SUMMARY OF REASONS FOR DECISION

Under the Films, Videos, and Publications Classification Act 1993 (FVPC Act)

HEADNOTE

Title of publication:

Battlefield 1

Other known title(s):

Not stated

OFLC ref:

1600733.000

Medium:

Console Game

Classification:

Objectionable except if the availability of the publication is restricted

to persons who have attained the age of 16 years.

Descriptive note:

Contains violence and offensive language.

Display conditions:

None

Battlefield 1 is an entertaining first person shooter with a focus on the heroism of those involved in the First World War. Created by Swedish developer DICE, the game was examined on the Xbox One but will also be available on the PlayStation 4 and PC. The game is split into single and multiplayer modes, across the European and Middle Eastern theatres of war. The singleplayer comprises a series of short campaigns following individuals, from tank drivers to pilots, armoured soldiers and the Bedouin, as they do battle with the Central Powers. The multiplayer, for which the series is known, pitches teams of up to thirty-two players each against each other in a fight for territory. While players control one soldier, they may also use horses, jeeps, tanks and planes in their battles across land and air.

Under s3(1) the publication primarily depicts acts of violence and some cruelty. To a lesser extent the publication deals with crime. The extent and degree to which, and the manner in which, the publication deals with matters of violence and associated cruelty are considered under s3(3)(a)(i) below.

Regarding criminal acts, this occurs in the singleplayer scenario Friends in high places'. Playing as a pilot called Blackburn, an introductory cutscene shows him stealing a plane by pretending to be another man. Heading into the war, he is eventually arrested and sent home for court martial. With this scenario presenting Blackburn as a man of questionable morality, the criminal nature of his actions is clear. As such, the publication does not promote or encourage criminal acts as per s3(3)(d).

The publication does not meet any of the s3(2) criteria.

In terms of s3(3)(a)(i), the publication deals with the infliction of serious physical harm to a high extent but moderate degree. Players are equipped with two firearms, a throwable (grenades, mines or ammunition/medical packs) and a melee weapon. Firearms include the machineguns, rifles and pistols typical of the time period. The melee weapons include knives, field shovels, batons and climbing axes.

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When shooting an enemy, blood plumes spray in the air and once killed, they collapse realistically to the ground. The effect is bloody but not overly realistic due to a lack of wounding, and no post-mortem damage. The use of explosives propel bodies through the air but again do not inflict injuries. Other weapons like flamethrowers or a gas grenade add an element of cruelty to the violence. The flamethrower in particular results in brief screams and a flailing motion before the victim collapses dead. Melee weapons are also quite violent, with a soft gurgle or grunt as enemies are dispatched with a strike or stab, with accompanying spurt of blood. While these do not inflict wounds, the animations have a realistic motion, particularly as the weapons are pulled from the body.

Given the scale of *Battlefield 1*'s environments, the violence can vary from the bloody killings of building to building combat, to the distant cat and mouse of sniper warfare or the abstraction of an airplane strafing run. Yet with the game's high player counts, the overall effect is of frequent bloody war violence.

Under s3A, the publication contains the use of highly offensive expletive "fuck" and its variations. The term is mostly used in the 'Runner' singleplayer scenario, which follows the exploits of an Australian regiment as they battle on the Gallipoli peninsula. Examples from dialogue include "Fucking hell", "Fuck! Are you fucking kidding me?" and "Fucking Brits". Some combat barks (dialogue used dynamically in gameplay) also include the expletive, such as "Come and fucking get it!" While such language is not widely used in the game, it is a regular occurrence in the 'Runner' scenario. Exposure to highly offensive language poses a risk of inuring impressionable audiences to its use, with imitation potentially causing social harms such as intimidation or alienation.

