Ltd v Roadshow Entertainment (NZ) Ltd [2002] 1 NZLR 855*. This decision held that the subsequent rental of DVDs by Video Ezy breached Roadshow's copyright in those DVDs in terms of the Copyright Act 1994. Although the sale of DVDs was not affected by the decision, the DVD rental market has now been limited to the copyright owners who generally do not offer DVDs for rent.

Digital games have increased by 172% from the previous year, and make up 3% of the total number of publications received. The Classification Office met with representatives from the games industry earlier this year to discuss the low level of compliance in submitting games. Many of these games are subject to simultaneous international release, with the final version of the game becoming available to

distributors only days before release. In order to increase compliance and still meet their release dates the games industry agreed to submit, when available, beta versions of these games. Beta versions are the pre-final version of a game that may still contain a few bugs but provide all of the game-play that is to be marketed in the final version. This strategy has been very successful and contributed to the marked increase in games being submitted to the Classification Office.

The category *Other* in Figure 5 constituted 5% of all the publications received and included computer files and printouts, artwork, compact disc sound recordings and photographic material. While in the past the Classification Office has dealt with a number of computer printouts involving images or text, this year saw the first submission of Internet Relay Chat printouts. These printouts were obtained from “log” files that record the contents of Internet chat sessions saved on a computer hard drive. The content of these printouts included a chat session between two participants identifying themselves as a 35-year-old man and a 16-year-old boy. The recorded dialogue included explicit descriptions of sexual activity between adults and children and sexual violence committed by adult men on children. These publications were subsequently classified as objectionable.

Table 1: Submissions by Channel & Medium

	Films & Film Trailers	Videos	DVDs	Digital Games	Magazines Books	Posters Slides Advertising	Other Moving Images	Other Computer Technology	Other Computer	Other Material	Total
Section 12 Labelling Body	70	714	223	60	0	729	0	0	0	0	1796
Section 13(1)(a) Comptroller of Customs	0	0	2	0	7	0	0	0	16	0	25
Section 13(1)(b) Secretary for Internal Affairs	0	6	0	1	9	2	1	1	66	3	89
Section 13(1)(c) (Commercial)	0	1	0	0	0	0	0	0	0	2	3
Section 13(1)(c) (Public)	0	13	0	0	3	0	0	0	1	3	20
Section 13(3) Chief Censor's own motion	0	0	0	0	0	0	0	0	0	0	0
Section 29(1) Courts	0	4	0	0	10	0	0	0	5	1	20
Section 41(3) Courts	0	0	0	0	0	0	0	0	0	0	0
Section 42(1), (2) & (3) Reconsiderations	0	7	0	0	0	0	0	0	0	0	7
Regulation 27 Film Poster approvals	0	0	0	0	0	12	0	0	0	0	12
Total	70	745	225	61	29	743	1	1	88	9	1972

Table 2: Comparison of Publications Received 1994-2002

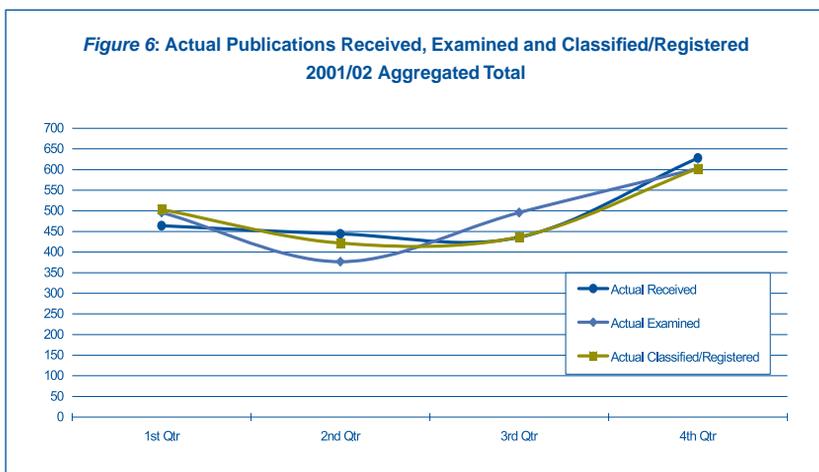
	2001/02 Actual	2000/01 Actual	1999/00 Actual	1998/99 Actual	1997/98 Actual	1996/97 Actual	1995/96 Actual	1994/95 (9 months) Actual
Section 12 Labelling Body	1796	1678	1519	1211	1118	1050	1282	1074
Section 13(1)(a) Comptroller of Customs	25	26	103	28	144	118	178	773
Section 13(1)(b) Secretary for Internal Affairs	89	27	40	120	38	88	245	15
Section 13(1)(c) Other Persons	23	5	16	76	47	17	66	79
Section 13(3) Chief Censor's own motion	0	1	12	0	0	0	67	0
Section 29(1) Courts	20	165	278	575	178	30	64	21
Section 41(3) Courts	0	0	5	0	4	0	0	0
Section 42 Reconsiderations	7	6	1	4	18	24	5	20
Regulation 27 Film Poster approvals	12	23	9	25	35	59	114	12
Section 163 Transitional	0	0	0	0	0	0	0	59
Total	1972	1931	1983	2039	1582	1386	2021	2053

Table 3: Actual Performance
Summary Tables of Aggregated Totals of Publications Received, Examined,
and Classified For Output 1

	First Quarter 01/02	Second Quarter 01/02	Third Quarter 01/02	Fourth Quarter 01/02	Total Year End Current (Output 1)
Actual Received	464	444	436	628	1972
Actual Examined	496	377	496	603	1972
Actual Classified/Registered	503	422	437	603	1965
Variations					
Actual examined against actual received	7%	(15%)	14%	(4%)	0%
Actual classified/registered against actual received	8%	(5%)	0%	(4%)	0%
Actual classified/registered against actual examined	1%	12%	(12%)	0%	0%

Submission Channels

The Film and Video Labelling Body Inc. continues to be the major submitter to the Classification Office, accounting for 91% of all publications received. The percentage of publications submitted by the Labelling Body has increased by 7% from the previous financial year. The Secretary for Internal Affairs submitted 4% of the total, while the Comptroller of Customs submitted 1%. As previously noted, court submissions have dropped significantly from the previous year, accounting for 1% of the total publications received this year. In contrast, public submissions under s13(1)(c) have significantly increased by 360% from the previous year. This result is largely due to a submission of 13 videos by the New Zealand Police.



Overall Performance for Examination, Classification and Registration

The Classification Office's responsiveness to the volume and variety of mediums submitted this year, and the effective processing of this material has led to a successful year. Table 3 summarises the volumes of publications received, examined and classified/registered for 2001/02. The even rate of submissions over the first three quarters provided for a steady and stable rate of processing. Submissions increased in the fourth quarter as a result of film festival activity, and resulted in the second highest number of examinations for any quarter since the Classification Office was established. While minor fluctuations in servicing activity occurred in the second and third quarters (see figure 6), the volume of publications classified/registered in the fourth quarter equalled examinations in that quarter. By year end the difference between publications received and examined was nil, while the difference between the number of publications received and classified/registered was just seven.

Publications Examined

Table 4: Comparison of Publications Examined 1994-2002

	2001/02 Actual	2000/01 Actual	1999/00 Actual	1998/99 Actual	1997/98 Actual	1996/97 Actual	1995/96 Actual	1994/95 (9 months) Actual
Section 12 Labelling Body	1793	1665	1435	1190	1065	1215	1318	713
Section 13(1)(a) Comptroller of Customs	28	53	72	27	171	213	383	437
Section 13(1)(b) Secretary for Internal Affairs	82	27	73	71	36	246	90	0
Section 13(1)(c) Other Persons	41	6	15	68	43	27	116	16
Section 13(3) Chief Censor's own motion	0	10	3	0	0	52	0	0
Section 29(1) Courts	14	165	558	121	178	31	62	21
Section 41(3) Courts	0	1	4	0	4	0	0	0
Section 42 Reconsiderations	4	6	2	3	25	16	4	0
Regulation 27 Film Poster approvals	10	23	10	26	35	86	87	7
Section 163 Transitional	-	-	-	-	0	0	0	32
Total	1972	1956	2172	1506	1557	1886	2060	1226

A total of 1,972 publications were examined in the 2001/02 financial year. This total is 2% below the projected minimum. As with the volume of received publications, this 2% decrease is due to the marked drop in s29 submissions for the year. Table 4 compares examination activity over the last eight years. Examinations this year are approximately 1% higher than the 2000/01 year.

Publications Classified and Registered

Table 5: Comparison of Publications Classified/Registered 1994-2002

	2001/02 Actual	2000/01 Actual	1999/00 Actual	1998/99 Actual	1997/98 Actual	1996/97 Actual	1995/96 Actual	1994/95 (9 months) Actual
Section 12 Labelling Body	1798	1663	1453	1189	1127	1389	1066	629
Section 13(1)(a) Comptroller of Customs	31	66	57	64	246	370	268	295
Section 13(1)(b) Secretary for Internal Affairs	78	31	105	51	122	203	1	0
Section 13(1)(c) Other Persons	40	13	26	55	50	44	92	3
Section 13(3) Chief Censor's own motion	1	8	3	0	22	28	0	0
Section 29(1) Courts	4	163	544	227	66	32	61	0
Section 41(3) Courts	0	4	1	0	4	0	0	0
Section 42 Reconsiderations	4	6	3	15	26	2	4	0
Regulation 27 Film Poster approvals	9	22	10	24	43	92	67	7
Section 163 Transitional	-	-	-	-	0	0	0	27
Total	1965	1976	2202	1625	1706	2160	1559	961

A total of 1,965 publications were classified and registered in the 2001/02 financial year. This total is 2% below the projected minimum. Table 5 compares classification/registration activity over the past eight years. Classification/registration activity is slightly down on the previous year's result, by approximately 1%. As with examinations, this result has been negatively influenced by the low volume of court material referred to the Office.

Figure 7: Classification of all Publications for 2001/02

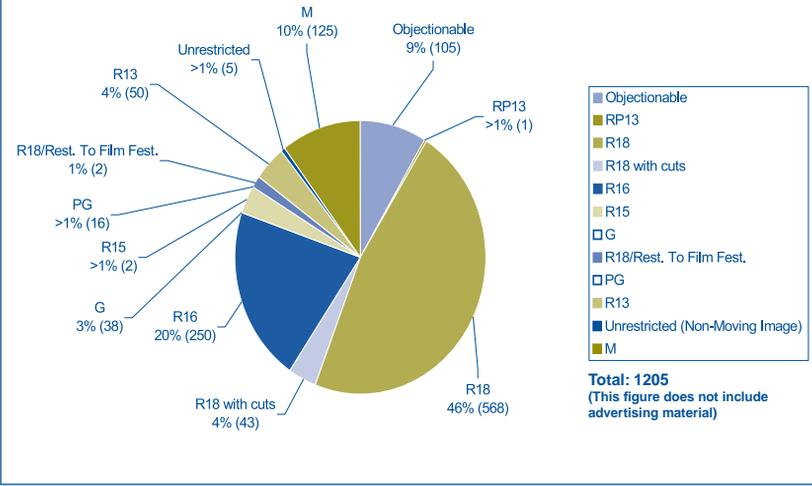
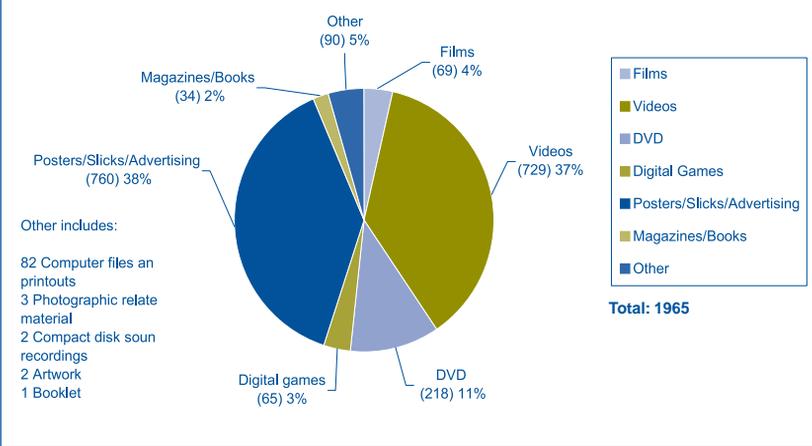


Figure 8: Publications Classified/Registered by Medium 2001/02



Classification Statistics

Figure 7 shows the classification given to the 1,205 publications, classified by the Classification Office this year. This total excludes slicks, posters and advertising material. Of this total 105 publications, or 9% were classified as objectionable. The decrease in the number and proportion of publications banned this year compared to the previous financial year is the direct result of less court material being submitted.

