

NOTICE OF DECISION UNDER SECTION 38(1)

TO: Chief Censor

Title of publication: The Princess And The Frog

Other known title: Not stated

OFLC ref: 1000214.000

Medium: Film

Distributor: Walt Disney Studios NZ

Director: John Musker
Ron Clements

Producer: Peter Del Vecho

Country of origin: United States

Language: English

Classification:	Unrestricted: Parental guidance recommended for younger viewers.
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Excisions: No excisions recommended

Descriptive note: Some scenes may scare very young children.

Display conditions: None

	Components	Running time
Feature(s):	The Princess And The Frog	98:18
Total running time:		98:18

REASONS FOR THE DECISION

The Office of Film and Literature Classification (Classification Office) examined the publication and recorded the contents in an examination transcript. A written consideration of the legal criteria was undertaken. This document provides the reasons for the decision.

Submission procedure:

In a letter dated 18 January 2010, the Chief Censor directed the Department of Internal Affairs to obtain and submit the publication for classification under s13(1)(b) of the FVPC Act. The Chief Censor provided reasons for determining that the publication should be received for examination by the Office of Film and Literature Classification, stating that;

This film was cross-rated G by the Film and Video Labelling Body from its Australian rating of G. We have received four complaints that this rating is inappropriate. Although it is rated G in Canada, USA, Japan and Ireland, it is rated U (not Uc) in the UK, PG in Singapore and K-7 in Finland. I am consequently concerned that the rating assigned to this film may not accurately reflect its content under New Zealand law.

Under s23(1) of the FVPC Act the Classification Office is required to examine and classify the publication.

Under s23(2) of the FVPC Act the Classification Office must determine whether the publication is to be classified as unrestricted, objectionable, or objectionable except in particular circumstances.

Section 23(3) permits the Classification Office to restrict a publication that would otherwise be classified as objectionable so that it can be made available to particular persons or classes of persons for educational, professional, scientific, literary, artistic, or technical purposes.

Synopsis of written submission(s):

No written submissions were requested.

Description of the publication:

The Princess And The Frog is an animated film that is 98 min 18 sec in length. The film is a Walt Disney production which was shot using traditional 2D animation.

The Princess And The Frog is set in New Orleans in the 1920s and tells the story of a hard-working waitress called Tiana who wants nothing more than to fulfil the dream of her late father and own her own restaurant. To earn extra money, she agrees to cater an event for Charlotte, her wealthy childhood friend, who is throwing a costume party for a visiting prince called Naveen. Meanwhile Naveen falls under the spell of a local con man called Dr Facilier, who uses voodoo to transform Naveen into a frog with the intention of marrying Charlotte himself and taking her money. While at the costume party Naveen, who is in frog form, believes Tiana is a princess and he begs her to kiss him so that he can return to his human form but instead she is transformed into a frog. After a number of events, Naveen and Tiana end up in a swamp. With the help of their new found friends Louis, a trumpet-playing alligator and Ray, a Cajun firefly, they are taken to see a voodoo witchdoctor called Mama Odie who may be able to transform them back to their human forms. While Naveen and Tiana make their way back into the city with instructions from Mama Odie, Dr Facilier sends out dark shadow-creatures who capture Naveen. With the help of Naveen and Tiana's friends, the voodoo curse is broken and Dr Facilier comes to his demise. Through marriage Tiana becomes a princess which is sealed with a kiss that transforms them back to their human form. The happy couple open a restaurant called Tiana's Palace.

The meaning of "objectionable":

Section 3(1) of the FVPC Act sets out the meaning of the word "objectionable". The section states that a publication is objectionable if 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.

The Court of Appeal's interpretation of the words "matters such as sex, horror, crime, cruelty or violence" in s3(1), as set out in *Living Word Distributors v Human Rights Action Group (Wellington)*, must also be taken into account in the classification of any publication:

[27] The words "matters such as" in context are both expanding and limiting. They expand the qualifying content beyond a bare focus on one of the five categories specified. But the expression "such as" is narrower than "includes", which was the term used in defining "indecent" in the repealed Indecent Publications Act 1963. Given the similarity of the content description in the successive statutes, "such as" was a deliberate departure from the unrestricting "includes".