Battlefield 1 is a spectacular rendition of the First World War in a first person shooter format. In its single and multiplayer combat it depicts frequent and repetitive acts of bloody war violence. Repeated exposure to violence has a potential attitudinal harm of inuring impressionable audiences to violence. The stronger animations of close up melee kills and the added cruelty of flamethrower deaths are particularly likely to shock and disturb younger audiences. As a result, the unrestricted availability of the publication is likely to be injurious to the public good. The use of highly offensive language is also likely to negatively affect the social lives of a younger audiences if imitated. These harms are considered with the right to freedom of expression as set out in the New Zealand Bill of Rights Act 1990. Restricting the availability of the publication to older teenagers and adults is the lowest reasonable restriction which can be applied in order to prevent injury to the public good. Battlefield 1 is therefore classified as objectionable unless its availability is restricted to persons who have attained the age of 16 years.

Note:

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CONSIDERATION SHEET

OFLC ref:

1600733.000

Submission channel:

s12(1)

Title of publication:

Battlefield 1

Other known title:

Not stated

Medium:

Console Game

Distributor:

Electronic Arts

Country of origin:

Sweden

Language:

English

Applicant:

Film & Video Labelling Body

Examination transcript No:

690, p255

Examination date:

08 September 2016

Classification Officer(s):

Other identifying information:

COMPONENTS OF FILM

Components of film originally examined:

1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Components	Running time
Game:	Battlefield 1	
Total running time:		

Components of film excised:

EXAMINATION

Section 23 Examination and classification:

...the Classification Office shall examine the publication to determine the classification of the publication.

Section 24 Soundtrack to be considered:

Where a film is intended to be viewed with an accompanying soundtrack (whether or not the soundtrack is an integral part of the film), an examination of the film under s23 of the Act shall also take into account the content of the soundtrack and its relationship to the film.

Description of Publication:

Battlefield 1 is an entertaining first person shooter with a focus on the heroism of those involved in the First World War. Created by Swedish developer DICE, the game was examined on the Xbox One but will also be available on the PlayStation 4 and PC. The game is split into single and multiplayer modes, across the European and Middle Eastern theatres of war. The singleplayer comprises a series of short campaigns following individuals, from tank drivers to pilots, armoured soldiers and the Bedouin, as they do battle with the Central Powers. The multiplayer, for which the series is known, pitches teams of up to thirty-two players each against each other in a fight for territory. While players control one soldier, they may also use horses, jeeps, tanks and planes in their battles across land and air.

Statutory Submissions

Section 20 – Synopsis of Written Submissions

Not Applicable X

Section 21 Other Assistance

None Requested	X
See Record of Assistance	

Other Relevant Information

None	Considered	
	Combine	l

In reaching a classification decision the Classification Office may consider a variety of information including previous decisions of the Classification Office or other censorship bodies, research, books, articles, reviews, and information obtained from the Internet. If you have used any of this information please record this below.

Previous decisions					
Classification Body	OFLC		:	VRA	
	Chief Censor of	f Film		IPT	
Title:					"
Battlefield 4					
Battlesield Hardline					
Publication/Certificate/D		300878			
	14	101001			
Other Sources (please sp	ecify and referen	ce):			

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CLASSIFICATION

New Zealand Bill of Rights Act 1990:

Section 14 of the New Zealand Bill of Rights Act 1990 (NZBORA) 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 NZBORA, 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 NZBORA 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".

Section 3 Meaning of "objectionable":

s3(1) ... 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.

Subject Matter Gateway:

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)* [2000] 3 NZLR 570; (2000) 6 HRNZ 28, must also be taken in to 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.

The content of the publication must bring it within the "subject matter gateway". In classifying the publication therefore, the question is whether or not it deals with the following:

Matters such as sex

Included as a "matter such as sex" is any publication that in terms of s3(1A) -

(a) ... is or contains 1 or more visual images of 1 or more children or young persons who are nude or partially nude; and

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(b)

those 1 or more visual images are, alone, or together with any other contents of the publication, reasonably capable of being regarded as sexual in nature.

Not applicable.

Matters such as horror

Not applicable.

Matters such as crime

The publication deals with crime in the singleplayer scenario 'Friends in high places'. Playing as a pilot called Blackburn, an introductory cutscene shows him stealing a plane by pretending to be another man. Heading into the war, he is eventually arrested and sent home for court martial. With this scenario presenting Blackburn as a man of questionable morality, the criminal nature of his actions is clear. As such, the publication does not promote or encourage criminal acts as per s3(3)(d).