A total of 184 publications were classified as unrestricted (including G, PG and M) this year, a slight increase on the previous year's total of 143 publications. This result reflects the number of film festival publications, particularly short films that are submitted to the Classification Office in order to receive a fee waiver. These publications either contain no matters under the "subject matter gateway" of s3(1) of the Films, Videos, and Publications Act 1993 - sex, horror, crime, cruelty or violence - or deal with these matters in a manner that make their unrestricted availability not likely to be injurious to the public good.

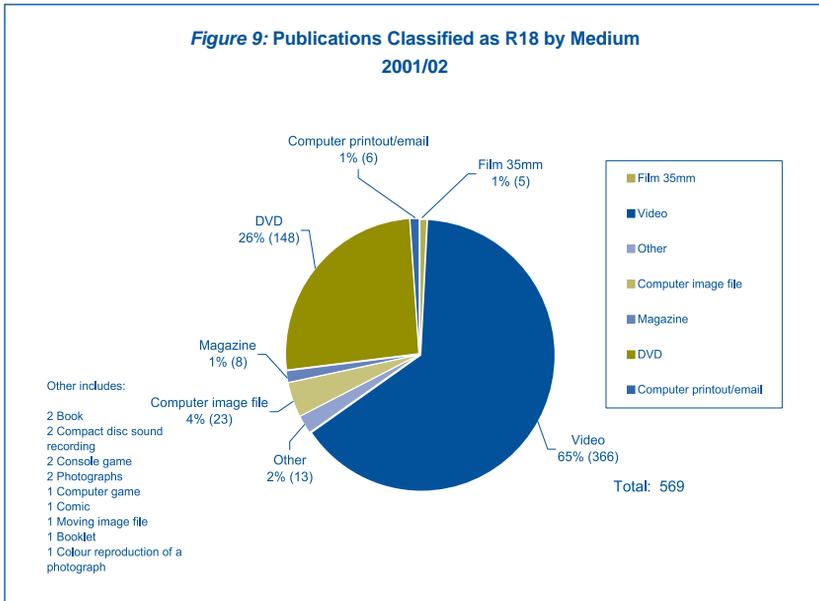
Figure 8 provides a breakdown by medium of publications classified. A total of 218 DVDs were classified this year, a marked increase from the 185 DVDs classified in the previous financial year. Of this year's total, 148 DVDs were classified R18 and nine were classified as objectionable (see figures 9 and 10). The fact that excisions are unable to be made to DVDs at this time largely accounts for the banned DVDs.

A total of 65 digital games were classified this year and three of these games were classified R18. A total of 34 magazines and books were classified this year; 10 were classified R18 while 14 were classified objectionable. In terms of videos, 323 were classified R18, 43 classified R18 after cuts were made and 23 objectionable from the total of 729 classified.

Registry Functions

The integrity of classification information generated by the Classification Office is the primary focus of the Registry team. More particularly, Registry is charged with the timely and accurate production of two of the Classification Office's main outputs that are required under s39 and s40 of the Act, namely the *Register of Classification Decisions* and its companion publication the *List of Decisions*.

**Figure 9: Publications Classified as R18 by Medium
2001/02**



Performance Measures

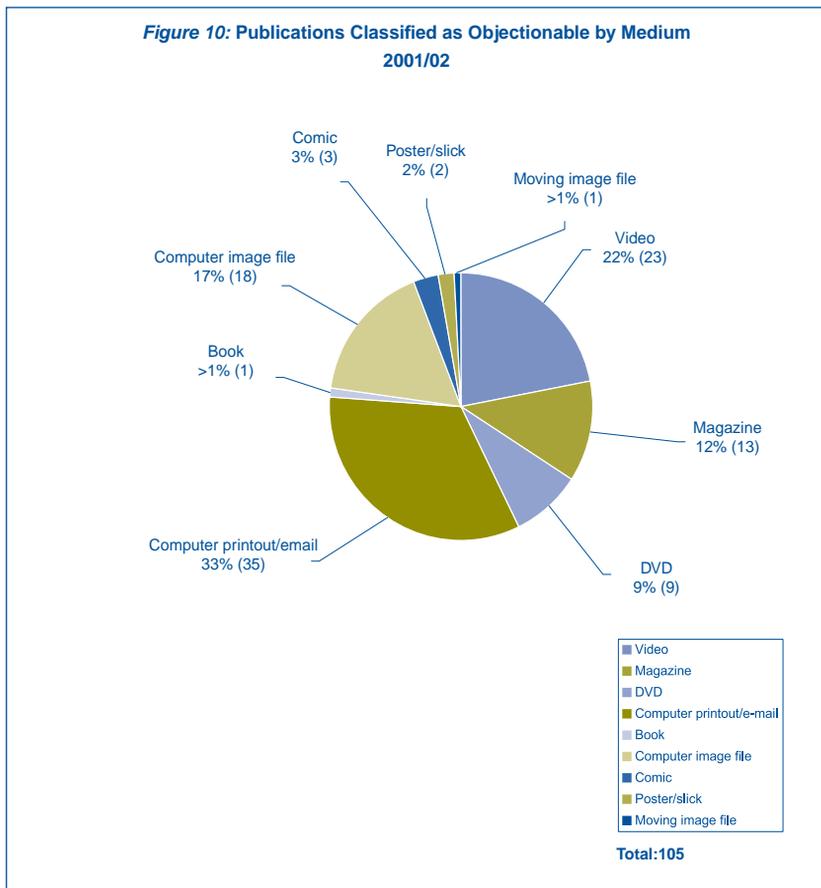
Timeliness

In an effort to monitor timeliness and quality of these two outputs, certain performance indicators are in place and are reported against each month. The Registrar and the Classification Unit Manager review these indicators on a regular basis. By improving existing systems Registry has met 100% of timeliness indicators for all four quarters of the 2001/02 year.

Corrigenda

Notification of any errors recorded in the *List of Decisions*, either by recipients of the publication or detection by internal checking mechanisms, results in a formal corrigendum being issued in the following month's publication.

There were 15 corrigenda issued in the 2001/02 reporting year out of a total of 1209 decisions registered. This equates to a 1% error rate. However, many of the corrigenda



were issued for errors in publications that were registered five years ago. This is not an accurate reflection of errors recorded in the 2001/02 reporting year. Instead it is attributable to an intensive and retrospective internal audit of documentation. This audit was begun in the 2001/02 reporting year and is still continuing.

Subscriptions

Copies of the *List of Decisions* are available at \$16.50 a copy. A total of 42 copies are despatched each month, 18 of these to paying subscribers.



Information Unit (left to right): Cathrine Austin, Brenden Crocker, Virg Burns, Deborah Gordon (insert).

ACHIEVEMENTS DURING 2001/02

Output 2: Information Services

An analysis for the year of information services

Introduction

Output 2 relates to information services provided by the Classification Office. The majority of these activities are either performed, or co-ordinated, by the Information Unit. In addition to performing its core functions, the Information Unit contributes to several key Classification Office - wide strategic goals.

Trends in the volume of Inquiries and Complaints

The Classification Office received a total of 754 inquiries, 87 complaints and 31 endorsements about classification matters this year. The total of 872 represents a decrease of 2% from last year's total of 886. Of the 872 inquiries, complaints and endorsements, 65% were made by way of telephone, 9% by post, 23% by email and 2% were made in person.

As always, there was a high demand for classification information. There were a total of 576 requests for information on the classification of particular publications contained

within the 754 inquiries and complaints (a decrease of 44% from last year's total of 1035). Of these classification information requests, 36% were received from industry members, 14% from enforcement agencies, 8.5% from broadcasters and 6.0% from the labelling body. The remaining 36% were received from other parties. This latter category includes requests from students, the press, lawyers and defendants involved in prosecution cases, the Film and Literature Board of Review and, of course, interested members of the public, some of whom wish to submit publications to the Classification Office.

Content of Inquiries

Requests for Information 2001/02

There was a range of general inquiries about the censorship system, how it works, what material falls within or outside the law and what the penalties are for breaking the law.

There were also a number of inquiries about the work of the Classification Office, in particular, regarding the criteria used to determine what classification to assign a publication. Specific questions about criteria included how the Classification Office treats nudity, bestiality and hate speech.

Inquiries Regarding Specific Publications

Specific publications that generated interest this year included:

- the films *Baise Moi*, *Visitor Q* and *Bully*. These three films were to be screened as part of film festivals. They were submitted to the Film and Literature Board of Review, following classification by the Classification Office, and were also subject to Interim Restriction Orders while pending the Board's decisions.
- a proposal to make an explicit sex video (being filmed in New Zealand) featuring a woman giving birth
- a body art exhibition in Auckland
- music by Dr Dre
- the films *Spiderman* and *Lord of the Rings: Fellowship of the Ring*
- the computer games *Unreal Tournament*, *Twisted Metal Black*, *Grand Theft Auto 3*, and
- the books: *Astride* and a children's book *Nanny Mango*.

The issues raised by these publications related to violence, sexual violence, explicit sex, nudity, offensive language, child abuse and child pornography, the use of drugs and firearms, and smoking in films. The above subjects are not listed in any particular order.

Tertiary Study and School Projects

There were a considerable number of inquiries from tertiary and secondary students seeking information for assignments.

The Labelling Systems

Carrying on a long-standing trend, several inquiries concerned the meaning of the rating and classification symbols used in advertising films and videos, and in particular, the meaning of the 'M' rating.

Several inquiries related to confusion over different labelling systems, with people wanting to know whether particular publications needed labels, such as Indian films, or whether Australian labels applied in New Zealand.

Regulating the Supply of Various Mediums

As in previous years, several inquiries related to the regulation of websites (whether or not they were subject to censorship), the regulation of information sent by email and the regulation of books, magazines and advertising posters in dairies and other local retail outlets. This last issue has been raised as a public concern every year since the Classification Office commenced operation.

Other inquiries on this theme related to the regulation of billboards, music videos, pay per view television content, advertisements and live stage performances (in particular, *Puppetry of the Penis*).

Clarifying the Requirements of the Law

There were a large number of inquiries about the operation of the law; what publications are covered by the Act, copyright regulations, parallel importing, penalties for possession of objectionable publications or breaches of other provisions of the Act, labelling requirements, and exemptions from labelling.

The Procedures for Submitting Publications and for Classifying them

Industry members, enforcement agencies, members of the public, students and Members of Parliament contacted the Classification Office for information on how to submit a publication.

Who is Responsible for Regulating Access to Restricted Publications?

Several cinema operators and staff members contacted the Classification Office to

clarify their legal responsibilities in regard to access to restricted publications. This issue also arose in the context of Internet cafes and arcade game parlours.

Content of Complaints

The following issues appeared most frequently amongst the 87 complaints during the year.

Offensive Material/Language in Magazine and Newspaper Articles

Some complaints related to either text or pictorial content of articles in newspapers and magazines, for example, one such complaint concerned an article in a newspaper about Jim Rose's circus.