[28] The words used in s3 limit the qualifying publications to those that can fairly be described as dealing with matters of the kinds listed. In that regard, too, the collocation of words "sex, horror, crime, cruelty or violence", as the matters dealt with, tends to point to activity rather than to the expression of opinion or attitude.

[29] That, in our view, is the scope of the subject matter gateway.¹

The content of the publication must bring it within the "subject matter gateway". In classifying the publication therefore, the main question is whether or not it deals with the following matters in such a manner that the availability of the publication is likely to be injurious to the public good:

Matters such as horror

While the film does not deal with matters of horror in the usual sense, there is supernatural imagery that is visually and aurally frightening and disturbing. The film has all the elements of a Walt Disney film which includes a classic "bad" character who tries to hurt or trick one or more of the "good" characters. There are two sequences in the film where Dr Facilier, an evil con man who practices voodoo, tricks two other characters and puts a voodoo curse on them. The tone of the film darkens during these sequences and imagery on screen becomes ominous and the soundtrack becomes louder. In the first scene during a musical sequence, florescent masks and voodoo dolls float and dance in the air behind Dr Facilier. He points to a large voodoo mask which has a large mouth baring sharp teeth. Dr Facilier's face suddenly becomes skeletal and his eyes are magnified and angry, similar to that of a Halloween mask. Bright green smoke surrounds him and the loud soundtrack continues along with the sound of his evil laugh. The background suddenly becomes black, leaving just a white image of his skeletal face on screen.

In a second frightening scene, black shadow creatures that have sharp teeth, hollow eyes and horns on their heads, drag Dr Facilier towards the large voodoo mask with sharp teeth and into its open mouth. Bright green smoke emits from its mouth covering Dr Facilier's body as he is dragged into it. These frightening images together with the loud menacing soundtrack are likely to disturb and upset young children.

¹ *Living Word Distributors v Human Rights Action Group (Wellington)* [2000] 3 NZLR 570 at paras 27-29.
OFLC Ref: 1000214.000

Matters such as violence

A brief instance of violence is shown in one scene where two characters are hit about the body with small logs of wood and another is accidentally shot at, which leaves a hole in his trousers and the boat in which he is sitting. The violence is offset with humour and the characters do not come to any harm.

Certain publications are "deemed to be objectionable":

Under s3(2) of the FVPC Act, a publication is deemed to be objectionable if it promotes or supports, or tends to promote or support, certain activities listed in that subsection.

In *Moonen v Film and Literature Board of Review (Moonen I)*, the Court of Appeal stated that the words "promotes or supports" must be given "such available meaning as impinges as little as possible on the freedom of expression"² in order to be consistent with the Bill of Rights. The Court then set out how a publication may come within a definition of "promotes or supports" in s3(2) that impinges as little as possible on the freedom of expression:

Description and depiction ... of a prohibited activity do not of themselves necessarily amount to promotion of or support for that activity. There must be something about the way the prohibited activity is described, depicted or otherwise dealt with, which can fairly be said to have the effect of promoting or supporting that activity.³

Mere depiction or description of any of the s3(2) matters will generally not be enough to deem a publication to be objectionable under s3(2). When used in conjunction with an activity, the Classification Office defines "promote" to mean the advancement or encouragement of that activity. The Classification Office interprets the word "support" to mean the upholding and strengthening of something so that it is more likely to endure. A publication must therefore advance, encourage, uphold or strengthen, rather than merely depict, describe or deal with, one of the matters listed in s3(2) for it to be deemed to be objectionable under that provision.

The Classification Office has considered all of the matters in s3(2), but none are relevant to this publication.

