

**Annual Report of the
OFFICE OF
FILM AND LITERATURE
CLASSIFICATION
TE TARI WHAKARŌPŪ TUKUATA,
TUHITUHINGA**

for the year ended 30 June 2009



**OFFICE OF FILM
& LITERATURE
CLASSIFICATION**

Tē Tari Whakarōpā Tukuata, Tuhitubinga

The Hon. Minister of Internal Affairs

Minister

Pursuant to Section 150 of the Crown Entities Act 2004, I present to you the Annual Report of the Office of Film and Literature Classification for the year ended 30 June 2009.

Yours sincerely

W K Hastings
Chief Censor

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OUR PURPOSE

To provide and communicate impartial classification decisions and information services.

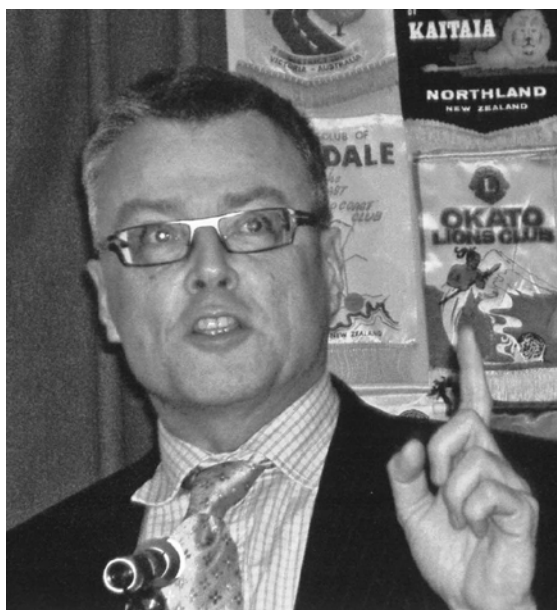
OUR VISION

To be the authority on censorship issues and to balance the freedom of expression with the need to limit social harm.

We will achieve this by providing censorship decisions that accurately reflect the law, by having regard to public opinion, and by educating the public about the injury caused by objectionable material in various mediums.

CHIEF CENSOR'S YEAR IN REVIEW

The freedom of expression is considered one of the touchstones of democracy. If citizens do not have the ability to criticise their government, to fulfil themselves through self-expression or to test their opinions in the marketplace of ideas, democracy suffers. Whenever a government agency is given the power to manipulate expression, citizens are right to be suspicious. Any such government agency owes citizens an obligation to exercise this power independently without fear or favour, for good reason, transparently, and accountably.



The Chief Censor addressing the New Plymouth Egmont Lions Club, 2 September 2009

The Office is one such agency. It has been given the power to regulate expression. The power is, however, hedged about with safeguards. The first is that the Office is an independent Crown entity exercising a quasi-judicial function; it operates at arm's length from executive government. The executive branch of government cannot tell it which expression to regulate. The second is that the legislature has restricted the Office's power to regulate expression to a particular purpose: to protect the public good from injury. Expression capable of injuring the public good is expression that corrodes democracy, that denies self-fulfilment to others and that does not allow a true contest of ideas in the search for truth. Third, the legislature requires the Office to disseminate information about the classification system to the public. This mandates transparency. Fourth, the legislature requires the Office to receive inquiries and complaints about the operation of the classification system. This ensures accountability.

This year's Annual Report will resume discussion of the Office's work during the year, a narrative that was interrupted to some extent by our decision last year to adopt Treasury's recommendation that annual reports focus on service performance and financial statements. These can still be found, of course, in the audited section at the back of this document. But figures do not tell the whole story. The front section of this Annual Report will discuss our successes and failures with respect to particular activities not mentioned in the audited part of the report, and with respect to some that are, to give readers a fuller story of the work of the Office this year. Even though Annual Reports are usually considered to be historical records of the year's events, this one will also attempt to discuss a few decisions the Office, Parliament and the New Zealand public will have to make to respond to challenges thrown up by the changing ways we receive information and opinions.

Discussion of Outcome

The extent to which the public good has been protected

The most important substantive safeguard on the Office's power to regulate expression is that the power must be exercised for the purpose of protecting the public good from injury. The law assumes that certain content in mediums over which the Office has been given jurisdiction (and these include films, books, magazines, sound recordings, pictures, newspapers, photographs, "any print or writing", "any paper or other thing", discs, electronic and computer files) is capable of injuring the public good. But how are we able to tell when the public good has been protected from injury as a result of the Office having exercised its power to restrict or ban publications? The test will differ depending on the reason for submission.

The Classification Office performs two distinct types of classification work, each of which is designed to protect the public good from injury in quite distinct ways. Eighteen percent of the classifications registered this year were with respect to publications submitted by the Courts and Crown enforcement agencies.¹ These classifications are used to prosecute defendants charged with offences under the Films, Videos, and Publications Classification Act 1993 and the Customs and Excise Act 1996. Effectively, the Office conducts 18% of its classification activities as a type of specialist auxiliary criminal court. (This rises to 27% if the number of publications received for classification,² rather than the number of classifications registered, is used.) The remaining 82% of classifications registered this year concerned publications submitted by the Film and Video Labelling Body and magazine distributors.³ These classifications are used to inform the public about the nature and availability of commercial publications (although restrictions are also legally enforceable through the offence provisions of the Films, Videos, and Publications Classification Act).

Court and Crown Submissions

Assuming that the punishment of offenders makes society safer, one way of determining that the public good has been protected from injury as an outcome of the work of the Office is to examine the number of convictions that have resulted from classifications decided by the Office.⁴ Between 1 July 2007 and 30 June 2009⁵ the Office classified 570 publications submitted by the Courts, the Police, Customs, and the Department of Internal Affairs as objectionable. As a result of these classifications, 24 defendants were convicted of a variety

¹ 323 registered classifications consisting of 109 registrations for publications submitted by the Police; 36 for Customs; 20 for Internal Affairs and 158 for the Courts.

² 1,492 publications received from the Film and Video Labelling Body (excluding advertising material and film posters) and Gordon & Gotch, compared with 396 publications received from the Courts and Crown enforcement agencies.

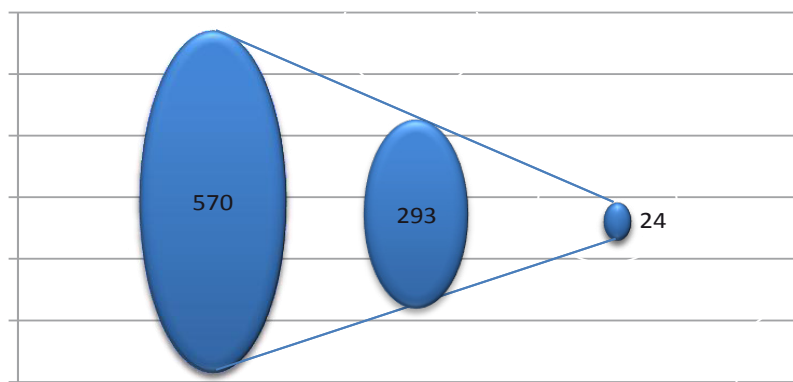
³ 1,473 registered classifications (excluding advertising material and film poster approvals) consisting of 1,463 registrations for publications submitted by the Film and Video Labelling Body and 10 registrations for publications submitted by Gordon & Gotch magazine distributors.