Matters such as cruelty

Some cruelty arises in conjunction with violence and is discussed below.

Matters such as violence

The extent and degree to which, and the manner in which, the publication deals with matters of violence and associated cruelty are considered under s3(3)(a)(i) below.

Or – The content of the publication does not bring it within any "subject matter gateway".

'.

For publications that fall outside the "subject matter gateway" go to s3A and s3B

Section 3(2) 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" in order to be consistent with the NZBORA. 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.²

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¹ Moonen v Film and Literature Board of Review [2000] 2 NZLR 9 at para 27.

² Above n2 at para 29.

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.

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 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.³

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.

Not applicable.

s3(2)(b)

The use of violence or coercion to compel any person to participate in, or submit to, sexual conduct.

Not applicable.

s3(2)(c)

Sexual conduct with or upon the body of a dead person.

Not applicable.

s3(2)(d)

The use of urine or excrement in association with degrading or dehumanising conduct or sexual conduct.

Not applicable.

³ Moonen v Film and Literature Board of Review [2002] 2 NZLR 754 at para 40.

s3(2)(e)

Bestiality.

Not applicable.

s3(2)(f)

Acts of torture or the infliction of extreme violence or extreme cruelty.

Not applicable.

If the publication promotes and supports, or tends to promote and support, any of the 3(2) provisions above and is deemed objectionable go to <u>Conclusion</u>.

However, section 32 of the FVPC Act directs the Classification Office to consider whether it would classify the publication differently if the material falling under s3(2) were excised or altered. If an excision were made, the publication would no longer fall under 3(2) of the FVPC Act. If the publication contains material that falls under 3(2) which can be excised or altered, go the Excisions section and then return to s3(3) and 3(4) below.

Otherwise, if the publication does not fall under s3(2) consider the following matters:

Section 3(3) Matters to be given particular weight:

In determining, for the purposes of the Act, whether or not any publication (other than a publication to which subsection 3(2) of this section applies) is objectionable or should in accordance with section 23(2) be given a classification other than objectionable, the following matters shall also be considered:

...particular weight shall be given to the **extent** and **degree** to which, and the **manner** in which, the publication describes, depicts, or otherwise deals with...

s3(3)(a)(i)

Acts of torture, the infliction of serious physical harm, or acts of significant cruelty.

In terms of s3(3)(a)(i), the publication deals with the infliction of serious physical harm to a high extent but moderate degree. Players are equipped with two firearms, a throwable (grenades, mines or ammunition/medical packs) and a melee weapon. Firearms include the machineguns, rifles and pistols typical of the time period. The melee weapons include knives, field shovels, batons and climbing axes.

When shooting an enemy, blood plumes spray in the air and once killed, they collapse realistically to the ground. The effect is bloody but not overly realistic due to a lack of wounding, and no postmortem damage. The use of explosives propel bodies through the air but again do not inflict injuries. Other weapons like flamethrowers or a gas grenade add an element of cruelty to the violence. The flamethrower in particular results in brief screams and a flailing motion before the victim collapses dead. Melee weapons are also quite violent, with a soft gurgle or grunt as enemies are dispatched with a strike or stab, with accompanying spurt of blood. While these do not inflict wounds, the animations have a realistic motion, particularly as the weapons are pulled from the body.

Given the scale of *Battlefield 1*'s environments, the violence can vary from the bloody killings of building to building combat, to the distant cat and mouse of sniper warfare or the abstraction of an airplane strafing run. Yet with the game's high player counts, the overall effect is of frequent bloody war violence.

s3(3)(a)(ii)

Sexual violence or sexual coercion, or violence or coercion in association with sexual conduct.

Not applicable.

s3(3)(a)(iii)

Other sexual or physical conduct of a degrading or dehumanising or demeaning nature.

Not applicable.

53(3)(a)(iv)

Sexual conduct with or by children, or young persons, or both.

Not applicable.

s3(3)(a)(v)

Physical conduct in which sexual satisfaction is derived from inflicting or suffering cruelty or pain.