Matters to be given particular weight:

Section 3(3) of the FVPC Act deals with the matters which the Classification Office must give particular weight to in determining whether or not any publication (other than a publication to which subsection (2) of this section applies) is objectionable or should in accordance with section 23(2) be given a classification other than objectionable.

The Classification Office has considered all the matters in s3(3), but none are relevant to the publication.

² *Moonen v Film and Literature Board of Review* [2000] 2 NZLR 9 at para 27.

³ Above n2 at para 29.

Additional matters to be considered:

s3(4)(a) The dominant effect of the publication as a whole.

The dominant effect of the publication as a whole is of a well-made enchanting animated feature that uses the traditional two dimensional style of filming and hand-drawn animation. The film adds a new twist on the book "The Frog Prince" written by the Brothers Grimm as well as introducing Walt Disney's first African American princess as its main lead.

s3(4)(b) The impact of the medium in which the publication is presented.

The 35mm film will be publicly displayed at cinemas with large screens with superior sound systems, suitable for large audiences. The feature is likely to have a high impact on its audience when presented in this format.

s3(4)(c) The character of the publication, including any merit, value or importance it has in relation to literary, artistic, social, cultural, educational, scientific or other matters.

The film has cultural, artistic and social merit as it is a new twist on a Grimm's fairy tale using classic style Disney animation and featuring an African American heroine.

s3(4)(d) The persons, classes of persons, or age groups of the persons to whom the publication is intended or is likely to be made available.

The publication is intended for a wide audience and is designed to amuse both adults and children alike, the humour and messages operating on different levels of understanding. Some of the imagery in the feature is likely to be upsetting for younger children and they may require parental guidance.

s3(4)(e) The purpose for which the publication is intended to be used.

The publication is intended for entertainment purposes.

s3(4)(f) Any other relevant circumstances relating to the intended or likely use of the publication.

The publication has finished its cinematic release so the classification and amended rating will apply to subsequent DVD releases.

Publication may be age-restricted if it contains highly offensive language likely to cause serious harm:

Section 3A provides that a publication may be classified as a restricted publication under section 23(2)(c)(i) if it

contains highly offensive language to such an extent or degree that the availability of the publication would be likely, if not restricted to persons who have attained a specified age, to cause serious harm to persons under that age.

"Highly offensive language" is defined in s3A(3) to mean language that is highly offensive to the public in general.

The publication does not contain any highly offensive language.

Publication may be age-restricted if likely to be injurious to public good for specified reasons:

Section 3B provides that a publication may be classified as a restricted publication under section 23(2)(c)(i) if it

contains material specified in subsection (3) to such an extent or degree that the availability of the publication would, if not restricted to persons who have attained a specified age, be likely to be injurious to the public good for any or all of the reasons specified in subsection (4).

The Classification Office has considered all the matters in s3B(3), but none are relevant to this publication.

New Zealand Bill of Rights Act 1990:

Section 14 of the New Zealand Bill of Rights Act 1990 (NZBR Act) states that 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". Under s5 of the NZBR Act, this freedom is subject "only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society". Section 6 of the NZBR Act states that "Wherever an enactment can be given a meaning that is consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning".

Conclusion:

The Princess And The Frog is classified as unrestricted with parental guidance recommended for younger viewers. While the feature has the usual elements that most animated children's stories contain including positive messages about love, friendship and goodwill, there are also darker tones within the feature. Imagery such as skeletons, voodoo dolls and creatures with sharp teeth all of which are combined with a loud ominous soundtrack will upset and disturb young children. These elements are also likely to shock some younger audiences who were expecting to see a "sweet" princess-themed film. The animated presentation and fantasy elements may however, limit the impact of these aspects. However, these elements are such that younger viewers would benefit from parental guidance.

The Classification Office has considered the effects of the Bill of Rights on the application of the classification criteria elsewhere in these reasons. The classification of this publication does not interfere with the freedom of expression.

Date: 04 March 2010

For the Classification Office (signed):

Note:

You may apply to have this publication reviewed under s47 of the FVPC Act if you are dissatisfied with the Classification Office's decision.

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