⁴ The utility of this measurement is affected by whether or not Crown enforcement agencies decide to lay charges, by how many objectionable publications are associated with each defendant, and by whether or not Courts convict, all of which are beyond the control of the Classification Office.

⁵ Two financial years are used because of the time it takes to prosecute cases.

of offences relating to 293 objectionable publications. The following chart shows in graphic terms the link between decisions made by the Office to classify publications submitted by the Courts and Crown enforcement agencies as objectionable, and convicted defendants:

Chart 1: Outcome Measure: Classifications to Convictions



The chart shows that 277 of the 570 publications that were submitted by the Courts and Crown enforcement agencies and that the Office classified as objectionable have not resulted in convictions. 239 of these 277 objectionable publications have not resulted in convictions because the cases are still being prosecuted or because the relevant agency has not decided whether or not to prosecute. Of the remaining 38, a bench warrant has been issued for the arrest of one person who was in possession of 22 objectionable publications seized by Customs, which also decided to seize a further ten objectionable publications without prosecuting the importers. Internal Affairs decided to warn instead of prosecuting one person in possession of an objectionable publication, a judge ordered a stay with respect to the prosecution of one defendant on charges related to one publication, and the Police decided not to prosecute two defendants on charges related to four objectionable publications.

Commercial Submissions

With respect to commercial submissions, assessing the extent to which the public good has been protected from injury can be determined by asking members of the public how well they feel informed about the nature and availability of commercial publications and the extent to which they make use of labels to inform their entertainment choices. The Classification Office's ability to act upon these assessments is hampered to some extent by its lack of jurisdiction over labelling, which the law gives to the Film and Video Labelling Body. Nevertheless, assuming that labels accurately convey the classification and descriptive

note assigned by the Office to each commercial publication submitted to it, the Office should regularly monitor the extent to which the public good has been protected as a result of our work to keep consumers informed about the classifications assigned to commercial publications.

The Office has failed in this regard. The last time we undertook a survey of public opinion was in May 2006. This was reported in *Public Understanding of Censorship*⁶ and in our 2005/06 Annual Report. The survey of 2,611 people found that 85% of parents said that classifications and descriptive notes were important in deciding what their children could watch or play, and between 87 and 95% of people understood correctly what labels meant.⁷ With respect to the Office's administration of the classification system as a whole, 25% thought it was too lenient, 11% thought it was too strict, and 64% thought it was about right. These figures need to be updated.

On the other hand, each group to whom the Chief Censor or a member of staff has given a talk about the classification system is asked to assess the speaker's performance, the suitability of content, and the level of understanding gained about the classification system. Although this falls short of a general survey of public opinion, all the surveys returned this year have rated the educational and informative aspects of our talks as very good or excellent.

Discussion of Outputs

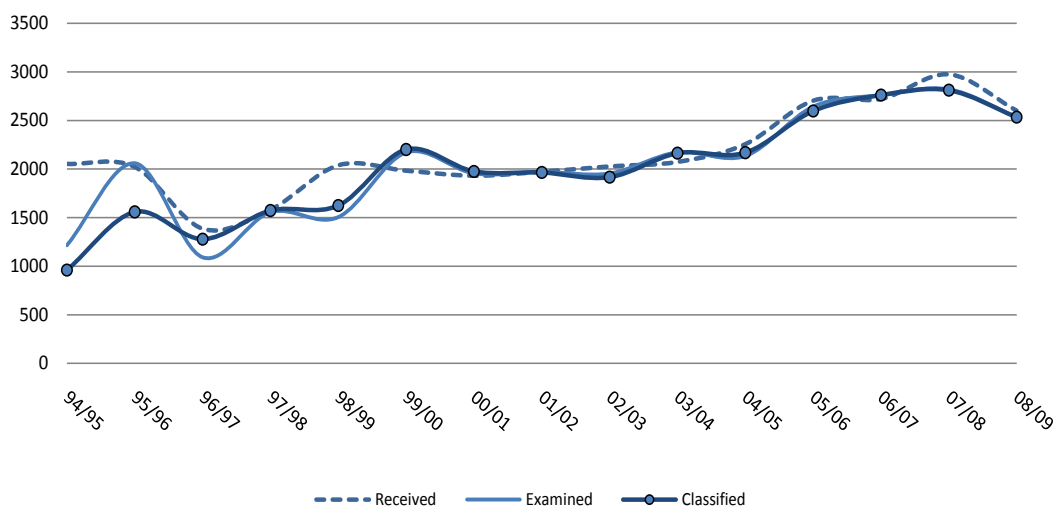
1. Performance of Classification Activities

The Classification Office received 2,601 publications this year, 12% fewer than last year. Based on the marked increase in submission activity over the previous two years, early in 2008 we reset the maximum estimates to reflect the increases we expected in the 2008/09 year. However, as the recession became evident in October 2008, so did the decline in commercial work. By year end, Labelling Body submissions were 16% below what we had estimated we would receive. While the maximum estimates for received, examined and classified were not realised, actual figures were just above our projected minimums despite the marked decline in submission activity. 2,535 publications were examined and decisions on 2,535 publications were registered.

⁶ <http://www.censorship.govt.nz/pdfword/Public%20Understanding%20Research%20Report%20web%20version.pdf>.

⁷ Except for the M label – only 68% correctly identified what it meant.

Chart 2: Publications Received, Examined and Classified 1994-2009



Although the quality of our classification decisions exceeded target, we failed to achieve our target with respect to the amount of time publications sat in the queue awaiting examination. Our queue-time performance was particularly dismal with respect to publications submitted by Crown enforcement agencies under section 13. Only 23% of these publications were examined within 25 working days of receipt.⁸ Queue time is affected when a large number of publications is submitted at once for examination and classification by a fixed cohort of classification officers. Submission patterns are to some extent beyond our control. However, once publications left the queue, all of them were examined and classified efficiently by this fixed cohort of classification officers. All of our processing timeliness targets were exceeded. The new Classification Database Application (CDA), deployed in December, has streamlined classification processing by improving workflow monitoring and information retrieval. The new CDA should enable improved timeliness performance over the coming year.