Labels on Publications

There were a number of complaints about the placement of labels. Either they were absent, they were obscured (for example, by price tags), or they obscured information about the product, like the story-line.

Content of Publications

Several complainants were concerned that certain films were classified too low, and should have been restricted because the film included sex scenes or violence. *Bridget Jones's Diary* (M) and *Lord of the Rings: Fellowship of the Ring* (PG) are examples of these. Complainants also expressed concern about the suicide scene in *Vanilla Sky*, the use of an expletive in a children's book called *24 hours* by Margaret Mahy and nudity in *Biggest* and *Dune 2*.

Language, or more specifically, the use of expletives, attracted by far the most complaints. Specific films named were *Freddie Got Fingered*, *Jay & Silent Bob Strike Back* and *Black Hawk Down*. CD music recordings were also the focus of several complaints because of explicit or offensive lyrics.

By contrast to these, the Classification Office also received a complaint that the censorship of violence was "silly" and the classification of the film *Black Hawk Down* was too high.

Content Warnings

In other cases complainants were less concerned by the classification than by the need for a descriptive note to warn them of specific content, for example, *Captain Corelli's Mandolin* (for language) and *Nurse Betty* (for a scalping scene).

Inappropriate Film Trailers

Concern was expressed about the screening of ‘inappropriate’ trailers before unrestricted-level films. This issue comes up every year and relates to the screening of trailers advertising films for an older audience than the typically G, PG, or M films they preceded. This might mean a trailer for an M film screening before a G movie, or a trailer advertising a restricted film (eg R16) being screened before an unrestricted level film (G, PG or M).

Display of Explicit Magazines and Videos

Concern was expressed about the way in which magazines and videos were displayed in some retail outlets, particularly dairies. Some complaints referred more specifically to the posters advertising sexually explicit magazines.

Publications that Carry Discriminatory Messages

A number of complaints were received about publications that were considered to be offensive or discriminatory. These included a ‘racist doll’ in the rear window of a car, a computer game that might discriminate against mental health patients and a bumper sticker sporting the slogan “Dead queers don’t spread AIDS”.

Access to Unsuitable Films

Some complainants expressed concern about inappropriate films or videos being screened to young people. These cases involved an ‘inappropriate’ video screening at a playcentre, an M rated video being screened to 12 year olds at school and an in-flight movie.

Concern about TV Censorship

Each year complainants contact the Classification Office about television censorship. Some of these calls relate to general concerns about too much violence or the screening of ‘restricted-level’ films, while others are more specific. For example, one complainant was concerned that the version of *1900* screened on Sky TV may not have been classified or might be an uncut version of the film, because it was longer than the version described in the Classification Office classification records. The Classification Office redirects all inquiries and complaints about television censorship to the Broadcasting Standards Authority.

Research

This year the Classification Office conducted six focus groups with members of the public (three groups of men and three groups of women) to obtain feedback from

the public on the content, and appropriate classification of, several video clips. This research builds on the results of research conducted by the Classification Office in the previous year. The clips screened were taken from five sexually explicit videos. All were classified R18: Restricted to persons 18 years of age or over, by the Classification Office.

Approximately 25 participants attended each session. A total of 148 participants attended and all attendees completed the questionnaires.

The research obtained views by way of questionnaire and to a lesser extent by open-forum discussion. However, being aware that participants were likely to be inhibited in an open-forum discussion, the primary focus of the discussion element of the evening was to provide an opportunity for participants to debrief.

ACNielsen was contracted to recruit participants independent of the Classification Office. Groups were selected to provide cross-sections of different sectors of the population. Two groups sought to represent a cross-section of the Maori community, two to represent a cross-section of people aged between 18-24 years of age and two to represent a cross-section of the general population.

Helena Barwick, an independent researcher, was contracted to develop and administer the questionnaire, report on the findings of each session, and provide a comprehensive report on the six sessions overall.

The primary purpose of the research was to gain more information on what the public thinks about sexually explicit material in the R18 video market. This information forms part of the growing knowledge base on which Classification Office staff can draw when determining the classification of these publications. Sexually explicit material forms by far the greatest proportion of publications submitted to the Classification Office and it is the source of debate both inside the Classification Office and in the public domain.

The research programme provided the Classification Office with information on what some members of the public think about the content of sexually explicit videos and what aspects of this content, if any, they found to be of concern. In research over the last few years, members of the public have expressed concern about a range of issues. The focus of this year's research was to gain insight into any differences between the views of certain subsections of the population, in particular the views of Maori men and women and the views of young men and women between the ages of 18 and 24.

Results give some insight into the differences of opinion in the community. It is noteworthy that the greatest divergence of opinion was between the Maori men's and Maori women's groups, Maori men being the most lenient of the six groups:

CORRIGENDUM

Page 53: In the first paragraph, the sentence: "The recommended classification from these audiences were as different as their diverse views might have suggested." should read "The recommended classifications from these audiences were not as different as their diverse views might have suggested."

“The Maori women identified more degrading activities in the video clips than any other audience, and the Maori men the least. As well as this, the Maori women were much more likely than the rest of the audience to consider that making the videos available could injure the public good. By contrast, the Maori men found few activities they saw degrading, and thought that little harm would result from making the videos available, other than the harm that could result from encouraging unsafe sex. The recommended classification from these audiences were as different as their diverse views might have suggested. Maori women recommended slightly more restrictive classifications, but the majority of both groups were comfortable with an R18 classification for all clips. Both groups acknowledged that their attitudes towards the videos would be different if they portrayed Maori actors or Maori settings.”

This research cannot offer an explanation for the apparent differences in views between Maori men and Maori women. A quarter of the Maori men identified themselves as frequent viewers of sexually explicit videos, whereas only one of the Maori women was in this category. Frequent viewers found fewer activities degrading, identified less potential harm and favoured less restrictive classifications than the audience as a whole. However, half the young men’s audience were also frequent viewers, as compared with only an eighth of the young women, yet the views of these two groups did not differ as markedly as did the views of Maori men and Maori women.”

The Classification Office recognises that this research has limitations. Like last year’s research the programme ran solely in Wellington, and it is constrained by sample size. This year the total research population was 148 individuals. From the Classification Office’s point of view, the benefits of extending and developing our knowledge in this area and in particular getting feedback from New Zealanders, outweighs any shortcomings. In the absence of such research the Classification Office would be reliant on overseas research which fails to address the cultural issues specific to New Zealand. The Classification Office aims to continue to build its knowledge base by undertaking similar research in future years.

Media Interviews and Inquiries

The Classification Office dealt with a total of 97 media interviews and inquiries this year. This is a 47% increase over the 2000/01 financial year. Of the 97 interviews and inquiries, 31% were with radio stations, 13% with television, 47% with newspapers, and 9% with other print media.

The issues receiving most coverage this year were:

- the proposal to film a woman giving birth in a explicit sex film being made in New Zealand
- the classification of several film festival films by the Classification Office and their subsequent classification by the Film and Literature Board of Review. The films were *Baise-Moi*, *Visitor Q*, *Bully*, and *Y Tu Mamá Tambiën*. The first three titles were subject to interim restriction orders while they awaited classification by the Board of Review

Other issues to attract media attention were:

- classification decisions for the music CDs *Snoop Dogg Presents Tha Eastsidaz* and *Til Death Us Do Part* and CD-cover art for a recording by *Kid Loco*
- the classification decision for the film *Intimacy* which included explicit sexual footage
- the classification of the computer game *Unreal Tournament*
- under-age children's access to restricted video recordings. *Target*, a documentary screened on television, showed children hiring R18 videos
- the *Body Art* exhibition held at the Auckland Museum, and
- the presentation of smoking in publications, and publications that might promote smoking.

Public Presentations

The Classification Office gave 29 presentations to community, professional, public interest and educational organisations during the year. These presentations took place in Auckland, Dunedin, Hamilton, Lower Hutt, Tauranga, Waipukurau and Wellington.

Many of the community and public interest groups are presented with general information about censorship in New Zealand and the work of the Classification Office. Professional and educational groups often receive more specialised information based on their areas of expertise or knowledge. For example, Chief Censor Bill Hastings spoke to a tertiary screen and media studies group about the Concept of Audience in Censorship, and to Rainbow Labour about hate speech, hate crimes, and the law relating to these issues.

The Information Unit oversees the organisation of public presentations and, as part of its quality assurance process, asks the groups to rate the speaker's performance, the suitability of content, the educational and informative aspect of the presentation, and, if relevant, the information brochures provided. The assessment scale runs from not satisfactory through to excellent.

Only six groups (approx. 20%) completed a feedback form and returned it to the Classification Office this year. However, these forms provided some excellent feedback. Five of these six groups rated the first three criteria as either very good or

excellent – the top two ratings. Four of the six groups rated the information brochures similarly. Two groups did not receive brochures as a rewrite of brochures was being undertaken at the time.



Censor for a Day

In September 2001 the Classification Office hosted Censor for a Day events for the fifth consecutive year. Over these five years, Censor for a Day has grown to become the Classification Office's premier public awareness and educational event. The inaugural Censor for a Day was held in Wellington but in subsequent years the Classification Office decided to venture out to other major city centres. 2001 saw the continuation of this strategy and the Classification Office hosted two events, one in Wellington and another in Hamilton.

Censor for a Day involves senior high school students viewing a pre-release feature length film and applying the classification criteria as a means of learning how the New Zealand censorship system works. They do this without prior knowledge of the title or the rating the film had received.

Each event began with Chief Censor Bill Hastings telling the students about the function of the Classification Office and explaining the criteria that must be considered when classifying a film. A feature film was screened after which the students enjoyed some light refreshments. Following this, two Classification Officers assisted the students through a written classification exercise that culminated in them recommending a classification and descriptive note. Chief Censor Bill Hastings then led an open discussion about the film, censorship, and other related issues.

For this year's events the Classification Office screened *Crazy/Beautiful*, which was rated Unrestricted: Suitable for mature audiences 16 years of age and over (M) with the descriptive note Contains low level offensive language.

When the students were asked what classification they would give *Crazy/Beautiful* 53% agreed with the decision to make it M. The remaining 47% chose a range of restricted classifications including R16 (18%), R13 (9%), RP16 (9%), RP15 (4%), and RP13 (4%). The students also chose to highlight a variety of content in the descriptive note including offensive language, sex scenes, sexual references, and alcohol and drug use.

The Classification Office would like to thank Buena Vista International for lending us *Crazy/Beautiful* and Festival Mushroom Records for supplying us with soundtracks for the film that were given away as spot-prizes to students. We would also like to acknowledge the Film and Video Labelling Body Incorporated for their continued assistance and support for Censor for a Day.

Information Dissemination

www.censorship.govt.nz

The Classification Office redeveloped its website during this financial year. Due to technical delays the site was not officially accessible to the public until the first week of July.

The aim was to enhance and expand the site, and to increase the audience accessibility where possible – it is difficult to provide easy to understand information given that the censorship law is complex.

Information was tailored separately for members of the public and industry. The Classification Office will be monitoring feedback to look at how to expand the site in future.

The website is an increasingly important component in the Classification Office's overall communication strategy and it is likely to become more so in the future. In the future it is hoped that classification decisions will also be able to be made accessible on the site.

Val Morgan Cinema Advertising

The Classification Office continued to run Val Morgan advertising in cinemas in spite of a low level of feedback from the public. With regret however, the decision was made to cancel the contract at the end of this financial year.

The Classification Office hopes the advertisements have made a positive contribution to increasing public awareness in some of the more basic aspects of the censorship and classification system. It intends to start advertising the website through other means early in the forthcoming year, continuing the use of the slogan “Balancing freedom of expression with social responsibility” which featured in the Val Morgan advertising.

