#### SUMMARY OF REASONS FOR DECISION

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

#### **HEADNOTE**

Title of publication:

Tom Clancy's Rainbow Six: Siege

Other known title(s):

Not stated

OFLC ref:

1500566.000

Medium:

Computer 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

Tom Clancy's Rainbow Six: Siege is the latest in the long-running Rainbow Six series of video games. With a counter-terrorism theme, this multiplayer focused game allows players to compete against each other in teams of five or take on AI-controlled enemies in co-operative play. The first-person combat occurs across a variety of real world locations from suburban houses to consulates and banks as well as an airplane, chalet or university. Siege focuses on three main types of counter-terrorist gameplay with hostage rescue, bomb defusal and securing an area. By mixing the maps up with different modes and setting them at night or day a wide variety of scenarios can be played out.

In each round the teams select their weapon and gadget loadouts and prepare to defend or attack the objective. On defence players barricade doors and windows, reinforce strategic walls and set up traps in order to control and slow the attacking team. Meanwhile on offence, players breach doors and walls to access new rooms and create sightlines to safely take down their opponents. As a result the game has a heavy focus on teamplay and tactics to succeed. A beta version of the publication was examined on a computer, which while content complete was somewhat unstable.

Under s3(1) the publication deals with matters of crime, cruelty and violence. The extent and degree to which, and the manner in which, the publication depicts matters of violence are considered under s3(3)(a)(i) below. Discussion under the s3(2) criteria is not required.

Concerning crime, the publication primarily deals with terrorist scenarios including hostage missions and bomb attacks. However with a focus on counter terrorism, such activities are neither promoted nor encouraged as per s3(3)(d). While the terrorist scenarios and hostage situations are inherently cruel, this cruelty is not dwelled upon. Some cinematics show collapsed victims of a toxic gas attack, but once again this cruel context is not a significant part of the publication.

In terms of s3(3)(a)(i) the publication depicts the infliction of serious physical harm to a high extent but moderate degree. A variety of modern military weapons are used from shotguns,

pistols and machine guns to grenades, flashbangs and electrical charges. Blood spurts on impact and sprays across the nearby environment. Enemies ragdoll on death, with the impact of bullets or grenades propelling them somewhat realistically. However despite the bloody gunfire and environmental destruction there is no injury depicted. On player death a brief black and white replay shows the perspective of their killer as they are taken down. Similarly, on mission success the same black and white replay shows the final few seconds of the player's perspective. Blood decals and corpses remain in the environment until the mission is completed. While players can shoot corpses with additional blood spray there is no reason to do so as this wastes ammunition and the sound reveals the player's position to enemies.

Under s3A, the use of the highly offensive expletive "fuck" and its variations are occasionally heard during combat, as exclamations and emphasis. While such language is not suitable for children, this is unlikely to cause serious harm to game's mature intended audience.

The dominant effect is of a multiplayer focused series of combat scenarios with a counter-terrorist theme. Tom Clancy's Rainbow Six: Siege contains frequent and repetitive depictions of bloody combat violence in real world scenarios. This would be likely to shock and disturb younger viewers and has the potential to inure them towards violence in general. As a result the unrestricted availability of the publication would be injurious to the public good. The use of highly offensive language further suggests a mature audience. Balancing these harms against the right to freedom of expression as set out in the New Zealand Bill of Rights Act 1990, a restriction on 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. Therefore Tom Clancy's Rainbow Six: Siege is 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:

1500566.000

Submission channel:

s12(1)

Title of publication:

Tom Clancy's Rainbow Six: Siege

Other known title:

Not stated

Medium:

Computer Game

Distributor:

Fiveight Distribution Ltd

Country of origin:

Canada

Language:

English

Applicant:

Film & Video Labelling Body

Examination transcript No:

658, p391

Examination date:

27 August 2015

Classification Officer(s):

Other identifying information:

# COMPONENTS OF FILM

## Components of film originally examined:

	Components	Running time
Game:	Tom Clancy's Rainbow Six: Siege	
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:**

Tom Clancy's Rainbow Six: Siege is the latest in the long-running Rainbow Six series of video games. With a counter-terrorism theme, this multiplayer focused game allows players to compete against each other in teams of five or take on AI-controlled enemies in co-operative play. Combat occurs across a variety of real world locations from suburban houses to consulates and banks as well as an airplane, chalet or university. Siege focuses on three main types of counter-terrorist gameplay with hostage rescue, bomb defusal and securing an area. By mixing the maps up with different modes and setting them at night or day a wide variety of scenarios can be played out.