Commercial Submissions

Eighty-five percent (2,205) of the publications we received this year, including advertising material and film posters submitted for approval under Regulation 27, were submitted by the Labelling Body under s12, by Gordon & Gotch magazine distributors, and by members of the public. Although the number of films and games submitted for classification by the Labelling Body remained consistent with the previous year, DVDs dropped from 1,480 to 1,345.

⁸ 45 publications (consisting of 29 in CLOSET and 16 in the CDA) of the 194 publications submitted under s13 (consisting of 99 in CLOSET and 95 in the CDA) were in the queue 25 days or less.

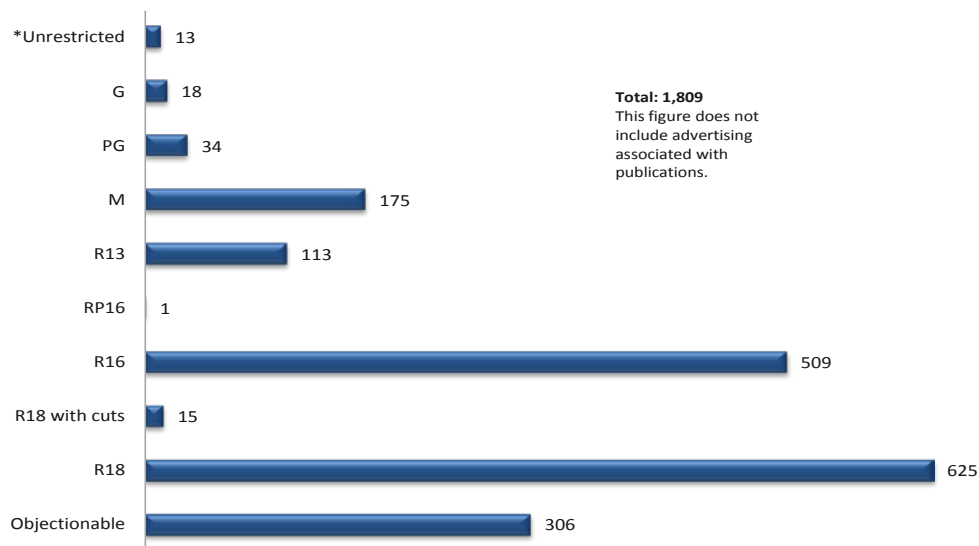
Court and Crown Submissions

The Office is experiencing the consequences of the 2005 amendments to the Films, Videos, and Publications Classification Act that increased the penalties for making and distributing images depicting the exploitation and abuse of children. Increased penalties have contributed to an increase in Police and Court referrals to the Office. Fifteen percent (396) of the publications we received this year were received from the Courts (174), the Police (167), Customs (40) and Internal Affairs (13).

Banned publications

The Classification Office registered 1,809 classifications this year:

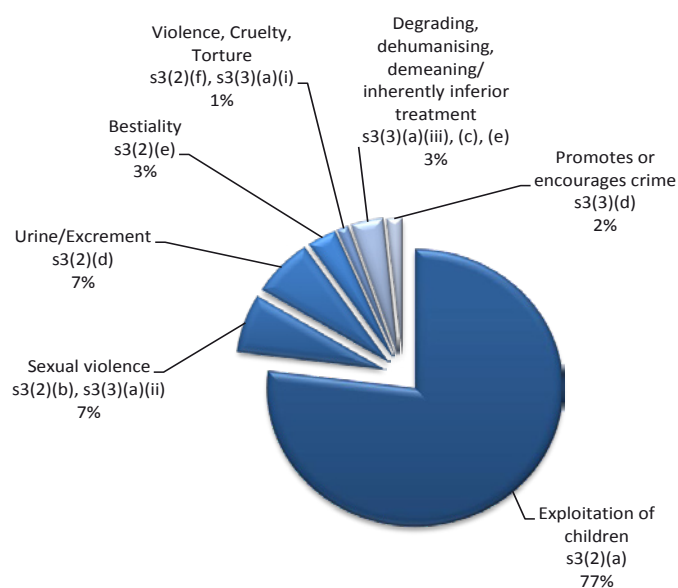
Chart 3: Classification of all Publications



* Unrestricted publications consisted of one book and 12 items of moving and non-moving image computer material.

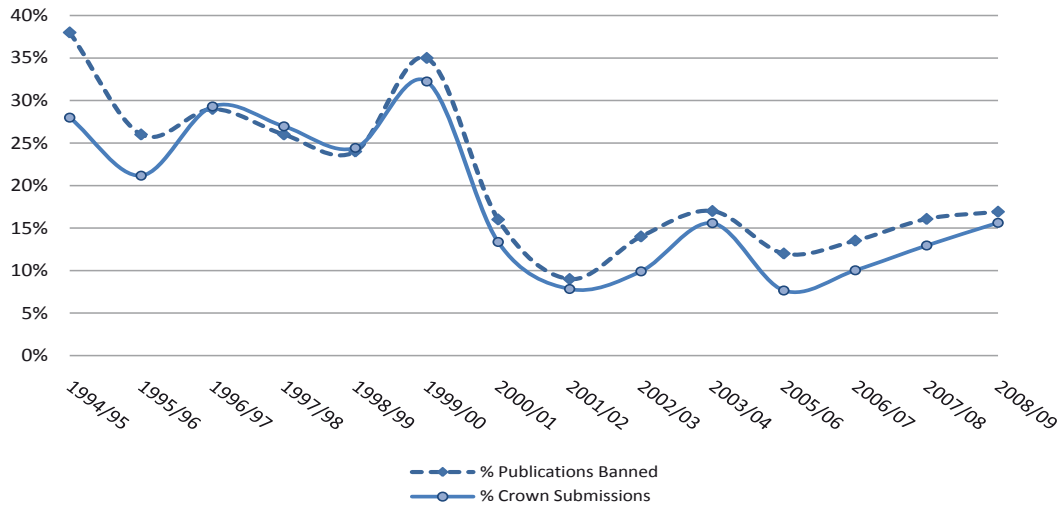
306 publications were classified as objectionable. Seventy-seven percent of the publications classified as objectionable this year promoted the exploitation of children or young persons for sexual purposes. Seven percent concerned depictions of sexual violence, 7% promoted the use of urine or excrement in association with sexual conduct, 3% promoted bestiality, 3% depicted degrading, dehumanising, demeaning or inherently inferior treatment, and 1% promoted extreme violence or cruelty. While much of this work is disturbing there is also great satisfaction in the knowledge that banning such material prevents injury to the public good in a most direct way.

