

**NOTICE OF DECISION  
UNDER SECTION 38(1)**

TO:



Title of Publication: Ghost World  
Other Known Title(s): Not Stated  
Publisher: Jonathan Cape  
Author: Daniel Clowes  
Format: Comic  
Country of Origin: UK  
Language(s): English



**Decision:**

**Objectionable except if the availability of the publication is restricted to persons who have attained the age of 16 years.**

**Descriptive Note**

Contains offensive language and sexual themes.

**Display Conditions:**

That when the publication is on public display, the classification given to the publication must be shown by way of a label issued in accordance with a direction under section 36A(2);

and

That the label must be affixed to the publication in order that the classification is brought to the attention of persons to whom the publication is displayed.

Direction to issue a label has been given.

OFLC No: 602814

## Reasons for decision

### Submission procedure:

On 21 December 2006, a member of the public applied to the Chief Censor for leave to submit the comic book *Ghost World* for classification. Leave was granted on 22 December 2006. The Chief Censor then directed that the library which held the copy of *Ghost World* submitted, and its publisher, Jonathan Cape, be notified of the application for classification and their right to make written submissions in the matter. The Secretary for Internal Affairs was also reminded of the right to make a written submission on the publication's classification. The lapse date for written submissions was 19 January 2007.

The applicant considers that *Ghost World* is a "great story" but it has "a lot of adult content" and is not suitable for children. Of particular concern is a section about a paedophile, where the drawings include an image of a naked and bound child and the content includes a man saying that these pictures can be made legally on a computer. The applicant notes that the context portrays the man as "a creep" but finds the story shocking and sickening.

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.

### Description of the publication:

*Ghost World* is a hard-covered comic book - a "graphic novel" - by American cartoonist Daniel Clowes. The edition examined was published by Jonathan Cape, London, in 2000. The eight stories in *Ghost World* first appeared during the 1990s in serial form in *Eightball*, an "alternative" comic book series, also by Clowes. *Ghost World* is smaller than A4 in size and has 84 pages, including covers. The drawings are in black and white, with a monocolour wash in light blue/green. In conventional comic style, dialogue is contained in "speech bubbles".

The stories offer a satirical commentary on teenage angst and growing up in small-town America. The eight chapters follow two inseparable teenage friends, Enid and Rebecca, through the period at the end of their high school years when they try on new identities and, rather unwillingly, face their futures. The ongoing narrative thread charts the young women's attempts to negotiate the changes in their friendship that adulthood and potential separation will inevitably bring. College is a possibility for Enid (although it does not eventuate) but not for Rebecca. Meanwhile, they meet daily to tease each other about boys, criticise anyone who doesn't fit their idea of "cool", investigate retro diners and weave fantasies about people they see. Enid, especially, tries on various "looks", including a punk identity with hair and clothes to match.

## 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.<sup>1</sup>

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 sex*

The publication contains a wide variety of sexual material that largely reflects the age-appropriate interests and sexual curiosity of 18-year old girls. A good deal of this occurs as brief but frank comment in dialogue but there are also storylines that deal more extensively with sex and present sexual images.

The girls frequently taunt each other about wanting to have sex with various men. The teasing includes some strong sexual slang, e.g. "jerk off" and "blow job". Enid complains of sexual frustration and fantasises about a male teacher. Rebecca reminds her of "the miracle of masturbation". They mourn the lack of boys asking them for dates and Enid toys – not very seriously - with the idea of becoming a lesbian. Other examples of dialogue with a sexual tone include an anecdote about a boy telephoning Enid, who thinks he called her so that he could "jerk off" to the sound of her voice. At one point a packet of biscuits with an ambiguous label is derided for its pornographic style.

A few storylines involve depictions of sexual scenarios. The strongest of these occurs in the fourth chapter, "The First Time", where the treatment of sex is extensive. The chapter opens with Enid reporting to Rebecca on a visit to a sex shop, where she delightedly examines items such as a dildo before settling for the rubber half-mask shown on the cover. The remainder of the chapter consists of Enid's recounting of her first experience of intercourse at the age of 16, with a boy from school. There is no explicit detail of intercourse in the drawings or in Edith's commentary, although she does say that it didn't really hurt and she didn't bleed. She is more concerned to talk about her feelings, with shame apparently her dominant emotion. The story

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<sup>1</sup> *Living Word Distributors v Human Rights Action Group (Wellington)* [2000] 3 NZLR 570 at paras 27-29.

rings true: it is likely that many young women would recognise elements of their own experiences.