In each round the teams select their weapon and gadget loadouts and prepare to defend or attack the objective. On defence players barricade doors and windows, reinforce strategic walls and set up traps in order to control and slow the attacking team. Meanwhile on offence, players breach doors and walls to access new rooms and create sightlines to safely take down their opponents. As a result the game has a heavy focus on teamplay and tactics to succeed. A beta version of the publication was examined on a computer, which while content complete was somewhat unstable.

#### **Statutory Submissions**

# Section 20 – Synopsis of Written Submissions

Not Applicable X

## Section 21 Other Assistance

None Requested	
See Record of Assistance	

### Other Relevant Information

None Considered X		
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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 **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	<del></del> -	<del></del>	
Classification Body	OFLC	VRA	
	Chief Censor of Film	IPT	
			i
Title:			
Publication/Certificate/I	Decision No.		
Other Sources (please sp	pecify and reference):		
	,		

#### **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

(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 extensively with criminal matters with its terrorist scenarios including hostage missions and bomb attacks. However with a focus on counter terrorism, such activities are neither promoted nor encouraged as per s3(3)(d).

Matters such as cruelty

The terrorist scenarios and hostage situations are inherently cruel, although not dwelled upon. Some cinematics show various collapsed victims of a toxic gas attack, which gives a cruel context but once again is not a significant part of the publication.

Matters such as violence

The extent and degree to which, and the manner in which, the publication depicts matters of violence 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.<sup>2</sup>

<sup>&</sup>lt;sup>1</sup> Moonen v Film and Literature Board of Review [2000] 2 NZLR 9 at para 27.

<sup>&</sup>lt;sup>2</sup> 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.<sup>3</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.

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.

<sup>&</sup>lt;sup>3</sup> 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 depicts the infliction of serious physical harm to a high extent but moderate degree. A variety of modern military weapons are used from shotguns, pistols and machine guns to grenades, flashbangs and electrical charges. Blood spurts on impact and sprays across the nearby environment. Enemies ragdoll on death, with the impact of bullets or grenades propelling them somewhat realistically. However despite the bloody gunfire and environmental destruction there is no injury depicted. On player death a brief black and white replay shows the perspective of their killer as they are taken down. Similarly, on mission success the same black and white replay shows the final few seconds of the player's perspective. Blood decals and corpses remain in the environment until the mission is completed. While players can shoot corpses with additional blood spray there is no reason to do so as this wastes ammunition and the sound reveals the player's position to enemies.

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.

s3(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.<sup>4</sup>

Not applicable.

# 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.

<sup>&</sup>lt;sup>4</sup> 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(3)

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

The use of the highly offensive expletive "fuck" and its variations are occasionally heard during combat, as exclamations and emphasis. While such language is not suitable for children, this is unlikely to cause serious harm to game's mature intended audience.

#### 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 discussed above.

3B(3)(a)(ii)

Conduct that, if imitated, would pose a real risk of serious harm to self or others or both.

Not applicable.

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; o

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 a multiplayer focused series of combat encounters with a gung-ho counter terrorism theme.

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

A PC game allows for a high level of fidelity. As a multiplatform title, the game will be available to a wide audience. An integrated shop allows for downloadable content to be purchased separately and expand the game.

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 some technical merit.

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 clearly indicates a mature intended audience.

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

Entertainment and competition.

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

The dominant effect is of a multiplayer focused series of combat scenarios with a counter-terrorist theme. Tom Clancy's Rainbow Six: Siege contains frequent and repetitive depictions of bloody combat violence in real world scenarios. This would be likely to shock and disturb younger viewers and has the potential to inure them towards violence in general. As a result the unrestricted availability of the publication would be injurious to the public good. The use of highly offensive language further suggests a mature audience. Balancing these harms against the right to freedom of expression as set out in the New Zealand Bill of Rights Act 1990, a restriction on 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. Therefore Tom Clancy's Rainbow Six: Siege is 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.

s)
X
-1-

#### **PUBLIC DISPLAY CONDITIONS**

Not Applicable	
- reez-pp	1

#### 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 as well as the use of highly 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.

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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