

CLASSIFICATION OFFICE DECISION

Title of publication: The Dictator
Other known title(s): Not stated
OFLC ref: 1200841.000
Medium: Blu-ray disc
Distributor: Universal Pictures Video
Director: Larry Charles
FVLB Applicant: Universal Pictures Video
Producer: Sacha Baron Cohen
et al
Country of origin: United States
Language: English
Applicant: Film & Video Labelling Body

Classification:	Objectionable except if the availability of the publication is restricted to persons who have attained the age of 16 years.
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Excisions: No excisions recommended

Descriptive note: Offensive language, sexual material and other content that may offend.

Display conditions: None

Date of entry in Register: 20 September 2012

Date of direction to issue a label: 20 September 2012

Date of notice of decision: No notice of decision has been issued


	Components	Running time
Menu:	Play	

	Settings Scenes Extras	
Feature(s):	The Dictator Theatrical Version The Dictator Extended Version	83:17 98:47
Timed component(s):	Deleted & Extended Scenes (x15) Music Video - Best Love Song "Your Money Is On The Dresser" Larry King Interview	33:37 1:35 2:49
Untimed component(s):	Notices	
Total running time:		220:05

Summary of reasons for decision:

The Blu-ray disc contains theatrical and extended versions of a comedy film about a fictional military dictator. The theatrical version on the disc is identical to the previously examined film version which was classified R16, with the descriptive note, "Offensive language, sexual material and other content that may offend." The decision was registered on 01 May 2012.

In addition to the two versions of the film, the Blu-ray disc contains extended and deleted scenes, a music video, and an in-character interview with Larry King. The extra content in the extended version of the feature comprises scenes which are in keeping with the content and tone of the previously classified version. The additional content of the extended version of the feature and the Blu-ray's additional components do not require a different classification or descriptive note to that given to the previously examined film version.

CONSIDERATION SHEET**OFLC ref:** 1200841.000**Submission channel:** s12(1)**Title of publication:** The Dictator**Other known title:** Not stated**Medium:** Blu-ray disc**Distributor:** Universal Pictures**Director:** Larry Charles**Producer:** Sacha Baron Cohen
et al.**Country of origin:** United States**Language:** English**Applicant:** Film & Video Labelling Body**Examination transcript No:** 108, p396**Examination date:** 18 September 2012**Classification Officer(s):** **Other identifying
information:**

COMPONENTS OF FILM**Components of film originally examined:**

	Components	Running time
Menu:	Play Settings Scenes Extras	
Feature(s):	The Dictator Theatrical Version The Dictator Extended Version	83:17 98:47
Timed component(s):	Deleted & Extended Scenes (x15) Music Video - Best Love Song "Your Money Is On The Dresser" Larry King Interview	33:37 1:35 2:49
Untimed component(s):	Notices	
Total running time:		220:05

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:

The publication is a Blu-ray disc containing the theatrical and extended versions of a previously classified feature – *The Dictator* (OFLC Ref. 1200347) – which was classified R16 on 1 May 2012 with the descriptive note "offensive language, sexual material and other content that may offend." The theatrical version has a running time of 83 min 17 sec. The extended version has a running time of 98 min 47 sec. The theatrical version has been verified as identical to the film version using an Examination Transcript.

In *The Dictator*, Sasha Baron Cohen stars as Admiral General Aladeen, "supreme leader" of the fictional country of Wadiya. When Nato threatens air strikes against Wadiya for refusing weapons inspectors access, Aladeen travels to New York to address the United Nations. Upon arrival he is kidnapped and, in a plot hatched by his senior advisor, replaced with an idiotic body double. Aladeen escapes his kidnapper and would-be torturer, and sets about trying to regain his position as military dictator before his advisor can establish democracy in Wadiya and sell off its natural resources to global corporations. Aladeen is helped by Zoe, rights activist and manager of a fair trade co-op, and Nadel, a Wadiyan scientist and weapons expert who Aladeen thought he had previously executed. Eventually Aladeen manages to replace his body double and tear up the constitution developed by the advisor. In front of the UN Aladeen promises "real democracy" for Wadiya and later marries Zoe.