This campaign has run throughout the 2000/01 and 2001/02 financial years. The Classification Office chose this strategy because it was easy to manage, affordable, gave us the opportunity to cover a range of censorship issues and because it specifically targets cinema patrons, a self-selected section of the public that is directly affected by the decisions of the Classification Office.

Approaches to Censorship

Last year I was invited to Dunedin to speak in a debate on censorship for Courage Day. Courage Day celebrates the freedom of expression and the courage of writers who write what is true to their hearts at great personal and public cost. I posited to the largely liberal and anti-censorship audience, that censorship under current New Zealand law was no more a threat to the freedom of expression than emission controls were a threat to business. Indeed, I told them that I see the work of the Office as a sort of environmental regulatory agency, except that the environment we regulate is psychological.

Having led the Classification Office for three years and working with my increasingly tattered copy of the Act every day, I firmly believe that the New Zealand legislation has got it right. It sits squarely in the middle ground, requiring the censors to ban material that is unambiguously corrosive of the public good, permitting censors discretion to make assessments with respect to material that is not so obviously injurious, and virtually ignoring material that could never cause injury.

It is the capacity to injure that counts. The law does not give censors a mandate to ban expression that does no good. The

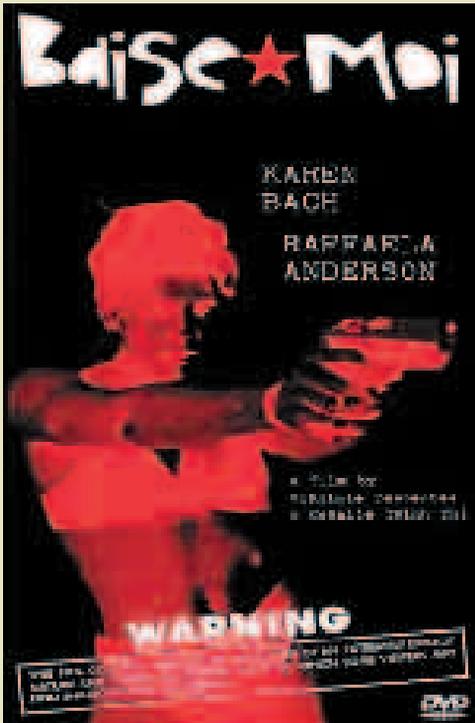
law gives censors a much more narrow brief: they must ask what injury does this expression do? If there is no convincing answer to this the expression must be released into society, regardless of the fact that its capacity to do good is not discernible either.

This means that the concept of “objectionable” is relative. There are publications that are outright objectionable. These promote things like the exploitation of children for sexual purposes and sexual violence. Then there are publications that are objectionable, that is injurious to the public good, but only if they are made available to those less able to discern how the negative attributes of a publication might affect them. These are publications falling within a restricted category, the actual wording of which is “objectionable except” in a defined circumstance. And there are publications that are not objectionable at all. They may not be objectionable, but they may not be good either. Their capacity to offend often requires an M or PG label to allow the public to make an informed choice to view them or not.

Thus, to say that a publication has an objectionable quality to it does not mean that it must be banned. It means that a government agency thinks it would injure the public good if more vulnerable people saw it (generally younger people),

but the public good is not injured if adults are free to make an informed choice about whether to see it. People who sell junk food meeting government food and hygiene

The public good is not some hot-house flower that needs protecting from the elements. What does not injure the public good makes it stronger.



standards know it is terrible for the body and eaten to excess causes endless public health expenditure, but it is not illegal to buy it and eat it. Likewise, a diet of films that have no discernible merit is not good for you either. But junk food is not arsenic. Bad films are not objectionable films. A robust civil society, and indeed the public good, depends on the ability of adults to learn and make informed choices.

I know that the Classification Office applies the law the way it is written. Others obviously disagree. I was criticised for changing my mind about *Baise-Moi* this year. When I first saw it, I thought it would injure the public good if anyone saw it. But after consulting widely, we began to understand it better. We realised that it could be read as a strong statement against sexual violence. To depict sexual violence is not necessarily to promote it. At the time of writing, the film has had the benefit of decisions from the Office, the

Board of Review and the High Court. None has yet found fault with our view of this film.

It would be easy to sit in our Wellington office building and classify publications in splendid isolation. If we did, I could not but be concerned about whether we were getting it right. *Baise-Moi* was a close call. It is for this reason that we spend a significant amount of

money each year investigating what members of the public think about where the Office draws the line with respect to screen depictions of sex and violence.

We ask everyone. We ask people who never watch videos. We ask people who watch a lot. We ask old people, young people, Maori and pakeha, men and women, religious and not religious, gay and straight. If you are a member of New Zealand society, you will be asked for your opinion. The restrictions we impose on the freedom of expression must be demonstrably justifiable in a free and democratic society. In a democracy, everyone has a say, and each person's say is more valuable if debate is informed and robust. Debate is of higher quality outside the hothouse.

This is why I have consistently defended our critics' right to express their opinions about me and the Office. Sometimes the criticism comes when we cannot respond because a publication is before the Board or a court. Sometimes the criticism is intensely misinformed and misleading. Sometimes I am tempted to respond in words inversely proportionate to the tone and words of the criticism aimed at me. To do so however would shift the Office out of the middle ground and buy into the dichotomy that the critics attempt to build. The Office can only do its job properly by finding the middle ground

amongst often extremely disparate viewpoints.

It may be presumptuous of me to say this, but I have no doubt that we all want the same thing. Some people view the middle ground as being in a different place than where our interpretation of the law places it, but all of us want our psychological environment cleaned up. I would like my children to live in a world where no expression injures the public good. The advent of the internet and natural human curiosity however makes it increasingly unlikely that the state will be able to catch the vast majority of publications that are likely to injure the public good. We'll do what we can, but we will increasingly become the little boy with his finger in the dike.

Perhaps the difference between us is that I do not think the law and the Classification Office are able to protect my children from every objectionable publication. I do not think we can change the world. I do think, however, that we can do our best to equip our children with knowledge and skills that will enable them to deal with objectionable publications when they find them. And coincidentally, those same skills will enable them to contribute informed views as adults to the debate about the limits of expression in a free and democratic society.

W K Hastings

Financial Statements of the
OFFICE OF FILM AND LITERATURE
CLASSIFICATION
TE TARI WHAKARŌPŪ TUKUATA, TUHITUHINGA



for the year ended 30 June 2002

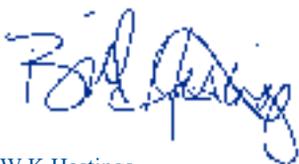
STATEMENT OF MANAGEMENT RESPONSIBILITY

For the Year Ended 30 June 2002

As Chief Censor of Film and Literature and Corporate Services Manager of the Office of Film and Literature Classification, we accept responsibility for the preparation of these Financial Statements. The Financial Statements have been prepared in accordance with generally accepted accounting practice and include the information required by the Public Finance Amendment Act 1989.

As part of the development of the Classification Office's financial management systems, effective internal controls have been implemented and maintained to provide reasonable assurance as to the integrity and reliability of financial reporting. These internal controls are subject to independent random periodic audits to ensure compliance and effectiveness.

We are satisfied that, for the reporting period, the Statements of Account fairly reflect the financial position and operations of the Classification Office and the Statement of Service Performance fairly reflects the Classification Office's achievements against performance targets as set out in the Statement of Objectives.



W K Hastings
Chief Censor of Film and Literature
24 October 2002



J D Ewing-Jarvie
Corporate Services Manager
Chief Financial Officer
24 October 2002

REPORT OF THE AUDITOR-GENERAL

TO THE READERS OF THE FINANCIAL STATEMENTS OF
THE OFFICE OF FILM AND LITERATURE CLASSIFICATION
FOR THE YEAR ENDED 30 June 2002

We have audited the financial statements on pages 65 to 94. The financial statements provide information about the past financial and service performance of the Office of Film and Literature Classification and its financial position as at 30 June 2002. This information is stated in accordance with the accounting policies set out on page 65 to 68.

Responsibilities of the Chief Censor

The Public Finance Act 1989 and the Films, Videos, and Publications Classification Act 1993 require the Chief Censor to prepare financial statements in accordance with generally accepted accounting practice in New Zealand that fairly reflect the financial position of the Office of Film and Literature Classification as at 30 June 2002, the results of its operations and cash flows and service performance achievements for the year ended on that date.

Auditor's responsibilities

Section 15 of the Public Audit Act 2001 and Section 43(1) of the Public Finance Act 1989 require the Auditor-General to audit the financial statements presented by the Chief Censor. It is the responsibility of the Auditor-General to express an independent opinion on the financial statements and report that opinion to you.

The Auditor-General has appointed H C Lim, of Audit New Zealand, to undertake the audit.

Basis of opinion

An audit includes examining, on a test basis, evidence relevant to the amounts and disclosures in the financial statements. It also includes assessing:

- the significant estimates and judgements made by the Chief Censor in the preparation of the financial statements; and
- whether the accounting policies are appropriate to Office of Film and Literature Classification's circumstances, consistently applied and adequately disclosed.

We conducted our audit in accordance with the Auditing Standards published by the Auditor-General, which incorporate the Auditing Standards issued by the Institute of Chartered Accountants of New Zealand. We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order

to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatements, whether caused by fraud or error. In forming our opinion, we also evaluated the overall adequacy of the presentation of information in the financial statements.

Other than in our capacity as auditor acting on behalf of the Auditor-General, we have no relationship with or interests in the Office of Film and Literature Classification.

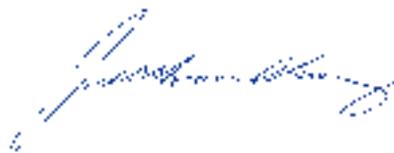
Unqualified opinion

We have obtained all the information and explanations we have required.

In our opinion the financial statements of the Office of Film and Literature Classification on pages 65 to 94:

- comply with generally accepted accounting practice in New Zealand; and
fairly reflect:
- the Office of Film and Literature Classification's financial position as at 30 June 2002;
- the results of its operations and cash flows for the year ended on that date; and
- its service performance achievements in relation to the performance targets and other measures adopted for the year ended on that date.

Our audit was completed on 24 October 2002 and our unqualified opinion is expressed as at that date.



H C Lim
Audit New Zealand
On behalf of the Auditor-General
Wellington, New Zealand

STATEMENT OF ACCOUNTING POLICIES

For the Year Ended 30 June 2002

Reporting Entity

The Office of Film and Literature Classification (the Classification Office) is a Crown Entity formed under the Films, Videos, and Publications Classification Act 1993.

These statements have been prepared in accordance with Section 41 of the Public Finance Act 1989.

Measurement Base

The measurement base adopted is that of historical cost modified by the revaluation of certain fixed assets.

Accounting Policies

The following specific accounting policies which materially affect the measurement of the financial performance and financial position have been applied:

Revenue

Crown Revenue is recognised when it is received. Labelling Body income, other fee income and sundry income are recognised according to the accrual basis of accounting.

Cost of Service Statements

The Resources Employed statements, as reported in the Statement of Objectives and Service Performance, report the net cost of services for the outputs of the Classification Office and are represented by the costs of providing the output less all the revenue that can be allocated to these activities.

Cost Allocation: The Classification Office has derived the net cost of service for each significant activity of the Office using the cost allocation system outlined below.

Definition of Terms: Direct costs are those costs which are directly attributable to output classes. Indirect costs are all other costs that cannot be identified in an economically

feasible manner. These costs include financial and administration costs, property costs, depreciation and computing costs.

Method of Assigning Costs to Output Classes: Direct costs that can be readily identified with a single output are assigned directly to that output class. For example, personnel costs are charged on the basis of actual time incurred.

Indirect costs are allocated to output classes on the basis of staff's output activities.

Receivables

Receivables are recorded at estimated realisable value, after providing for doubtful debts.

