[GB] Manhunt 2 Videogame Classification Saga Ends

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Following a decision in June 2007 by the British Board of Film Classification not to give it a certificate (see IRIS 2007-7: 14), the videogame Manhunt 2, made by Rockstar Games for PS2 and Nintendo Wii consoles, could not be legally supplied within the United Kingdom. A revised version has also been refused a certificate.

The BBFC's main rationale was that the game depicted unremitting violence towards humans. However, as was pointed out in an article in the Times newspaper, there has been no difficulty in purchasing a copy online.

On 10 December 2007, the BBFC's decision was overturned by a decision of the Video Appeals Committee (VAC), according to which the game could be classified and, therefore, legally released. The VAC's decision was reached by a majority of four to three.

The BBFC next applied for leave to appeal for judicial review of the decision by the Video Appeals Committee, mainly on the grounds that the VAC's interpretation of harm in the context of the Video Recordings Act (1984) was incorrect. This was granted on 21 December 2007.

The High Court judge, Justice Wyn Williams, ruled that the BBFC had an arguable case, namely, that, although both sides agreed that Manhunt 2 was not suitable for children, giving it a certificate made it more possible that it would be viewed by minors: Justice Williams said "I have taken into account the high public interest in the possibility of harm to children". The position of Rockstar Games was that Manhunt 2 was "well within the bounds established by other 18+ rated entertainment".

On 24 January 2008, a High Court judge ordered the VAC to reconsider its decision. In the opinion of the judge, the VAC had misinterpreted the law. The Committee had taken the phrase "harm that may be caused" in section 4A(1) to mean that there must be actual harm, as opposed to potential harm. But, in the judge's opinion, the clear meaning of the phrase captured harm that might be caused. If Parliament had intended that it be necessary to demonstrate that harm had actually been caused, the words "that may be" would not have been included. In the case of an unreleased video, the issue, therefore, was what harm might be caused in the future to potential viewers.

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The VAC began reconsidering the case on 11 March and decided to uphold its original decision.

The BBFC has now classified the videogame “18” and “passed with no cuts made”, though it supplies an “Extended Classification Information” on its classification decision page. The BBFC has been quoted as saying “…the Video Appeals Committee has again exercised its independent scrutiny. It is now clear, in the light of this decision, and our legal advice, that we have no alternative but to issue an 18 certificate to the game."

BBFC Classification Decision

http://www.bbfc.org.uk/recent/index.php?media=digital%20media

British Board of Film Classification,R (on the application of) v Video Appeals Committee [2007] EWHC 3198 (Admin) (21 December 2007)

http://www.bailii.org/ew/cases/EWHC/Admin/2007/3198.html

The Law Gazette, R (on the application of British Board of Film Classification) v Video Appeals Committee: QBD (Admin), January 2008

http://www.lawgazette.co.uk/inpractice/lawreports/view=details.law?GAZETTEINPRACTICEID=383807

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