Chart 4: Subject Matter of Objectionable Publications



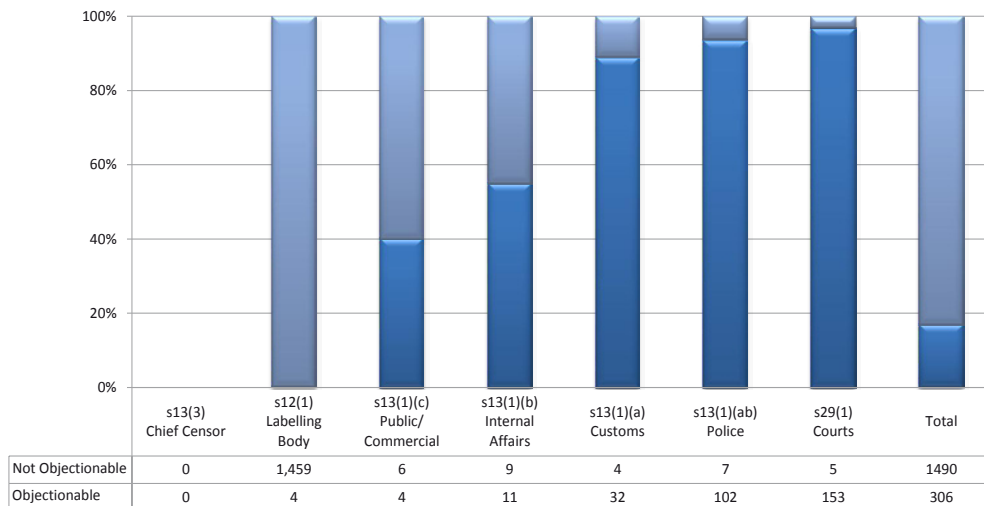
Since 2000, the Office's "ban rate" has been roughly between nine and 17% of the publications we have classified each year. True to form, this year we banned 17% of publications we classified. As can be seen from the following chart, the percentage of publications banned closely follows the percentage of publications submitted by the Courts and Crown enforcement agencies. Space between the two lines indicates a greater proportion of bans from the private sector. Such a divergence in the Office's first two years of operation likely resulted from an absence of precedent upon which commercial distributors could rely. The gap in 2006 was caused by the arrival of a large commercial distributor unfamiliar with New Zealand classification law and precedent. This year, the divergence has almost disappeared because commercial distributors are familiar with the legislation and Classification Office precedent; only four Labelling Body publications needed to be banned.

**Chart 5: Relationship between Crown Submissions and Banned Publications
Matter of Objectionable Publications**



The number of publications banned each year is mostly determined by variations in the level of Crown submissions. The following chart shows the proportion of material submitted by each of the Office’s seven submitters that has been classified as objectionable this year.

Chart 6: Percentage of Objectionable Publications By Submitter



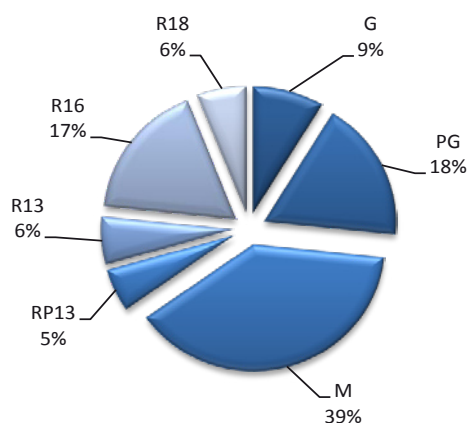
*Chart excludes 13 poster approvals under Regulation 27 and 726 advertising material decisions.

All but eight of the publications banned this year arrived as a result of Crown enforcement activity and mandatory Court referrals. As usual, the Courts' ban rate was the highest of all submitters (153 of 158 publications submitted, or 97%) and they also submitted the most banned publications (153 of 306 bans, or 50% of the total).

Film Festivals

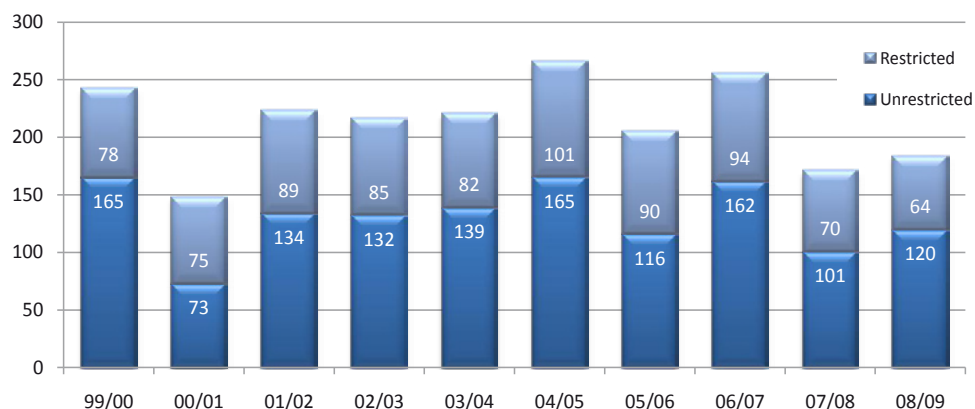
The Classification Office classified 184 film festival features and shorts this year. Sixty-six percent of these films were given unrestricted classifications.

Chart 7: Classification of Festival Publications



As can be seen from Chart 8, both the quantity of festival submissions, and the proportion of them that are restricted, have remained relatively consistent over the years. This is a testament to the consistent manner in which the Labelling Body assesses content and decides which films to refer to the Office, and to the understanding festival organisers have of the classification system.

Chart 8: Proportion of Restricted and Unrestricted Festival Films 2000-2009



All film festival applicants benefited from the traditional waiver of 75% of the classification fee, and from the Chief Censor's decision to group short films together in programmes so that each programme of shorts, rather than each short, could be treated as one publication for fees purposes.

This year the Chief Censor granted fee waivers of 75% of the classification fee otherwise payable to 13 film festivals that required 98 feature films and 92 short films classified. The cost to the Office of \$91,575⁹ in foregone classification fees for festival films can also be viewed as the Office's contribution to the New Zealand film festival circuit. This subsidy compares favourably with subsidies from much larger organizations such as the NZ Film Commission's expenditure of \$205,000 on its Festivals and Awards Programme¹⁰ to subsidise festivals "which provide the public with a diverse selection of feature film programming to encourage informed debate and which give opportunities to new talent".¹¹ The World Cinema Showcase, Big Mountain Short Film Festival, Out Takes Film Festival, Italian Film Festival, Latin American Film Festival, New Zealand Federation of Film Societies French and Polish Film Programmes, Fifth Human Rights Film Festival of Aotearoa/New Zealand, Show Me Shorts Film Festival, 24 Hour Movie Marathon, 48 Hours Film Festival, French Film Festival and the New Zealand International Film Festivals all benefited from our \$91,575 subsidy.