Not applicable.

...particular weight shall be given to the extent and degree to which, and the manner in which, the publication

s3(3)(b)

Exploits the nudity of children or young persons, or both.

Not applicable.

s3(3)(c)

Degrades, dehumanises or demeans any person.

Not applicable.

s3(3)(d)

Promotes or encourages criminal acts or acts of terrorism.

Please see s3(1) discussion.

s3(3)(e)

Represents (whether directly or by implication) that members of any particular class of the public are inherently inferior to other members of the public by reason of any characteristic of members of that class, being a characteristic that is a prohibited ground of discrimination specified in section 21(1) of the Human Rights Act 1993.⁺

Not applicable.

⁴ The grounds of discrimination prohibited by s21(1) of the Human Rights Act 1993 are sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status and sexual orientation.

3A Publication may be age-restricted if it contains highly offensive language likely to cause serious harm:

3A(1) A publication to which subsection 3A(2) applies may be classified as a restricted publication under section 23(2)(c)(i).

3A(2) This subsection applies to a publication that 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.

3A(3) In this section, highly offensive language means language that is highly offensive to the public in general.

Under s3A, the publication contains the use of highly offensive expletive "fuck" and its variations. The term is mostly used in the 'Runner' singleplayer scenario, which follows the exploits of an Australian regiment as they battle on the Gallipoli peninsula. Examples from dialogue include "Fucking hell", "Fuck! Are you fucking kidding me?" and "Fucking Brits". Some combat barks (dialogue used dynamically in gameplay) also include the expletive, such as "Come and fucking get it!" While such language is not widely used in the game, it is a regular occurrence in the 'Runner' scenario. This use of highly offensive language is not suitable for children, but is unlikely to cause serious harm to the mature audience the publication is intended for.

3B Publication may be age-restricted if likely to be injurious to public good for specified reasons:

3B(2) This subsection applies to a publication that 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).

3B(3)	The material referred to in subsection (2) is material that
3B(3)(a)	describes, depicts, expresses, or otherwise deals with—
3B(3)(a)(i)	Harm to a person's body whether it involves infliction of pain or not (for example, self-mutilation or similarly harmful body modification) or self-inflicted death.

Harm has been considered above. While players are able to cause self-inflicted death through accident or intention, such as standing by a live grenade, this is not presented in a manner representative of real world suicides. Alongside the historic setting, this is unlikely to increase the risk of imitation.

3B(3)(a)(ii) Conduct that, if imitated, would pose a real risk of serious harm to self or others or both.

As above.

3B(3)(a)(iii) Physical conduct of a degrading or dehumanising or demeaning nature.

Not applicable.

3B(3)(b) is or includes 1 or more visual images—

3B(3)(b)(i) of a person's body; and

3B(3)(b)(ii) that, alone, or together with any other contents of the publication, are of a degrading or

dehumanising or demeaning nature.

Not applicable.

3B(4) The reasons referred to in subsection (2) are that the general levels of emotional and intellectual development and maturity of persons under the specified age mean that the availability of the publication to those persons would be likely to—

3B(4)(a)
Cause them to be greatly disturbed or shocked; or
3B(4)(b)
Increase significantly the risk of them killing, or causing serious harm to, themselves, others, or both; or
3B(4)(c)
Encourage them to treat or regard themselves, others, or both, as degraded or dehumanised or demeaned.

Please see conclusion.

3C Procedure for classification under sections 3A and 3B:

In determining whether to classify a publication as a restricted publication in accordance with section 3A or section 3B, the Classification Office must consider the matters specified in paragraphs (a) to (f) of section 3(4).

Section 3(4) Additional matters to be considered:

In determining, for the purposes of the Act, whether or not any publication (other than a publication to which subsection 3(2) of this section applies) is objectionable or should in accordance with section 23(2) be given a classification other than objectionable, the following matters shall also be considered:

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

The dominant effect is of an entertaining first person shooter with a focus on the heroism of those involved in the First World War.