*Matters such as crime*

There are brief passing references to drug use in the girls' comments on the boys they know. One is labelled a "crack addict" and another an "intense, moody hippie who smoked a ton of pot..." This boy is shown smoking cannabis cigarettes in a few frames. The tone of these references is generally negative: the girls do not appear to see drug use as "cool". The question of promotion or encouragement does not arise and further discussion is unnecessary.

*Matters such as cruelty and violence*

One of the chapters deals with child molestation and child pornography. The issue is discussed under s3(2)(a), below.

### **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"<sup>2</sup> 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.<sup>3</sup>

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). This publication does not fall within s3(2) because it contains none of the matters listed therein.

s3(2)(a) *The exploitation of children, or young persons, or both, for sexual purposes.*

In *Moonen v Film and Literature Board of Review (Moonen II)* [2002] 2 NZLR 754, the Court of Appeal stated that the absence of definitions of "young persons" and "children" in s3(2)(a) was deliberate. The provision does not require proof of the models' ages; it requires an assessment

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

<sup>3</sup> Above n2 at para 29.

of whether or not the publication in which the models appear promotes or supports the exploitation of children or young persons for sexual purposes:

The legislation is concerned with the vulnerability of young people and with the corrosive injury to the public good of depicting persons perceived to be children or young people as subjects for exploitation. The Board properly assessed whether the publication of the photographs would tend to promote or support the exploitation of children or young persons, not limited to the impact on the particular persons photographed. The inquiry under s3 does not require the ascertainment of the precise age of the person photographed.<sup>4</sup>

It was Parliament's intention therefore that s3(2)(a) should apply to any publication as defined in the Act, that promotes, supports, or tends to promote or support, the exploitation of children or young persons for sexual purposes. As long as a publication at least tends to promote or support such exploitation, whether or not it depicts underage models, no underage models or no models at all is irrelevant to the proper application of s3(2)(a). The issue is whether, on the evidence presented by the publication itself, the publication at least tends to promote or support the exploitation of children or young persons for sexual purposes.

*Ghost World* deals with but does not promote or support, or tend to promote or support, the exploitation of children for sexual purposes.

The material in question concerns a chance meeting in a coffee shop between Enid and a young man she knows. He edits a magazine and plans to publish computer-generated "artwork" with an article on "high-tech" child pornography. He shows Enid a sample and readers see over her shoulder a drawing of a naked female child bound with thick rope and in obvious distress. He has apparently obtained it from an older man with him, an "ex catholic priest", who tells Enid: "For years I have been a prisoner of my sexual inclinations..." He asserts that he would "never, ever" harm a child and never has. (A later chapter reveals that he is lying.) The man attempts to portray his prurient interest as acceptable: "but none of us has any control over our particular desires, and now, thanks to... computer-generated images I am able to obtain material that indulges my specific fantasies without causing harm or damage to anyone..."

The context is clear: Enid writes both men off as "creeps". The material she is shown is "Gross!" Readers are obviously intended to see both men as unpleasant, self-serving characters, the young man for his insensitive assumption that the only issue about publishing the images is whether or not he will be arrested, and the older man for his sweaty, nervous rationalisation of his sexual interest in children. The single drawing shown adds to the horrid nature of the incident but its small size and lack of detail render it insignificant in terms of promotion or support for the exploitation of children for sexual purposes.

### **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). The only matters that it considers relevant to *Ghost World* are as follows:

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<sup>4</sup> *Moonen v Film and Literature Board of Review* [2002] 2 NZLR 754 at para 40.

s3(3)(a)(ii) *The extent and degree to which, and the manner in which, the publication describes, depicts, or otherwise deals with sexual violence or sexual coercion, or violence or coercion in association with sexual conduct.*

The publication contains an image that shows a naked child bound with heavy rope. The context makes it clear that the image is intended to depict sexual abuse and the image confirms the coercive and violent nature of such acts. The issue has been fully explored under s3(2)(a), above, and little can be added under this criteria.

s3(3)(a)(iv) *Sexual conduct with or by children, or young persons, or both.*

Enid's "first time" occurs at age 16. The event is not portrayed in a salacious manner and appears to be an authentic portrayal of the mixed emotions commonly experienced. Although the incident is given considerable weight in the storyline, the remainder of the material gives it context.

### **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 contains a high extent of language that the public of New Zealand finds highly offensive. Almost every page has instances of the use of the expletive "Fuck" and its derivatives. Enid, in particular, is prone to respond "Fuck you!" to even the mildest challenge. The girls' conversation is also littered with language such as "trendy stuck-up prep-school bitches" and at one point Enid refers to the same people as "stupid cunts". However, the potential for harm arising from the use of offensive language is outweighed by the likely injury to the public good if a publication with extensive sexual themes and scenarios that include a young woman's first sexual experience was made generally available. These matters have been dealt with under s3(1).