The Fees Regulation charges the same fee for every film regardless of running time. Thirteen of the festival waivers this year covered 92 short films. These shorts would have paid 92 full classification fees but for the fact that they were sorted into 13 groups that were treated as 13 DVDs for fees purposes under Fees Regulation 8. These fees were further reduced by the traditional 75% fee waiver under Fees Regulation 7. The combined effect of the application of Regulations 7 and 8 meant that the Office classified 92 short films for \$3,575, just over the price of three films. This works out to \$38.86 per short. The average price charged to festival organisers to classify each of this year's 184 registered festival titles works out to \$156.93 per title.

The cost to the Office of operating the film festival fee waiver scheme was less than it might have been because distributors selected 44 festival films for post-festival general release. This compares with 47 last year, 25 in 2007, 38 in 2006 and 20 in 2005. This meant that the Classification Office was able to recover the difference between the waived and full fees with respect to these films, resulting in \$35,750 of revenue recovered from the film festival waiver scheme. This compares with a recovery of \$37,325 last year, \$17,325 in 2007, \$28,000 in 2006, \$15,000 in 2005, \$21,000 in 2004, \$16,250 in 2003 and \$13,125 in 2002.

⁹ This calculation assumes that 98 features plus 13 programmes of 92 shorts charged at the full prescribed fee would have generated \$122,100 revenue, but having waived 75% of the full prescribed fee, generated only \$30,525 revenue, a difference of \$91,575.

¹⁰ New Zealand Film Commission, Annual Report 2007/08, p41.

¹¹ <http://www.nzfilm.co.nz/DevelopmentAndFinancing/FestivalAndAwardsProgramme.aspx> (last accessed 13 October 2009).

Film and Literature Board of Review and the Courts

Any person who is dissatisfied with a decision of the Classification Office may seek a review of the publication by the Film and Literature Board of Review. The Board of Review consists of nine members appointed by the Governor-General on the recommendation of the Minister of Internal Affairs acting with the concurrence of the Minister of Women's Affairs and the Minister of Justice. The Board of Review is independent of, and has all the powers of, the Classification Office except the power to make a serial publication order. Additionally, the President of the Board has the power to issue an interim restriction order which prevents the supply, distribution and exhibition of a publication to anyone under 18 years of age, and its exhibition in a public place, until a review has been held and its classification determined.

The Secretary for Internal Affairs, the Comptroller of Customs, the Commissioner of Police, any party to a proceeding before a Court that referred a publication to the Office, and the publication's owner, maker, publisher and distributor, may seek a review as of right. Any other person must first obtain the leave of the Secretary for Internal Affairs to seek a review. The Board of Review does not review the Classification Office's decision. It must conduct its own review of the publication without regard to the Classification Office's decision.

In the year ended 30 June 2009, the Secretary for Internal Affairs granted the Society for the Promotion of Community Standards leave to seek reviews of the *Peaceful Pill Handbook (New Revised International Edition)* (classified R18 by the Office), *Grand Theft Auto IV Unedited Version* (classified R18 by the Office) and a film called *End of the Spear* (classified R16 by the Office). The Board of Review confirmed the Office's classification of the *Peaceful Pill Handbook (New Revised International Edition)* and *Grand Theft Auto IV Unedited Version*. It lowered the Office's classification of the *End of the Spear* to R13. The Society for the Promotion of Community Standards applied three times to the President of the Board of Review to issue an interim restriction order against the *Peaceful Pill Handbook (New Revised International Edition)*. The President declined three times, stating in her decision on the last application that:

It is my view that three interim restriction applications in this time period [3 weeks] is verging on vexatious.¹²

The Secretary also granted Right to Life New Zealand leave to seek a review of the *Peaceful Pill Handbook (New Revised International Edition)* as well as a clip from YouTube called *Doing It With Betty* (classified as unrestricted by the Office). The Board of Review confirmed the Office's classifications in both cases. At the request of a defendant charged with making two objectionable publications, the Board of Review reviewed and confirmed the Office's classification of them as objectionable.

With respect to the six publications reviewed by the Board of Review this year, the Office's classifications were confirmed in five cases and lowered in one.

¹² An application under s49 of the Act by the Society for the Promotion of Community Standards Inc of the Book "*The Peaceful Pill Handbook*" (*New Revised International Edition*), President's Decision Number 7, para. 62 (14 July 2008). The President's two previous decisions declining the Society's applications were made on 20 June and 7 July 2009.

In *The Queen v Spark* [2009] NZCA 345 (6 August 2009), the Court of Appeal considered the defendant's appeals from conviction on ten counts of making an objectionable publication and 14 counts of possessing an objectionable publication, and his sentence of two years and six months imprisonment. The Classification Office had classified the publications, which were logged messenger chats and images, as objectionable because they tended to promote or support the exploitation of children or young persons for sexual purposes under section 3(2)(a). The Court dismissed the defendant's argument that these were not publications because the defendant only intended them for his private use and never intended to make them available to the public. The Court held that the definition of publication "contains no requirement of availability, nor does it even hint at such a requirement."¹³

More significantly, the Court of Appeal reviewed the trial judge's direction to the jury with respect to the requirement in s124 that to be convicted the defendant had to have "reasonable cause to believe" that he was making an objectionable publication. The Court said that there is "real difficulty in giving effect to the word 'objectionable' vis-à-vis the knowledge of the offender, given that the Classification Office certification is conclusive evidence of objectionability: see s 41 of the Act".¹⁴ The concern is "the potential for the jury to second-guess the Classification Office's decision"¹⁵ if the jury relies on the definition of "objectionable" in s3 when it determines whether or not the offender had reasonable cause to believe he was making an objectionable publication. The Court resolved the issue stating:

[52] On balance, we consider the correct approach is to direct the jury that "reasonable cause to believe" relates to the ground relied upon by the Classification Office in its objectionability classification. The scheme of the Act is to place issues of objectionability with the Office; its decision is determinative. We consider it is consistent with that fact to define this requirement of awareness of objectionability in terms of the Office's assessment, rather than the prior general definition of objectionable. It also provides the jury with a manageable inquiry which starts from the proposition that the publication is objectionable for stated reasons, and asks the jury whether the accused should have realised those characteristics (for example, exploitation of children for sexual purposes) were present in the publication.

This decision confirms that the Office's findings of objectionability are authoritative. Unless they are reviewed by the Board of Review, they stand as conclusive evidence of objectionability in Court proceedings. The decision is also reminder of the Office's special responsibility to ensure its decisions are written with substantive accuracy and procedural fairness, that only relevant things are considered and irrelevant things ignored, that submissions from the defendant and other interested parties are solicited and carefully considered, that when necessary we carry out research, and that we always reason well, particularly when our classifications can send a defendant to jail. The Court of Appeal's decision is timely in light of the increasing amount of work the Office effectively conducts as a type of specialist auxiliary criminal court.

¹³ Para. [25].

¹⁴ Para. [47].

¹⁵ Para. [51].