The Blu-ray disc contains 15 deleted and extended scenes with a running time of 33 min 37 sec, some of which are included in the extended version of the feature and make up the difference in running time between the two version. The extra material mostly consists of extended scenes of conversations between characters. The longest scene is an attempted "assassination" of Aladeen by a former Wadiyan guard who uses her breasts as weapons. The blu-ray disc also contains a music video starring Baron Cohen in-character as Aladeen, and an interview with Larry King.

Statutory Submissions

Section 20 – Synopsis of Written Submissions

Not Applicable	X
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Section 21 Other Assistance

None Requested	X
See Record of Assistance	

Other Relevant Information

None Considered	<input type="checkbox"/>
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In reaching a classification decision the Classification Office may consider a variety of information including **previous decisions** of the Classification Office or other **copyright 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	<input checked="" type="checkbox"/>	VRA	<input type="checkbox"/>
	Chief Censor of Film	<input type="checkbox"/>	IPT	<input type="checkbox"/>
Title: The Dictator				
Publication/Certificate/Decision No. 1200347				

Other Sources (please specify and reference):

CLASSIFICATION

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
- (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.

The publication deals with matters of sex, see original decision, OFLC Ref. 1200347.

Matters such as horror

N/A

Matters such as crime

N/A

Matters such as cruelty

N/A

Matters such as violence

The publication deals with matters of violence. The only noticeable additional violence not present in the theatrical version of *The Dictator* is a farcical fight sequence in which Aladeen is attacked by a Wadiyan guard who uses her breasts as weapons. The guard hits Aladeen in the face repeatedly with her bare breasts. Aladeen manages to beat the guard by knocking her backwards into a pool of water where she apparently drowns. For a discussion of other scenes of violence, see the original decision, OFLC Ref. 1200347.

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"¹ 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.²

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:

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

² Above n2 at para 29.

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.

N/A

s3(2)(b) *The use of violence or coercion to compel any person to participate in, or submit to, sexual conduct.*

N/A

s3(2)(c) *Sexual conduct with or upon the body of a dead person.*

N/A

s3(2)(d) *The use of urine or excrement in association with degrading or dehumanising conduct or sexual conduct.*

N/A

s3(2)(e) *Bestiality.*

N/A

s3(2)(f) *Acts of torture or the infliction of extreme violence or extreme cruelty.*

N/A

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 the Bill of Rights section.

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:

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

...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.
See original decision, OFLC Ref. 1200347.

s3(3)(a)(ii) Sexual violence or sexual coercion, or violence or coercion in association with sexual conduct.
See original decision, OFLC Ref. 1200347.

s3(3)(a)(iii) Other sexual or physical conduct of a degrading or dehumanising or demeaning nature.

N/A

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

N/A

s3(3)(a)(v) Physical conduct in which sexual satisfaction is derived from inflicting or suffering cruelty or pain.

N/A

...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.

N/A

s3(3)(c) Degrades, dehumanises or demeans any person.

N/A

s3(3)(d) Promotes or encourages criminal acts or acts of terrorism.

N/A

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 1993.⁴

See original decision, OFLC Ref. 1200347.

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.*

The publication contains highly offensive language, see original decision, OFLC Ref. 1200347.

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.

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.*
- 3B(3)(a)(ii) *Conduct that, if imitated, would pose a real risk of serious harm to self or others or both.*
- N/A
- 3B(3)(a)(iii) *Physical conduct of a degrading or dehumanising or demeaning nature.*
- N/A
- 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.*
- N/A

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.*
- N/A

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 of the publication as a whole is of a puerile and deliberately offensive comedy with slight elements of political satire (such as when Aladeen analogises modern day American society to living under a dictatorship). The extra components (deleted and extended scenes) are in keeping with the previously examined version of the feature.

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

The publication is a Blu-ray which, similar to a DVD, is potentially widely available and easily accessible. A Blu-ray disc allows a viewer a great deal of control over the medium in that it may be played, paused and replayed at will, or even copied. It also features high definition images and audio.