Leases

The Classification Office leases office premises and office equipment, mainly photocopiers. As all risks and ownership are retained by the lessor, these leases are classified as operating leases. Operating lease costs are expensed in the period in which they are incurred.

Fixed Assets

Fixed assets are stated at cost less accumulated depreciation. The minimum capitalisation value of individual assets is \$500. All fixed assets received from the Department of Internal Affairs on establishment with zero book value are stated at a net current value, as determined by an independent registered valuer, Rolle Associates, on 1 October 1994.

Depreciation

Depreciation is provided on all fixed assets.

Depreciation is charged on a straight line basis at rates that will write off the cost or valuation of the fixed assets to the estimated residual value, over their expected useful economic lives. The depreciation rates charged on the major classes of assets are as follows:

	Percentage %
Computer Hardware	30
Computer Software	30
Fit Out	20
Furniture and Fittings	10
Office Equipment	24
Other Equipment	24
Technical Equipment	24
Vehicles	18

Provision for Employee Entitlements

Annual leave and time off in lieu are recognised as they accrue to employees and have been calculated on an actual entitlement basis at current rates of pay.

Financial Instruments

Financial instruments primarily comprise bank balances, receivables and payables. All financial instruments are recognised in the Statement of Financial Position and all revenues and expenses in relation to financial instruments are recognised in the Statement of Financial Performance.

Goods and Services Tax (GST)

All monetary values are stated exclusive of GST except Accounts Receivable and Accounts Payable. The amount of GST owing to or from the Inland Revenue Department at balance date, being the difference between Output GST and Input GST, is included in Accounts Payable or Accounts Receivable (as appropriate).

Income Tax

The Classification Office is exempt from the payment of income tax in terms of the First Schedule to the Films, Videos, and Publications Classification Act 1993. Accordingly, no charge for income tax has been provided for.

Commitments

Future payments are disclosed as commitments at the point which a contractual obligation arises, to the extent that they are equally unperformed obligations. Commitments relating to employment contracts are not disclosed.

Contingent Liabilities

Contingent liabilities are disclosed at the point which the contingency is evident.

Changes in Accounting Policies

There have been no changes in accounting policies. All policies have been applied on a basis consistent with those used in previous years.

STATEMENT OF FINANCIAL PERFORMANCE

For The Year Ended 30 June 2002

	<i>Notes</i>	Budget 2002 \$	Actual 2002 \$	Actual 2001 \$
REVENUE				
Crown Revenue	6	1,960,000	1,960,000	1,960,000
Labelling Body Revenue		937,080	775,600	725,222
Other Fee Revenue		16,325	2,222	3,267
		<u>2,913,405</u>	<u>2,737,822</u>	<u>2,688,489</u>
OTHER REVENUE				
Interest Revenue		30,000	81,458	96,597
Sundry Revenue		2,400	3,444	2,458
Gain on Sale of Assets		0	254	223
		<u>32,400</u>	<u>85,156</u>	<u>99,278</u>
TOTAL REVENUE		<u>2,945,805</u>	<u>2,822,978</u>	<u>2,787,767</u>
LESS COST OF ACTIVITIES				
Audit Fee		8,000	8,063	8,000
Depreciation	4	342,000	367,449	328,785
Insurance		10,636	8,735	8,572
Lease and Rental Costs		263,098	250,765	257,495
Other Operating Costs		671,010	603,453	441,228
Personnel Expenditure	9	1,629,781	1,440,750	1,380,307
		<u>2,924,525</u>	<u>2,679,215</u>	<u>2,424,387</u>
NET OPERATING SURPLUS (DEFICIT)	8	<u>21,280</u>	<u>143,763</u>	<u>363,380</u>

Note: The accompanying accounting policies and notes form an integral part of these financial statements.

STATEMENT OF MOVEMENTS IN TAXPAYERS' EQUITY

For The Year Ended 30 June 2002

	Budget 2002 \$	Actual 2002 \$	Actual 2001 \$
TAXPAYERS' FUNDS AS AT 1 JULY 2001	2,042,022	2,304,809	1,941,429
Net Surplus	21,280	143,763	363,380
Total recognised revenues and expenses for the year	21,280	143,763	363,380
TAXPAYERS' FUNDS AS AT 30 JUNE 2002	<u>2,063,302</u>	<u>2,448,572</u>	<u>2,304,809</u>

Note: The accompanying accounting policies and notes form an integral part of these financial statements.

STATEMENT OF FINANCIAL POSITION

As at 30 June 2002

	<i>Notes</i>	Budget 2002	Actual 2002	Actual 2001
		\$	\$	\$
CURRENT ASSETS				
Bank Deposits	1	1,669,396	2,076,637	1,668,257
Accounts Receivable	2	139,852	123,813	113,142
Total current assets		<u>1,809,248</u>	<u>2,200,450</u>	<u>1,781,399</u>
CURRENT LIABILITIES				
Accounts Payable	3	250,262	242,529	183,957
Employee Entitlements	10	79,370	66,120	79,370
Total current liabilities		<u>329,632</u>	<u>308,649</u>	<u>263,327</u>
WORKING CAPITAL		1,479,616	1,891,801	1,518,072
NON CURRENT ASSETS				
Fixed Assets	4	583,686	556,771	786,737
Net assets		<u>2,063,302</u>	<u>2,448,572</u>	<u>2,304,809</u>

Represented By:

TAXPAYERS' FUNDS

Taxpayers' Funds	1,999,711	2,384,981	2,241,218
Revaluation Reserve	63,591	63,591	63,591
TOTAL TAXPAYERS' FUNDS	<u>2,063,302</u>	<u>2,448,572</u>	<u>2,304,809</u>

Note: The accompanying accounting policies and notes form an integral part of these financial statements.

STATEMENT OF CASH FLOWS

For The Year Ended 30 June 2002

	Budget 2002 \$	Actual 2002 \$	Actual 2001 \$
CASH FLOWS FROM OPERATING ACTIVITIES			
Cash was provided from:			
Crown Revenue	1,960,000	1,960,000	1,960,000
Receipts from Customers	959,312	747,805	695,509
Interest Received	30,000	90,459	87,662
Net Goods and Services Tax Received (Paid)	2,230	0	5,711
	<u>2,951,542</u>	<u>2,798,264</u>	<u>2,748,882</u>
Cash was disbursed to:			
Net Goods and Services Tax Paid	0	20	0
Payments to Suppliers and Employees	2,575,055	2,241,017	2,132,200
	<u>2,575,055</u>	<u>2,241,037</u>	<u>2,132,200</u>
Net Cash Flows from Operating Activities	<u>376,487</u>	<u>557,227</u>	<u>616,682</u>
CASH FLOWS FROM INVESTING ACTIVITIES			
Cash was provided from:			
Sale of Fixed Assets	7,300	254	223
	<u>7,300</u>	<u>254</u>	<u>223</u>
Cash was disbursed to:			
Purchase of Fixed Assets	295,000	149,102	437,536
	<u>295,000</u>	<u>149,102</u>	<u>437,536</u>
Net Cash Flows from Investing Activities	<u>(287,700)</u>	<u>(148,848)</u>	<u>(437,313)</u>
CASH FLOWS FROM FINANCING ACTIVITIES			
Net Cash Flows from Financing Activities	<u>0</u>	<u>0</u>	<u>0</u>
Net Increase/(Decrease) in Cash Held	88,787	408,380	179,369
Add Cash at Beginning of Year	1,580,609	1,668,257	1,488,888
Balance at 30 June 2002	<u>1,669,396</u>	<u>2,076,637</u>	<u>1,668,257</u>

Note: The accompanying accounting policies and notes form an integral part of these financial statements.

	Budget	Actual	Actual
	2002	2002	2001
	\$	\$	\$
RECONCILIATION OF NET CASH FLOWS FROM OPERATING ACTIVITIES			
Operating Surplus (Deficit)	21,280	143,763	363,380
Add/(Less) Non Cash Items			
Depreciation	342,000	367,449	328,785
(Gain)/Loss on Sale of Fixed Assets	0	(254)	(223)
Adjustment to Fixed Assets	0	11,619	0
	<u>342,000</u>	<u>378,814</u>	<u>328,562</u>
Add/(Less) Movements in Working Capital Items			
Decrease/(Increase) in Receivables	3,946	(1,350)	(35,721)
Decrease/(Increase) in Prepayments	0	(9,302)	31,998
Decrease/(Increase) in GST	857	(20)	5,711
(Decrease)/Increase in Payables	12,080	58,572	(73,572)
(Decrease)/Increase in Employee Entitlements	(3,676)	(13,250)	(3,676)
	<u>13,207</u>	<u>34,650</u>	<u>(75,260)</u>
Net Cash Flows from Operating Activities	<u><u>376,487</u></u>	<u><u>557,227</u></u>	<u><u>616,682</u></u>

Note: The accompanying accounting policies and notes form an integral part of these financial statements.

STATEMENT OF COMMITMENTS

As at 30 June 2002

The Office of Film and Literature Classification has long-term leases on its premises in Wellington. The annual lease payments are subject to three-yearly reviews. The amounts disclosed below as future commitments are based on the current rental rates.

Operating leases include lease payments for photocopiers.

	2002	2001
	\$	\$
OPERATING LEASE COMMITMENTS		
Less than one year	262,359	263,098
One to two years	67,324	262,359
Two to five years	-	67,324
More than five years	-	-
Total operating lease commitments	<u>329,683</u>	<u>592,781</u>
Capital Commitments	<u>16,716</u>	<u>23,250</u>
TOTAL COMMITMENTS	<u><u>346,399</u></u>	<u><u>616,031</u></u>

Note: The accompanying accounting policies and notes form an integral part of these financial statements.

STATEMENT OF CONTINGENT LIABILITIES

As at 30 June 2002

The Office of Film and Literature Classification has no known contingent liabilities as at 30 June 2002.

	2002	2001
Legal proceedings	Nil	Nil

Note: The accompanying accounting policies and notes form an integral part of these financial statements.

NOTES TO THE FINANCIAL STATEMENTS

For the Year Ended 30 June 2002

	2002	2001
	\$	\$
NOTE 1 - BANK DEPOSITS		
Petty Cash	200	200
Call and Short Term Deposits	1,924,268	1,398,268
Operating Accounts	152,169	269,789
	<u>2,076,637</u>	<u>1,668,257</u>
NOTE 2 - ACCOUNTS RECEIVABLE		
Interest Receivable	9,725	18,725
Sundry Debtors	5	0
Prepayments	17,759	8,457
Trade Debtors	94,904	84,559
GST	1,420	1,401
	<u>123,813</u>	<u>113,142</u>
Less Provision for Doubtful Debts	0	0
	<u>123,813</u>	<u>113,142</u>
NOTE 3 - ACCOUNTS PAYABLE		
Trade Creditors	104,600	23,888
Provision for Staff Accrued Personnel Costs	61,290	52,320
Receipts in Advance	53,889	77,000
Sundry Creditors	22,750	30,749
	<u>242,529</u>	<u>183,957</u>

NOTE 4 - FIXED ASSETS

2001/02 Year	Cost Additions	Disposals	2002	Accum	Net Book	
	30/6/01		Depn.	Depn.	Value	
	\$	\$	\$	\$	\$	
Computer Hardware	480,615	56,843	3,640	89,064	392,158	141,660
Computer Software	655,552	42,723	11,619	103,375	523,110	163,546
Fit Out	643,494	32,965	0	129,386	559,373	117,086
Furniture & Fittings	308,306	10,704	0	32,593	207,249	111,761
Office Equipment	223,990	4,201	0	9,313	212,763	15,428
Other Equipment	7,765	436	0	61	7,826	375
Technical Equipment	140,535	1,230	0	3,657	134,850	6,915
	<u>2,460,257</u>	<u>149,102</u>	<u>15,259</u>	<u>367,449</u>	<u>2,037,329</u>	<u>556,771</u>

2000/01 Year	Cost Additions	Disposals	2001	Accum.	Net Book	
	30/6/00		Depn.	Depn.	Value	
	\$	\$	\$	\$	\$	
Computer Hardware	347,865	167,477	34,728	78,470	306,734	173,880
Computer Software	401,554	253,998	0	79,194	419,735	235,817
Fit Out	638,816	4,678	0	128,187	429,986	213,508
Furniture & Fittings	304,035	4,271	0	30,740	174,656	133,650
Office Equipment	224,590	6,046	6,646	8,882	203,450	20,540
Other Equipment	7,765	0	0	0	7,765	0
Technical Equipment	139,470	1,065	0	3,312	131,193	9,342
	<u>2,064,095</u>	<u>437,535</u>	<u>41,374</u>	<u>328,785</u>	<u>1,673,519</u>	<u>786,737</u>

NOTE 5 – FINANCIAL INSTRUMENTS

The Office of Film and Literature Classification is party to financial instrument arrangements as part of its everyday operations. These include instruments such as bank balances, investments, accounts receivable, and trade creditors.