Cross-rating and the Trans-Tasman Mutual Recognition Arrangement

The law requires the Labelling Body to cross-rate any film, DVD or video recording that has received an Australian G, PG or M (or the equivalent British Board of Film Classification rating) to a New Zealand G, PG or M, and that a New Zealand label is affixed, and obscures, the foreign rating. Although the Chief Censor may call in any publication for examination under s13(3), and did so this year with respect to two films,¹⁶ approximately 85% of the moving image market (the G, PG and M films, DVDs and games) is effectively rated overseas. The cross-rating regime has always been an entirely unilateral act on New Zealand's part. Neither Australia nor the United Kingdom recognises New Zealand's ratings.

The Trans-Tasman Mutual Recognition Arrangement has permanently exempted Australian and New Zealand classifications from its coverage. There is no requirement that either country recognise the other's classifications. In New Zealand, this permanent exemption is given the force of law by listing the Films, Videos, and Publications Classification Act 1993 in Schedule 2 of the Trans-Tasman Mutual Recognition Act 1997. In its submission to the Productivity Commission's 2008 review of the Trans-Tasman Mutual Recognition Arrangement, the New Zealand government stated at paragraphs 30 and 31 that:

30 New Zealand supports the continuation of these exemptions but with some minor wording changes to clarify the exemptions. . . .

31 The exemption for "indecent" or "pornographic" material is currently unclear. In particular it is unclear whether these terms are used to depict the same or different material. For clarification purposes, New Zealand suggests that the exemption be reclassified as "any material that is subject to or potentially subject to restrictions or prohibition on availability under censorship legislation".¹⁷

Although it supported retaining the permanent exemption for material potentially subject to censorship legislation, New Zealand advocated this technical change to the wording of the exemption because the words "indecent" and "pornographic" form no part of New Zealand law. The Productivity Commission concluded that "[t]he coverage of the permanent exemptions is defined by the provisions of the laws exempted under the TTMRA rather than by the broad classification of goods assigned to the exemption category."¹⁸ Strictly speaking, the Commission recommended that no change was needed to the wording of the exemption to keep classified publications outside the coverage of the mutual recognition regime.

¹⁶ *Wicked City*, rated M by the Labelling Body under Schedule 4 of the Films, Videos, and Publications Classification Regulations 1994, was called in and classified R18; and *Land of the Lost*, cross-rated PG from its Australian PG rating by the Labelling Body, was called in and classified M.

¹⁷ New Zealand Government Submission to the Australian Productivity Commission on the 2008 Review of the Trans-Tasman Mutual Recognition Arrangement (http://www.pc.gov.au/__data/assets/pdf_file/0017/82601/sub053.pdf).

¹⁸ Australian Productivity Commission, *Final Report, Review of Mutual Recognition Schemes*, presented to Australian Heads of Government and the New Zealand Prime Minister, 6 February 2009 (<http://www.pc.gov.au/projects/study/mutualrecognition/report>), p186.

With respect to whether or not classifications should be kept permanently outside the mutual recognitions regime, the Commission confirmed its 2003 findings:

The Commission also found that, on the grounds of sovereignty and differences in approaches between Australia and New Zealand, the TTMRA permanent exemption for pornographic material and classified publications, films and computer games should be retained.

No participants in the current [2008] review advocated removing these permanent exemptions, and the Commission is not aware of any moves towards harmonisation since 2003 in these areas.¹⁹

It is therefore unlikely that Australia will recognise New Zealand classifications in the near future. Given its submission to the Productivity Commission, it is equally unlikely that New Zealand will extend the existing cross-rating regime to recognise Australian MA, R and RC classification decisions.

In light of the Productivity Commission's view that the permanent exemption should be retained on "grounds of sovereignty and differences in approaches between Australia and New Zealand", it is odd that unrestricted video games continue to be exempt from New Zealand labelling requirements. Although New Zealand recognises Australian G, PG and M ratings on films and DVDs, it has never recognised Australian labels. Unlike films and DVDs, unrestricted video games are permitted to retain their Australian rating labels when offered for supply to the New Zealand public, notwithstanding sovereignty and differences in approaches between the two countries.

When the Act was drafted in 1993, video games were included in the list of films such as documentaries, videos of manufacturing processes, travel films, and natural history movies that were thought to be sufficiently innocuous not to require labels. Few people anticipated that the technology of video games would develop so quickly to the point that they are now sold in dedicated retail outlets. By exempting unrestricted video games from labelling requirements, section 8(1)(q) permits them to carry a variety of foreign labels instead of New Zealand labels. The Office's research has shown that consumers are confused by these unfamiliar foreign labels:

The research found much greater confusion over the meaning of the Australian M15+ symbol than the New Zealand R18 label. Only 56% understood that the M15+ label means that the game is recommended for, not restricted to, those aged 15 and over. The rest of the respondents were divided between thinking the label was a legal ('R15') restriction or that parental permission was required for a person under 15 to be sold or given the game.

¹⁹ Australian Productivity Commission, *Final Report, Review of Mutual Recognition Schemes*, presented to Australian Heads of Government and the New Zealand Prime Minister 6 February 2009 (<http://www.pc.gov.au/projects/study/mutualrecognition/report>), p185.

The inevitable conclusion is that the presence of Australian labels on computer games rented and sold in New Zealand creates public confusion. This confusion does not exist amongst film, video and DVD audiences because all foreign labels are required by law to be obscured and replaced with the correct New Zealand label.²⁰

Unrestricted computer games are the only type of film that does not have to display New Zealand labels. There is no reason to retain this discrepancy produced by an anachronism.

Magazines and other non-film publications were brought into the unified labelling regime in 2005. To bring unrestricted computer games into the unified labelling regime would be consistent with the 2005 amendments to the Films, Videos, and Publications Classification Act and the reasons for retaining the permanent exemption for classifications in the TTMRA. This would have the added consequences of reducing public, and particularly parental, confusion, and of maintaining public confidence in the integrity of the New Zealand labelling system. This requires the repeal of s8(1)(q).

2. Performance of Information Activities

Another way of protecting the public good from injury is to keep the public informed about the classification system, to ensure our classification decisions are well-researched, and to provide members of the public the opportunity to make inquiries and complaints about our work. These also ensure transparency and accountability.

Transparency

This year, the Chief Censor and other staff made presentations to over 4,000 people. These included 891 students from 45 high schools who attended our Censor for a Day events in Auckland, Tauranga, Rotorua, Hamilton and Wellington. The Chief Censor also addressed the Otago Rural CIB at its training day in Queenstown, the Central Hawkes Bay Business and Professional Women's Association in Waipawa, the New Zealand Law Librarians' Association Conference in Auckland, the Wellington area primary schools Kids' Conference, the Council for Trade Unions' Out at Work Conference in Raumati, the launch of Parentline's "R18 Means R18" campaign in Hamilton, the European Film Classifiers' Conference in Lisbon, and numerous Lions Clubs, Rotary Clubs, Probus groups, schools and other organisations around the country. We also continuously updated our website and sent regular electronic newsletters to members of the computer games industry and to libraries.