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 little apparent merit in terms of the above.

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 probably intended for older teenage and adult audiences, in particular fans of Baron Cohen's brand of humour.

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

The publication is intended as entertainment.

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

None.

BILL OF RIGHTS CONSIDERATIONS

New Zealand Bill of Rights Act 1990

Section 14 Freedom of expression -

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 Justified limitations -

Subject to section 4 of this Bill of Rights, the rights and freedoms contained in this Bill of Rights may be subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

Section 6 Interpretation consistent with Bill of Rights to be preferred -

Wherever an enactment can be given a meaning consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning.

Discussion of Bill of Rights Considerations:

Section 3(1) considerations have been weighed against relevant provisions of the NZBR Act. Given the manner in which the publication presents matters of sex, violence and offensive language, the classification imposed is a reasonable limitation on the freedom of expression contained in the Bill of Rights, and is demonstrably justified in a free and democratic society. A limitation on the publication's availability is the minimum restriction that can be applied in order to prevent injury to the public good.

CONCLUSION

Injury

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**.

Classification:

R16

The conclusion for the film version states:

The unrestricted availability of the publication is likely to be injurious to the public good. Children and young teenagers are likely to be negatively influenced by the pervasive sexual material and mining of offensive stereotypes for humour. Older teenagers and adults have the experience, knowledge and maturity to place this material in the context of a modern comedy that sets out to offend and challenge viewers without adopting these points of view for themselves. Characters' use of highly offensive language may also be harmful to younger viewers, and may normalise or encourage its use. The publication is therefore classified as objectionable except if the availability of the publication is restricted to persons who have attained the age of 16 years.

The blu-ray disc has two versions of a feature – the difference in run time is attributable to extended scenes. The additional content of the extended version of the feature and the other additional components do not require a different classification or descriptive note to that given to the previously examined film version.

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)	<input type="checkbox"/>
No excisions recommended (for all other moving image publications)	<input checked="" type="checkbox"/>
Excisions/alterations recommended	<input type="checkbox"/>
Number of Excisions/Alterations:	
Brief Description:	

PUBLIC DISPLAY CONDITIONS

Not Applicable	
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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.

Because of the publication's treatment of sex, violence and offensive language.

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.

No likelihood.

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.

Play Theater Review

& other notes

1:23:17 The Director (83.17)

00:00 Extended Version

1:38:47 end (98.47)

Deleted 4 Extended Scenes

00:00 Newsweek Interview
- who is Gen. Aldea
- talks to himself on mock interview

3:12 end

00:20 Nuclear Drift
- discussion about state of nuclear bomb

1:37 end

1:14 Deleted Flashback

1:12 Assemble The Generals
- accidently shoots good wife.

0:398

2-56 Meet Clayton
The CIA / Robert Clayton.

0-37 Maden gets food
A steals food from restaurant

1-43 Apple store
- conversation w/ Maden

1-9 Death to Maden Restaurant
- sees old employees who he had worked

1-27 Markettes Zoo
births & get at zoo

2-52 Furrer Parlor
slightly racist humor at Furrer

1-59 A gift for Zoey
Wants Felicitas from Zoey

00:00 Trip fight

1:00 Mgt. in bed under GWS. Conversation w/ Maden

3:20 Maden by whom ~~is~~ w/ strong breasts
- hit again & again w/ the breasts

6:43 end

1:00 The Birthing
- raving at child

2-28 The Receptor
A. reveals his true identity

1.36 A Final Word
- about how good the movie is...

1.35 Music Video - Best Love Song
The Dresser Your. Mary Is on
- good music video

2.49 Larry King Interview
- about what Peter Bergans

Components

Menu: Play
Settings
Scenes
Extras

Feature: The Director Theater Version 83.17
The Director Extended Version 98.47

TC Deleted & Extended Scenes (KIS) 33.87
Music Video - Best Love Song "Your Money
Is On The Dresser" 1.35
Larry King Interview 2.49

CE Nobles

 220.05