Credit Risk

Credit risk is the risk that a third party will default on its obligations to the Classification Office and cause the Classification Office to incur a loss. In the normal course of its business, the Classification Office incurs credit risk from trade debtors, and transactions with financial institutions.

The Classification Office has no significant concentrations of credit risk. No collateral or security is held or given to support financial instruments. The Classification Office places funds on short-term deposit with New Zealand registered banks which have satisfactory credit ratings.

Fair Value

The fair value of all financial instruments is equivalent to the carrying amount disclosed in the Statement of Financial Position.

Currency risk and Interest Risk Rate

The Classification Office has no significant exposure to either currency risk or interest rate risk.

NOTE 6 - RECONCILIATION OF CROWN REVENUE RECEIVED

	2002 \$	2001 \$
Funds received from the Vote: Internal Affairs regarding the Estimates of Appropriations 2000/01 (net GST)	1,960,000	1,960,000
Funds Received from Supplementary Appropriation (net GST)	0	0
Total Funding from the Crown	<u>1,960,000</u>	<u>1,960,000</u>
Crown Revenue Per Accounts as at 30 June 2002	<u>\$1,960,000</u>	<u>\$1,960,000</u>

NOTE 7 - RELATED PARTY INFORMATION

The Office of Film and Literature Classification is a wholly owned entity of the Crown. The major source of revenue for the Classification Office is received from the Crown through Vote: Internal Affairs.

The Classification Office enters into numerous transactions with other Government departments and Crown agencies. These transactions are carried out on an arm's length basis on normal business terms and are not considered to be related party transactions.

NOTE 8 - REPAYMENT OF PROFIT TO THE CROWN

Under Section 16 of the Public Finance Act 1989, the Minister of Finance may require repayment of any profit (or any portion of the profit). At the date of this report, the Classification Office has not been notified of any such request and therefore has not provided for any repayment relating to the years ended 30 June 1997, 30 June 1999, 30 June 2000, 30 June 2001 and 30 June 2002.

NOTE 9 - EMPLOYEE REMUNERATION

Total Remuneration and benefits \$000	Number of Employees	
	2002	2001
170-180*	-	1
180-190	1	-

*This data varies from that reported in the 2000/01 Annual Report.

NOTE 10 – EMPLOYEE ENTITLEMENTS

	2002	2001
Accrued Annual Leave	66,120	79,370
	<u>66,120</u>	<u>79,370</u>

STATEMENT OF OBJECTIVES AND SERVICE PERFORMANCE

OUTPUT 1: EXAMINATION, CLASSIFICATION AND REGISTRATION OF PUBLICATIONS

Description

The Office examines and classifies films, video recordings, printed material, sound recordings, some computer technologies, and other publications under the Act. The Office is required to maintain a *Register of Classification Decisions*, and to make available that Register for public inspection. In addition the Office is required to publish a *List of Decisions* which is to be made available for purchase.

Resources Employed

		Projected	Actual
		30 June 2002	30 June 2002
		\$	\$
Revenue	Crown Revenue	1,331,031	1,331,031
	Third Party Revenue	953,405	777,822
	Other (including Interest)	32,400	85,120
	Total Revenue	<u>2,316,836</u>	<u>2,193,973</u>
Expenditure	Total Expenditure	<u>2,294,047</u>	<u>2,079,619</u>
	Net Surplus/(Deficit)	<u>\$22,789</u>	<u>\$114,354</u>

Service Performance

	<i>Notes</i>	YTD Projection at Maximum of Band	YTD Projection at Minimum of Band	Actual for Year to Date
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Quantity

Publications Received		3,084	2,006	1,972
Publications Examined		3,084	2,006	1,972
Publications Classified/Registered		3,084	2,006	1,965
List of Decisions published	2			12

Quality

Classification decisions to set standard	1			98%
Classification decisions are in accordance with the law (No classification decisions of the Office are overturned on judicial review)				100%
Decisions registered with no errors				98.75%
List of Decisions published without error	2			100%

Timeliness

Classification Timeliness Measures	3			<i>See table 6</i>
Registrations completed within agreed timeframes	4			100%
List of Decisions published by 10th working day	2			100%

Exemptions/Waivers/Consents

Fee waiver requests received				255
Fee waiver requests received not granted leave				9
Alternate Methods of Affixing Labels				0
Broadcast consents				15
s44 Exemptions				2
Publications Withdrawn				15
Publications Verified				3

Consultations

Number of Consultations held				4
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Timeliness Measures

Table 6

	Queue Time			Processing Time		
	Percentage to Standard	Number of Publications	Standard Measure	Percentage to Standard	Number of Publications	Standard Measure
Simple s12(1) & simple s42	58%	1711	15 days	87%	1711	10 days
Complex s12(1) & complex s42	52%	50	15 days	58%	50	15 days
s13	40%	147	25 days	70%	147	30 days
s29	100% of all Section 29 submissions were classified within the time mutually agreed between the parties					

Note 1: Quality Measures

The standards for classification decisions are set out in the *Practice Manual*. The target as specified in the Memorandum of Understanding is that 95% of classification decisions and directions are consistent with the standards set down in the Classification Office Practice Manual. The size of the sample consists of at least 15% of the total number of publications classified, with this figure comprising at least 15% from each submission channel employed for the month in question.

Note 2: In accordance with s39 of the Act, the Chief Censor is required to set up and maintain a *Register of Classification Decisions*. The Register must contain:

- the classification given to the publications by the Classification Office; and
- where that publication is examined by the Film and Literature Board of Review, the classification given to the publication by the Board; and
- such other particulars as may be prescribed.

The Register is required to be open to inspection by the public during ordinary office hours.

Under s40 of the Act, the Classification Office is required to produce a list, in alphabetical order, not later than the 10th working day of every month, of the publications that, during the month immediately preceding the month in which the list is produced, have been examined by the Office or the Film and Literature Board of Review and in respect of which the Classification Office or the Board has made a decision. Each *List of Decisions* produced in accordance with s40(1) of the Act shall contain:

- such particulars of the publications listed in it as may be prescribed; and
- such decisions of the Board as are required, pursuant to s55(1)(e)(ii) of the Act, to be published by the Classification Office when so directed by the Film and Literature Board of Review.

The list is required to be kept by the Classification Office and shall be open to inspection by the public during ordinary office hours.

Every person shall, on request, and on payment of such a fee (if any) as the Classification Office may determine, be entitled to a copy of any list produced in accordance with s40(1) of the Act.

Note 3: Timeliness Measures

Timeliness measures are set in the *Memorandum of Understanding July 2001 – June 2002*.

- 90% of ‘simple’ Section 12 and Section 42 submissions are classified within 25 working days of receipt (up to 15 days in the queue, and up to 10 days processing time), where statutory obligations enable this.
- 90% of ‘complex’ Section 12 and Section 42 submissions are classified within 30 working days of receipt (up to 15 days in the queue, and up to 15 days processing time), where statutory obligations enable this.

The distinction between ‘simple’ and ‘complex’ publications is based on the requirement to consider excisions. Publications for which the Classification Office offers excisions are considered ‘complex’.

- 90% of Section 13 submissions are classified within 55 working days of receipt (up to 25 days in the queue, and up to 30 days processing time), where statutory obligations enable this.
- Section 29 submissions do not have a compliance measure. 100% of Section 29 submissions are classified within the time mutually agreed between the parties (i.e. *Courts and the Office*).
- Note that s12 and s42 publications requiring assistance under s21 of the Act are excluded from the timeliness measures.

From the 2001/02 year, timeliness measures are calculated using data in CLOSET (Classification Office Submission Evaluation and Tracking System). For each publication found in this query, the time is calculated

(in working days) between the publication having been received in the Classification Office, and its classification documentation being dispatched.

Note 4: **Timeliness Measures**

100% of decisions classified in each month are required to be registered within that same month.

OUTPUT 1 ANALYSIS

Performance by Section of the Act against Estimates

	Projections at Maximum of Band	Projections at Minimum of Band	Actual
SECTION 12 – LABELLING BODY			
Publications received	2,169	1,621	1,796
Publications examined	2,169	1,621	1,793
Publications classified/registered	2,169	1,621	1,798
Variance between Actual and Estimates			
<i>Received</i>	(17%)	11%	
<i>Examined</i>	(17%)	11%	
<i>Classified</i>	(17%)	11%	

SECTION 13(1)(a) – COMPTROLLER OF CUSTOMS

Publications received	123	24	25
Publications examined	123	24	28
Publications classified/registered	123	24	31
Variance between Actual and Estimates			
<i>Received</i>	(80%)	4%	
<i>Examined</i>	(77%)	17%	
<i>Classified</i>	(75%)	29%	

SECTION 13(1)(b) - SECRETARY FOR INTERNAL AFFAIRS

Publications received	118	89	89
Publications examined	118	89	82
Publications classified/registered	118	89	78
Variance between Actual and Estimates			
<i>Received</i>	(25%)	0%	
<i>Examined</i>	(31%)	(8%)	
<i>Classified</i>	(34%)	(12%)	

SECTION 13(1)(c) - CHIEF CENSOR GRANTS LEAVE

Publications received	61	8	23
Publications examined	61	8	41
Publications classified/registered	61	8	40
Variance between Actual and Estimates			
<i>Received</i>	(62%)	188%	
<i>Examined</i>	(33%)	413%	
<i>Classified</i>	(34%)	400%	

SECTION 13(3) – CHIEF CENSOR’S OWN MOTION

Publications received	0	0	0
Publications examined	0	0	0
Publications classified/registered	0	0	1
Variance between Actual and Estimates			
<i>Received</i>	-	-	
<i>Examined</i>	-	-	
<i>Classified</i>	-	-	

SECTION 29(1) – COURTS

Publications received	576	252	20
Publications examined	576	252	14
Publications classified/registered	576	252	4
Variance between Actual and Estimates			
<i>Received</i>	(97%)	(92%)	
<i>Examined</i>	(98%)	(94%)	
<i>Classified</i>	(99%)	(98%)	

SECTION 41(3) – COURTS

Publications received	0	0	0
Publications examined	0	0	0
Publications classified/registered	0	0	0
Variance between Actual and Estimates			
<i>Received</i>	-	-	
<i>Examined</i>	-	-	
<i>Classified</i>	-	-	

SECTIONS 42(1), (2) & (3) – RECONSIDERATIONS

Publications received	7	0	7
Publications examined	7	0	4
Publications classified/registered	7	0	4
Variance between Actual and Estimates			
<i>Received</i>	0%	-	
<i>Examined</i>	(43%)	-	
<i>Classified</i>	(43%)	-	