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

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Developed for modern consoles and PC, the game is presented with spectacular detail. As a video game, it requires players to actively participate in order to progress. The multiplayer component, which is a core part of the series, is likely to see players repeatedly engage in its co-operative and competitive play.

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 publication has artistic, technical and historic merit.

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 violence presented indicates this is intended for a mature audience.

s3(4)(e)

The purpose for which the publication is intended to be used.

Entertainment.

s3(4)(f)

Any other relevant circumstances relating to the intended or likely use of the publication.

None.

CONCLUSION (INCLUDING NZBORA CONSIDERATIONS)

If s3(1) applies to the publication the question is whether or not it deals with the matters discussed in a manner that the availability of the publication is likely to be injurious to the public good. In discussing injury consider the nature and severity of that injury, the likelihood of it occurring and who would be injured by the publication's availability. The classification recommended must remedy the injury identified.

If s3B applies to the publication, the injury to the public good must be explained in terms of s3B(4) of the FVPC Act.

If s3A applies to the publication, explain the age restriction in terms of how the language is likely to cause serious harm to persons under the age of the restriction.

Any classification that limits the right to freedom of expression affirmed by s14 of the NZBORA must be reasonable and demonstrably justifiable.

Classification:	R16

Battlefield 1 is a spectacular rendition of the First World War in a first person shooter format. In its single and multiplayer combat it depicts frequent and repetitive acts of bloody war violence. Repeated exposure to violence has a potential attitudinal harm of inuring impressionable audiences to violence. The stronger animations of close up melee kills and the added cruelty of flamethrower deaths are particularly likely to shock and disturb younger audiences. As a result, the unrestricted availability of the publication is likely to be injurious to the public good. The use of highly offensive language is also likely to negatively affect the social lives of a younger audiences if imitated. These harms are considered with the right to freedom of expression as set out in the New Zealand Bill of Rights Act 1990. Restricting the availability of the publication to older teenagers and adults is the lowest reasonable restriction which can be applied in order to prevent injury to the public good. Battlefield 1 is therefore classified as objectionable unless its availability is restricted to persons who have attained the age of 16 years.

EXCISIONS/ ALTERATIONS

Section 32 - Excisions from and alterations to film -

In the case of a film submitted for classification under any part of the Act other than s29(1) and 41(3) (court referrals), if the Classification is of the opinion that it would classify the film differently according to whether any specified part or parts of the film are excised from or left in the film, it shall, before making a final determination in respect of the classification of the film, follow the procedure prescribed by section 33.

Section 33(1) directs the Classification Office to notify the authorised distributor of the film of the classification that would be given if part or parts of the film were excised or altered, and, the classification that would be given if the specified part or parts were not excised or altered.

Section 33(5) provides that, in deciding whether or not to propose excisions or alterations, the Classification Office may consider the effect that any such excision or alteration may have on the continuity of the film or on its overall effect.

EXCISIONS SUMMARY		
None (for non-moving image and s29(1) / 41(3) publications)		
No excisions recommended (for all other moving image publications)	X	
Excisions/alterations recommended		
Number of Excisions/Alterations:		
Brief Description:		

PUBLIC DISPLAY CONDITIONS

Not Applicable	
Not Applicable	

Section 27 Conditions relating to the display of restricted publications -

Where the Classification Office classifies any publication as restricted, the Office shall in every case consider whether or not to impose conditions on the public display of that publication, and may impose such conditions at the time of classifying the publication.

In determining whether or not conditions in respect of public display should be imposed, the Classification Office must have regard to:

s27(2)(a) The reasons for classifying the publication as a restricted publication.

Due to the way it deals with matters of violence and associated cruelty.

s27(2)(b) The terms of the classification given to the publication.

R16

s27(2)(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 display of the publication is not likely to cause offence to reasonable members of the public.

Section 27(3) directs that where the Classification Office considers that the public display of the publication, if not subject to conditions under this section, would be likely to cause offence to reasonable members of the public, the Classification Office shall, at the time of classifying the publication, impose such conditions under this section in respect of the public display of that publication as it considers necessary to avoid the causing of such offence.

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Short all the new forces. Who or Conavar - a very beauty and tran.