²⁰ *Underage Gaming Research* (<http://www.censorship.govt.nz/censorship-research.html#underagegaming>), September 2005, p17.

To ensure that our classification decisions are well-researched, the Office seeks formal and informal advice from experts, members of the public, and commissions research. We formally consulted the Environmental Risk Management Authority (ERMA) to help us decide how to classify a computer moving image file called *The Peaceful Pill: Single Shot* submitted by a member of the public. This short clip on YouTube purported to show elderly people manufacturing pentobarbital, a Class C controlled drug, contrary to section 6 of the Misuse of Drugs Act 1975. We asked ERMA whether someone watching this clip would succeed in manufacturing pentobarbital, if not what would be manufactured, and whether any inherent dangers in this procedure were adequately addressed. ERMA responded that it was unlikely the desired outcome could be achieved because the clip failed to specify some ingredients, quantities and methods. ERMA also identified a number of safety issues that would increase the risk of accidental injury or death if the process depicted in the clip were followed. Having considered this advice, the Office decided that any use of the film as a basis on which to manufacture a drug claimed to induce a peaceful death would be more likely to cause a violent injury or death by accident. The Office consequently classified the clip as objectionable and it was removed from YouTube.

We also maintained an ongoing informal consultation with the AIDS Foundation over the vexed question of what to do about depictions of unprotected explicit sexual activity. In the Office's experience, such depictions occur far more frequently in sexually explicit DVDs intended for a heterosexual market than in those intended for a homosexual market. Solutions we have canvassed with the AIDS Foundation include outright bans, distinctive labelling, specific descriptive notes identifying the presence of depictions of high risk sexual activities, and obtaining the consent of distributors and producers to place a safe sex trailer that could not be fast-forwarded at the start of every sexually explicit DVD offered to the public.

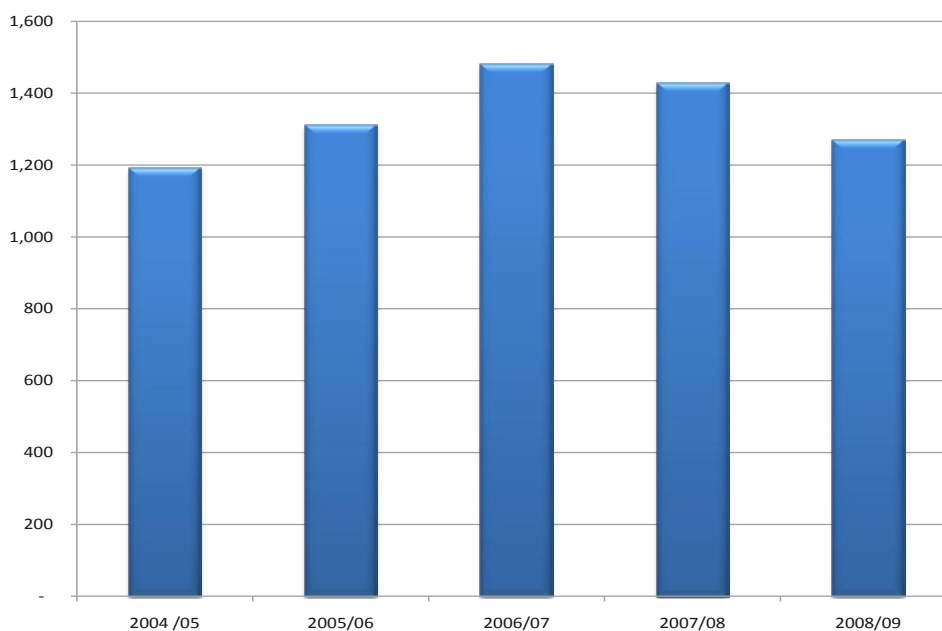
One of the functions of the Information Unit set out in s88(2) is to "provide the Classification Office with such research services as may be necessary to enable the Classification Office to perform its functions effectively". Although we budget for one research report a year, we commissioned two this year. The first was a review of the literature on the effects of representations of sexual violence in moving image mediums. The second canvassed the reactions of two focus groups to clips from a video game called *X-Men Origins: Wolverine* which the Office classified R18. Both studies helped us understand better how content such as this affects those exposed to it, and what members of the public think are the effects of exposure. As is invariably the case, both studies also indicated directions for future research in these areas.

This year we continued to export our classification expertise. We wound down our involvement in New Zealand Aid's Justice Institutional Strengthening Project in Samoa, having assisted in improving the effectiveness of the classification, enforcement and information functions of the Samoan Censorship Office. Independently of NZ Aid, we also assisted with a community consultation process in Avarua, Rarotonga to develop a strategic plan for the Chief Censor of the Cook Islands. We signed a memorandum of understanding with the Secretary for Internal Affairs of the Cook Islands to put our relationship on a more permanent footing.

Accountability

Section 88(2)(c) of the Films, Videos, and Publications Classification Act 1993 requires the Information Unit to receive inquiries and complaints about the classification system. Censorship places limits on the public's right to free expression. For this reason, it is important that people are able to seek information about the classification system, and to be able to register their satisfaction or dissatisfaction with it.

Chart 9: Inquiries and Complaints 2004-2009



The Office receives an average of five inquiries and complaints a day. People phone and write to us to express disagreement with classification decisions, and to express concern about inappropriate trailers playing before feature films, publications being studied in schools and the effects of screen violence and video games. Many parents complain that they should be able to take their young children into restricted movies, and that their children have not been allowed into screenings without proof of age identification. Complaints are sometimes received about the aptness of descriptive notes, particularly when the complainant would have liked to have known about the level of offensive language, or sex, in a film. Complainants are always informed of the review processes available to them. During the year, people who complained about the films *Watchmen* and *Bruno* were within time to apply to the Secretary for Internal Affairs for leave to seek a review, but none sought one.

The classification of a t-shirt promoting the heavy metal band Cradle of Filth generated a number of complaints from members of the public that either we had no jurisdiction over apparel (we do) or that we unfairly banned the t-shirt thereby breaching their freedom of expression. These complainants were informed of their right to seek a review, but once again, none sought one.

Unrestricted films cross-rated by the Film and Video Labelling Body from the equivalent Australian and UK ratings continue to be the source of some complaints. Two complainants were unhappy about the M classification *The Dark Knight* received (cross-rated from Australia) believing it should have been restricted. A third was unhappy when he came across a DVD of this film being screened in a supermarket. Another film, *Land of the Lost*, originally cross-rated PG from Australia, was the subject of enough complaints from concerned parents to warrant the Chief Censor calling it in. The Office classified the film “M Contains offensive language and sexual references”.