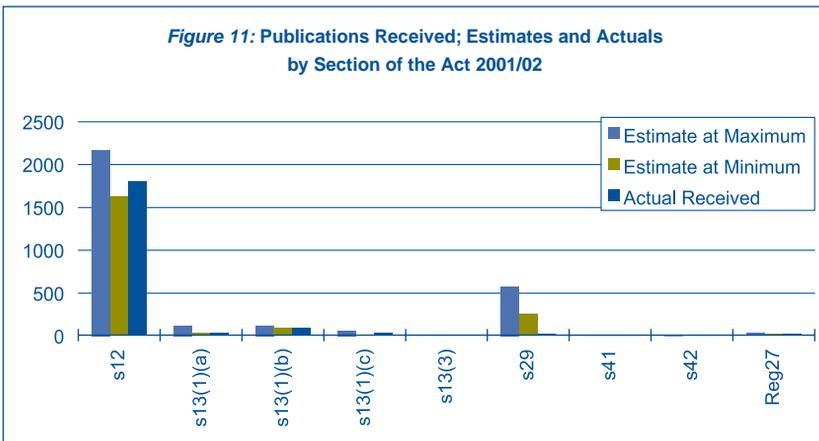
REGULATION 27 – FILM POSTER APPROVALS

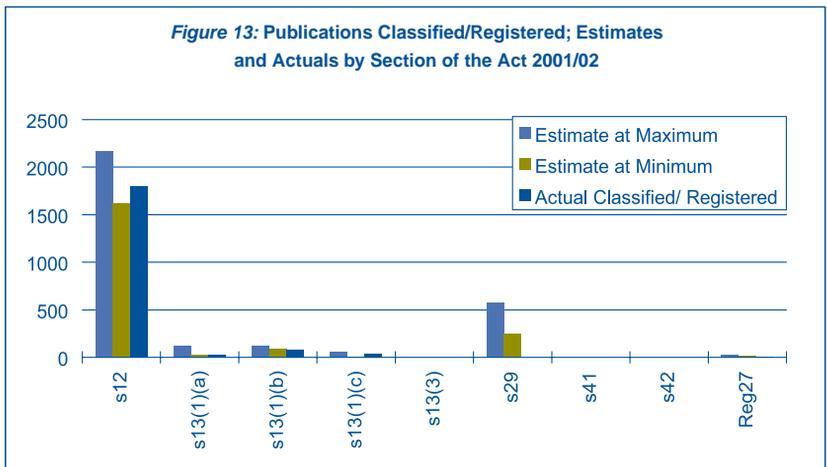
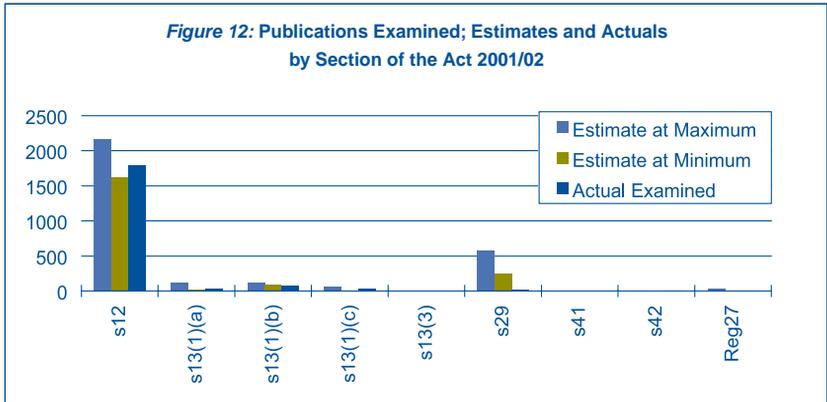
Publications received	30	12	12
Publications examined	30	12	10
Publications approved	30	12	9
Variance between Actual and Estimates			
<i>Received</i>	(60%)	0%	
<i>Examined</i>	(67%)	(17%)	
<i>Classified</i>	(70%)	(25%)	

SUMMARY

Publications received for the year	3084	2006	1972
Publications examined	3084	2006	1972
Publications classified/registered	3084	2006	1965
Variance between Actuals and Estimates			
<i>Received</i>	(36%)	(2%)	
<i>Examined</i>	(36%)	(2%)	
<i>Classified</i>	(36%)	(2%)	

*The figures in the estimated range have been rounded to the nearest whole number.





Note: Please refer to Output 1 Analysis for actual figures.

OUTPUT 1

Performance by Section of the Act against Actuals Variance Analysis

	Section 12 Labelling Body	Section 13(1)(a) Comptroller of Customs	Section 13(1)(b) Secretary for Internal Affairs	Section 13(1)(c) Chief Censor Grants Leave (Commercial and Public)	Section 13(3) Chief Censor's Own Motion	Section 29(1) Courts	Section 41(3) Courts	Sections 42(1),(2),(3) Recon- siderations	Reg 27(3) & 4	Total
Publications received	1,796	25	89	23	0	20	0	7	12	1,972
Publications examined	1,793	28	82	41	0	14	0	4	10	1,972
Publications classified/ registered	1,798	31	78	40	1	4	0	4	9	1,965
Actual examined against actual received	(0%)	12%	(8%)	78%	-	(30%)	-	(43%)	(17%)	0%
Actual classified/registered against actual received	0%	24%	(12%)	74%	-	(80%)	-	(43%)	(25%)	(0%)
Actual classified/registered against actual examined	0%	11%	(5%)	(2%)	-	(71%)	-	0%	(10%)	(0%)

OUTPUT 2: INFORMATION SERVICES

Description

This output class is concerned with information services provided by the Office. The majority of these are performed or co-ordinated by the Information Unit. The core functions of the Information Unit are set down in statute. These functions are to provide research services to the Classification Office, to disseminate information to the public about the Classification Office and the classification system, and to respond to inquiries and complaints.

In addition, this output includes representation duties such as media interviews and public presentations. The latter are co-ordinated by the Information Unit but involve the participation of staff from other business units. During the 2001/02 year, media inquiries were predominantly dealt with by the Chief Censor. Public presentations were made by the Chief Censor and a number of staff.

Resources Employed

		Projected	Actual
		30 June 2002	30 June 2002
		\$	\$
Revenue	Crown Revenue	628,969	628,969
	Third Party Revenue	-	-
	Other (including Interest)	-	36
	Total Revenue	<u>628,969</u>	<u>629,005</u>
Expenditure	Total Expenditure	630,478	599,596
	Net Surplus/(Deficit)	<u>\$1,509</u>	<u>\$29,409</u>

Service Performance

Quantity (See Notes 1 & 2)

	<i>Notes</i>	Projected Minimum	Projected Maximum	Actual
Inquiries		600	900	754
Complaints		80	160	87
Classification information requests	3	300	600	576
Representation duties		8	20	29

		Projected	Actual
Research projects		1	1
Website development	4	on-going	1
Media Interviews	5	N/A	97

Timeliness

Database connected to public	6	31/12/02	0
Written responses provided within timeframe	7	95%	100%

Note 1: The quantity table has been divided to accommodate the distinction between activities for which there is an estimated range and activities that are either on-going or have specific output targets.

Note 2: The projected quantity figures for inquiries, complaints, classification information requests and representation duties recorded above are the same as for the 1999/2000 and 2000/01 financial years.

Note 3: Requests for classification information on specific publications form part of the category of inquiries. As multiple classification information requests may be contained within one inquiry, the total number of classification information requests is larger than the total number of inquiries received.

Note 4: The website is now one of the core mediums the Office uses to communicate with the New Zealand public. In 2001/02 the Office chose to redevelop its site. The redevelopment allowed for extensive re-packaging and expansion of the content as well as a review of its image.

Redevelopment of the site was completed by the close of the business year but due to technical problems did not go 'live' until the first week of July.

Note 5: No projections were made for media inquiries and interviews due to this activity being largely demand driven.

Note 6: The database was connected to the Internet last year and enforcement officials have been given direct access to it. These officials have given the Office very positive feedback about its usefulness. Since then the Classification Office has been intensively checking and, where necessary, correcting classification decisions transferred from the Office's in-house database of decisions. Access to the public will not be feasible until this process is completed.

Note 7: The Classification Office aims to respond to all information requests within 20 working days of receipt. The 20 working day timeframe is in accordance with the requirements of the Official Information Act 1982. This is the case for inquiries and complaints made by way of mail or email, by telephone or in-person.

In practice the majority of information requests are responded to well within this timeframe. Phone calls and visitors to the Office, are often dealt with without delay, although timing clearly depends on the nature of the inquiry.

The figure provided here is for the 247 written responses (postal and email) to inquiries and complaints. The figure for remaining 588 responses to inquiries and complaints by telephone or in-person for this financial year was also 100%. Six inquiries and complaints in 2001/02 did not require replies.

Quality

Research Projects designed and produced to agreed specifications

This year the Office conducted six focus groups with members of the public (three groups of men and three groups of women) to obtain feedback from the public on the content, and appropriate classification of, several video clips. The clips were taken from five sexually explicit videos. All were classified R18: Restricted to persons 18 years of age or over by the Office. However, these particular videos were at the 'higher' end of the R18 classification; that is, closer to the border between material the Office classified as R18 and material that might be 'cut' or 'banned'.

The primary purpose of the research

The primary purpose was to gain more information on what the public thinks about explicit sexual material in the R18 video market. This information forms part of the

growing base of knowledge on which Office staff can draw when determining the classification of these publications. Explicit sexual material forms by far the greatest proportion of publications submitted to the Office and it is the source of some debate both inside the Office and in the public domain.

A summary of research findings is provided on pages 51 to 53.

The research results and its value

The research programme provided the Office with information on what some members of the public think about the content of explicit sexual videos and what aspects of this content, if any, they found to be of concern. The research also provides insight into possible differences between the views of certain subsections of the population, in particular the views of Maori men and women and the views of young men and women between the ages of 18 and 23.

The Office recognises that this research has limitations. Like last year's research the programme ran solely in Wellington, and it is much constrained by sample size. This year the total research population was 148 individuals. From the Office's point of view, the benefits of our extending and developing our knowledge in this area and in particular getting feedback from New Zealanders, far outweighs any shortcomings. In the absence of such research the Office would be reliant on overseas research which fails to address the cultural issues specific to the New Zealand context. The Office aims to continue to build its knowledge base by undertaking similar research in future years.

Website Development

As outlined in note 4 the Office redeveloped its website during this year. This work reviewed both the content and image of the site. The new site launched at the end of the financial year places the Office in a better position to connect the database of classification decisions to the web in the future.

While we await the completion of the current check of classification records, the Office will continue to look at possible expansions to the site. Feedback from the public, facilitated by an online feedback form will make it easier to consider the views of site visitors when determining the extent and focus of future content development.

Due to the need to replace the server which hosts the website midway through this year, the Office is unable to provide figures for the number of visitors to the site for this year. A system is now in place for tracking this.

Representation duties provided to standard

The Office endeavours to distribute a survey form to recipients of public presentations so they can give feedback to the Office regarding the quality of presentation, and whether it met their needs. The Office asks the group spoken to, to rate the speaker's performance, the suitability of content, the educational and informative aspect of the presentation, and, if relevant, the information brochures provided. The assessment scale runs from not satisfactory through to excellent.

There were 29 presentations to public groups in the 2001/02 financial year. Unfortunately only six (approx. 20%) of these groups completed a feedback form and returned it to the Office. Having said that, some excellent feedback was provided. Five of six groups rated the first three criteria as either very good or excellent – the top two ratings. Four of the six groups rated the information brochures similarly, brochures were not distributed to the remaining two.

The Office received a letter from one secondary school teacher thanking the Chief Censor for the time he spent with the students, and complementing him on the informative and entertaining nature of his presentation.

There was a range of comments this year, including surprise that the Office only dealt with restricted level film making the respondent believe that there was a risk of desensitisation if classification staff did not view more “wholesome” films as well. Another respondent stated that some of the members of their group had difficulty hearing the speakers. This feedback is consistent with feedback in previous years. All speakers have been reminded that they need to project their voices so that members of the audience seated at a greater distance from the speaker, or who have hearing difficulties, can hear them.