### **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 criteria of s3B are not relevant to *Ghost World*.

### **Additional matters to be considered:**

Under s3(4), the Classification Office must also consider the following matters:

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

*Ghost World* is a warm and humorous evocation of teenage angst, with a focus on character and relationships and with a strong satirical edge. The dominant effect is influenced by Enid's rather strident "outsider" personality but the girls' interactions with the world and each other are funny and endearing.

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

The comic format is attractive to children and young people generally. The paper format of comics makes them somewhat ephemeral. However, the hard-cover version is likely to survive for many years and facilitate re-reading. It is probable that many readers will not read the comic right through in one sitting, but will return to the material at intervals.

*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.*

*Ghost World* has considerable artistic merit and some social and cultural value for its authentic representation of late teenage life. *Ghost World* has been praised by critics and the cartoonist has won awards for his work.

*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.*

Comics and graphic novels from the "alternative" movement generally do not have wide appeal beyond their target audience of pop culture-savvy young urban dwellers. *Ghost World* has achieved lasting cult status, and is likely to be known (and perhaps sought out) because of its film version. The publication is intended for mature readers.

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

*Ghost World* is intended as entertainment.

### **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 comic book *Ghost World* is restricted to older teenagers and adults.

*Ghost World* is a satire that nevertheless takes its two main teenage characters seriously and weaves a memorable story of their relationship through chapters devoted to gossipy conversations, strange encounters, first sexual experiences and Enid and Rebecca's determination to be "hip" at all costs. Its dominant effect has strong elements of warmth and humour and it has considerable artistic merit. Nevertheless, its availability to children or young teenagers is likely to be injurious to the public good. The sexual content is strong, varied and extensive. It includes frank dialogue about sex, often couched in sexual slang terms, and sexual scenarios that include a young woman's first experience of intercourse. Young readers do not have the knowledge or maturity to deal with sexual material at this level. The potential for a negative effect on the development of sexual attitudes is high. While the extent and nature of *Ghost World's* sexual content demonstrably justifies restriction, it is also noted that young readers who are unfamiliar with the highly offensive language used throughout the comic may be confused and even disturbed by its constant, often aggressive use, particularly in conjunction with equally strong sexual references. A scenario involving a child molester and child pornography has been considered under s3(2)(a). While the publication does not promote or support the exploitation of children for sexual purposes, the inclusion of such material reinforces the conclusion that the publication requires restriction to older teenagers and adults.

The Classification Office has considered the effects of the Bill of Rights on the application of the classification criteria. The right to freedom of expression has been weighed against the likelihood of injury to the public good arising from the availability of the publication. The classification is a reasonable and demonstrably justified limitation on the freedom of expression and it is the minimum restriction required to prevent injury.

## **Classification:**

*Ghost World* is classified as:

**Objectionable except if the availability of the publication is restricted to persons who have attained the age of 16 years.**

## **Display conditions:**

Where the Classification Office classifies any publication as a restricted publication, it is required under s27(1) of the FVPC Act to consider whether or not conditions in respect of the public display of the particular publication should be imposed.

In considering the issue of public display, the Classification Office must have regard to the matters set out in s27(2) of the FVPC Act, namely:

- (a) The reasons for classifying the publication as a restricted publication;
- (b) The terms of the classification given the publication;
- (c) The likelihood that the public display of the publication, if not subject to conditions, or as the case may be, any particular condition, would cause offence to reasonable members of the public.

The content of the comic book is likely to be offensive to reasonable members of the public. However, the small size and style of drawings and speech bubble dialogue means that offensive elements are unlikely to be noticed without close examination. A label bearing the age restriction and a descriptive note specifying sexual themes and offensive language, affixed to the front cover of the publication, is sufficient to warn members of the public of restricted content that may be offensive, particularly in the hands of young readers.

The following conditions apply to the public display of the publication:

That when the publication is on public display, the classification given to the publication must be shown by way of a label issued in accordance with a direction under section 36A(2);

and

That the label must be affixed to the publication in order that the classification is brought to the attention of persons to whom the publication is displayed.

Date: 13 March 2007

For the Classification Office (signed):

OFLC No: 602814



**Note:**

You may apply to have this publication (or these publications) reviewed under section 47 of the Films, Videos, and Publications Classification Act 1993, if you are dissatisfied with the Classification Office's decision.

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