MANAGEMENT OF THE OFFICE OF FILM AND LITERATURE CLASSIFICATION

The current Memorandum of Understanding (*MOU*) between the Minister of Internal Affairs (on behalf of the Crown), and the Chief Censor of Film and Literature (on behalf of the Office of Film and Literature Classification) has been in place since 1 July 2001 (with annually updated schedules) and expires 30 June 2004. It provides a mechanism for ensuring the appropriate accountability to the Crown for the production of outputs of the Classification Office, which are funded by the Crown. It also recognises the statutory independence of the Classification Office and its relationship to the Crown. The *MOU* provides a framework for regular and effective monitoring of workload and funding needs, so that the statutory duties and high profile responsibilities of the Classification Office can be carried out. Part of the reporting requirements of the *MOU* is a discussion of:

- the strategic performance of the Classification Office. This relates to issues which form part of, or may affect the operating environment of the Classification Office, and
- the ownership performance of the Classification Office. This relates to issues which affect the management of the Classification Office.

Strategic Performance

The Classification Office identified six areas of strategic importance to the development and on-going capability of the Office to meet its commitments to the Crown.

1 Organisational Matters

The Classification Office's goal is to develop a sound knowledge of the range of options available for organising ourselves and to ensure we choose the best strategy to fit each task we are involved in.

2 Human Resources

The Classification Office's goals are to cultivate a co-operative workplace, a learning culture, clarity of direction and an open, safe and transparent environment.

3 Production Systems

The Classification Office's goal is to efficiently and effectively use resources and internal systems to provide high quality classification and information services to our stakeholders.

4 Public Relations

The Classification Office's goal is to increase public awareness and understanding of the Classification Office and the classification system.

5 Funding and Financial Matters

The Classification Office's goals are to maintain current cost effectiveness, to enhance financial reporting information, and to seek opportunities to minimise fixed costs.

6 Information Technology

The Classification Office's goal is to ensure that we are technologically equipped to perform our statutory functions.

A range of projects have been undertaken during the 2001/02 year which contribute to these goals. Some of these projects are directly related to a specific output or managed within that area, while others are Classification Office-wide, in relation to both input and impact. The more significant projects are discussed below:

Project:

A Database of Censorship Decisions and Related Records

The *Decisions Database* is the most significant strategic initiative undertaken by the Classification Office since its establishment and it is expected to take several years to complete. The potential for the Classification Office to open its doors to public scrutiny through the provision of information on classification decisions has wide reaching significance. The Classification Office will be more accountable for its decision making and the public will be able to participate, in an informed manner, in the decision making to a far greater extent than ever before.

The original business plan for the development of a *Decisions Database* was developed and signed off in 1998. Since that time work has been carried out on the development of the database itself and transfer of both historical records (of previous censorship bodies) and current data (the Office's own monthly records). The challenges the Office faces in drawing together this information for this database primarily relates to the number of historical censorship bodies and the variations in their record keeping. This makes it difficult to provide consistent levels of information from all agencies.

The main focus on the *Decisions Database* during 2001/02 has been three-fold; adding additional records to the database (including records of the Indecent Publications Tribunal, and the Chief Censor of Films, as well as monthly updates of the Classification Office decisions); establishing a public network which hosts the Classification Office website and the *Decisions Database*; and correcting errors discovered in older records before those records are entered into the *Decisions Database*, in order to ensure that the information stored in the *Decisions Database* is of the highest possible quality.

An important component of the security measures in place to protect the *Decisions Database* is the maintenance of an absolute ‘air-gap’ between the public network and internal LAN. While the presence of an air-gap does mean additional cost (in terms of both direct expense and complexity of systems) it helps to ensure that the original data (stored on the internal network) and ongoing operations of the Classification Office are protected. This air-gap will be maintained at least until the Classification Office is confident the security system makes the public network impervious to attack.

The Classification Office continued to improve the functionality of the database so as to meet the practical requirements of users. This work takes the information contained in the database beyond the minimum legal requirements for the official records of the Office.

Project:

Collective Agreement and Protocol for Partnership with the PSA

This was the first full year in which the Office and the PSA operated under the partnership protocol and collective agreement which were signed in May 2001. The partnership protocol puts in place a framework for a co-operative and constructive relationship between the parties and was designed to give effect within the Classification Office to the *Partnership for Quality Agreement* between the Minister of State Services and the PSA. A key part of the implementation of the *Protocol for Partnership* was the development of a *Work Plan* that involves the PSA, staff and management in specific projects.

These projects included the participation of PSA members in an exercise to resize positions in the Office covered by the collective agreement. This was done by a small committee made up of staff of the Classification Office and chaired by an independent consultant. The PSA also participated in the job of applying the PriceWaterhouseCoopers salary survey to the new job sizes. These projects resulted in salary benchmarks for positions which we could not afford to pay. As a compromise, the PSA agreed with the Office to accept less than the public sector median provided we attempted to achieve the median next year. This resulted in salary increases of, on average, 6 percent, and marked a significant success in the Office’s partnership with the PSA.

The operation of the partnership was reviewed this year to the satisfaction of both the PSA and the management of the Office.

Project:

EEO initiative – How to incorporate Maori sensibility into all decision making in the Classification Office

The Classification Office continued to work with a company specialising in strategic communications, Muka Solutions. The particular focus this year was to investigate whether and how our awareness of tikanga and our ability to communicate with Maori might impact on our information dissemination obligations under s88, how we interpret and apply the classification criteria in s3, and how we interpret and apply the display condition provisions in s27.

This agency assisted the Office in the planning and implementation of the Maori focus groups in this year's research project as part of our decision to include ethnicity in the research brief for the annual qualitative research project. The Office also developed a mihi which is now used in all submissions to the Board of Review: "Tena koutou, tena koutou, tena tatou katoa. Kia piki te ora i roto i nga whakatau o te ra" ("Greetings. I wish you well in today's deliberations") and "Na reira kati ake mo tenei wa. Tena ano koutou e whakarongo mai nei ki nga take e pa ngakau ana ki a matou. Tena koutou, tena koutou, tena tatou katoa" ("Well, that's enough for now. Thank you for listening to our concerns. Greetings"). When membership of the current Board was still very new, we added "tenei te mihi atu ki a koutou i roto i nga mahi hou" but this became inappropriate as time passed.

As of the end of the 2001/02 financial year, the Classification Office was mindful of the particular need to develop and then integrate Maori communication needs within the Classification Office's communications plan and recruitment strategy. We will continue to work to achieve better results in these areas.

Project:

Performance Management System

Early in 2000/01 the Classification Office implemented a new Performance Management System following extensive consultation with staff. Key aspects of the system included the use of an evidence based model, which incorporates observation supported by feedback from peers, and other forms of evidence including achievement of MOU indicators where appropriate. The system has been designed with a clear developmental focus, which provides for comprehensive and diverse training opportunities and is supported by the remuneration policy. A review team was put in place to identify any areas of the system that require modification and met for the first time at the beginning of this financial year. The team reported back to the Chief Censor in the fourth quarter and the suggested improvements were under consideration with a view to their implementation in the performance appraisals next financial year.

Ownership Performance

Financial Capital Issues and Projected Financial Information

2001/02 saw the Classification Office in a year-end position of \$0.143m surplus in comparison with a projected surplus of \$0.021m. Four main areas contributed to the variation between the budgeted and actual position:

- **Personnel Expenditure**

As discussed in the staffing issues below, the Executive had a full time vacancy for the entire year. This represents a significant proportion of the Office's personnel budget, which remained unspent at year-end. There were also a small number of Classification Officer vacancies, which remained unfilled during periods of low activity. This helped to offset some of the salary increase resulting from application of PriceWaterhouseCoopers salary survey to resized job positions.

- **Operating Expenditure**

The most significant area of under-expenditure in the operating area continued to be for training and conferences. A key component of the Classification Office's performance management system (PMS) was an increased focus on staff training and development, however spending patterns did not meet expectations.

- **Labelling Body Revenue**

Labelling Body revenue for 2001/02 was less under budget than it was in the 2000/01 year (despite being in excess of revenue received in 2000/2001 financial year). As at year-end, the Classification Office had received 7 percent more publications from the Labelling Body than it received in the previous year. This was despite the retardant effect of the *Video Ezy* case and helped to offset the reduced number of Crown submissions.

- **Interest Revenue**

Finally, as a result of the overall improvement of the financial position of the Classification Office, interest income was in excess of budget again this year.

Human Resource Issues

Staffing

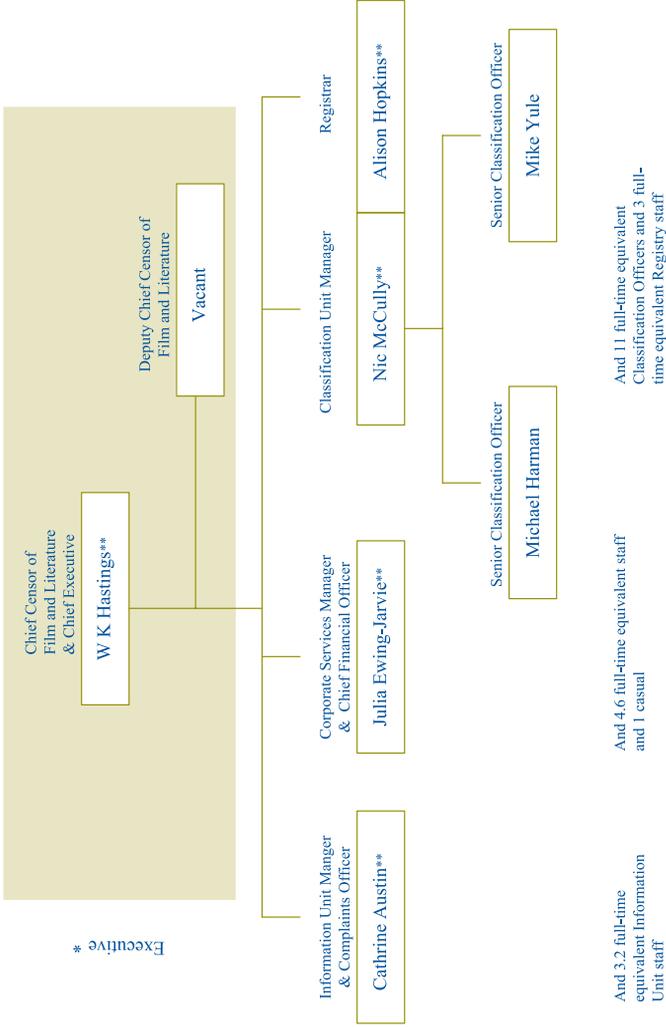
The involvement of members of the PSA in decision-making related to human resources, particularly job-sizing and salary negotiations, was the most significant, and successfully concluded, human resources issue in the Office this year. The vacancy in the Executive of the Classification Office also continued, as it has since December

1998. Much of the reason for this was the government's review of whether provisions of the Act relating to the Deputy Chief Censor position should be repealed. The government decided not to repeal those provisions and recruitment for a Deputy Chief Censor commenced this year. The process was ongoing at year end.

Staff of the Classification Office

The Classification Office consists of 33 staff, 7 of whom are part-time and one of whom was on extended leave for much of the year. There are 21 women and 12 men (and of the classification staff, 6 are men and 10 are women). There is an age range from the mid-20s to early-60s. Fifteen members of the Classification Office are parents and 3 are grandparents. All but one member of the Classification Unit and Information Unit staff are tertiary educated in a wide range of fields including law, music, history, classics, management, english and design.

Office of Film and Literature Classification Structure
as at 30 June 2002



* The Executive is formed by the Chief Censor and the Deputy Chief Censor

** Management Team Members