Health of the Classification Office - Our Financial Performance

After ten years of net operating surpluses, the Classification Office ended the year with a net operating deficit of \$336,962. We are, however, able to cover this deficit with the retained earnings produced by a decade of surpluses. As is the case with most operating deficits, this one was produced by a combination of decreased revenue and increased expenditure. On the revenue side, classification fee revenue was \$251,527 (16%) less than budgeted, the result of 12% fewer submissions of fee-bearing publications from the Labelling Body compared with 2007/08, fewer urgency fees and a greater number of discounts given to box-set DVDs. We also received much less interest revenue because we had less cash in the bank, and what little we had earned less interest. On the expenditure side, operating costs were \$124,600 (19%) more than budgeted largely due to the outsourcing of quality assurance services, security review and user acceptance testing associated with bringing the Office’s new information technology, the Classification Database Application, or CDA, online. Against this, depreciation was \$82,758 (26%) less than budgeted due to delays in bringing the CDA online.²¹

Revenue

This year, Crown revenue remained at \$1,960,000. This has been the Office’s annual Crown baseline funding since 1998. Revenue from Labelling Body submissions on the other hand decreased by \$155,083 (11%) from \$1,438,394 last year to \$1,283,311 this year. It is tempting to think that this decline is solely attributable to a decrease of 193 (12%) fee-bearing publications submitted for classification by the Labelling Body this year compared to last year. This is not, however, the whole story. The number of applications under Fees Regulation 8 has increased considerably.

²¹The CDA was required to replace the Office’s increasingly antiquated and unsupported information technology systems. It was delivered in phases so that the Office could test each part of the functionality of the whole system as it was developed. It is intended to improve the Office’s capacity to cope with increased submissions without compromising the quality of the Office’s decisions and integrity of its processes, and its capacity to meet its reporting responsibilities to the Crown by providing enhanced workflow guidance and monitoring. Funding for the development of the CDA has been met from the Office’s reserves, so no supplementary Crown funding was sought. The CDA was delivered with approximately \$1.5 million capital expenditure and \$350,000 operating expenditure.

Fees Regulation 8 permits the Chief Censor to treat a group of publications as one publication for fees purposes if, “having regard to the nature of the publications concerned”, it would be “unreasonable, unfair, or unduly burdensome to require the payment of a separate fee in respect of each of those publications.” Film festivals, and increasingly distributors of box set DVDs of television programmes, make use of this regulation. In 2007/08, 172 DVDs were treated as 55 DVDs for fees purposes under Fees Regulation 8, a ratio of slightly over 3:1. In 2008/09, 318 DVDs were treated as 149 DVDs for fees purposes, a ratio of slightly over 2:1. The effect of granting so many applications under Fees Regulation 8 this year was to forego \$185,900 in classification fees otherwise chargeable. This would have more than covered the decline in revenue caused by fewer Labelling Body submissions. On the other hand, granting so many Fees Regulation 8 applications ensured that many short films were screened at film festivals, and that television programmes such as *Torchwood*, *CSI*, *Outrageous Fortune*, *South Park*, *UFC*, *WWE*, *NCIS*, *Spooks*, *True Blood*, *Lexx*, *Aqua Teen Hunger Force* and *Underbelly* were available as box sets in retail outlets.

Fees Regulation 7 permits the Chief Censor to waive up to 75% of the prescribed classification fee if it would be “unreasonable, unfair, or unduly burdensome” to require the payment of the whole fee. This year, 149 of 160 applications for a waiver of a classification fee were granted (compared with 142 of 146 applications last year), resulting in \$114,075 revenue foregone compared with \$112,638 last year. Most of these waivers were granted for films screened at film festivals; the remainder were for console game extensions and additional material on DVDs containing previously classified features. The impact of Fees Regulation 7 waivers on revenue does not vary significantly from year to year.

Expenditure

Although personnel expenditure was slightly below the budgeted \$2,261,096 this year, it was \$67,776 (3%) more than last year. This increase compares favourably with the previous two years’ increases. Other operating costs were, however, \$124,600 (19%) higher than budgeted, largely the result of expenditure on quality assurance services, security review and user acceptance testing associated with bringing the CDA online. Depreciation on the other hand was 26% less than budgeted because the delay in bringing the CDA online meant that six, instead of nine, months of depreciation was recognised this financial year.

Delays in building the CDA also meant that approximately \$200,000 budgeted as capital expenditure in 2007/08 was not spent in 2007/08, but was spent in 2008/09. Total capital expenditure in 2008/09 was \$638,515 on projects approved in 2007/08 and 2008/09, which was \$56,209 more than the amounts initially approved for those projects. Over-expenditure of \$86,510 on CDA development and \$37,503 on security reporting software was compensated to some extent by under-spending of \$32,738 on fit-out, furniture and fittings, \$23,000 on vehicles, and \$10,733 on other computer software this year.

The Office’s overall expenditure of \$3,696,538 was \$33,495 or 1% more than budgeted. Its overall revenue of \$3,359,576 was \$289,706 or 8% less than budgeted. The resulting operating deficit of \$336,962 contributed to a decrease in taxpayer’s equity from \$3,700,562 last year to \$3,363,600 at year-end, a figure which is nonetheless still \$35,459 more than budgeted.

Fees Review

The Classification Office cannot set its own fees. Even if it could, it would be premature to consider raising classification fees because of this year's deficit. The earnings the Office has retained from a decade of surpluses have given it the ability to weather this particular economic storm. This is not to say that the classification fees could not be calibrated more accurately to better reflect the costs of carrying on the Office's activities. The fees for classifying publications prescribed in the Fees Regulation have not changed since 1 July 1997, well before digital technology took hold.

The current Fees Regulation does not adequately capture digital technology or significant cost drivers such as running time. Twelve years on, it is possible that the prescribed fees do not reflect the actual costs of classifying particular publications. To provide the foundation for a new Fees Regulation, the Office commissioned a review of its costs in 2005. Although the Ministry of Justice administers the Fees Regulation, in 2006 officials from the Department of Internal Affairs and the Ministry of Justice agreed that the Department of Internal Affairs would lead, on behalf of the Ministry of Justice, the project to bring the Fees Regulation up to date. When completed, it was anticipated that a new Fees Regulation would also logically necessitate a review of the Office's baseline funding through Vote: Internal Affairs Non Departmental Output Class for a Single Output Class 01 – Classification of Films, Videos, and Publications. Nevertheless, this year I recommended to the Deputy Secretary for Internal Affairs that the Department should stop work on this review because the data upon which the review was based is now nearly five years old. Too much time has passed. A review of the classification fees still needs to happen, but it needs to be based on current costs.

Few other fees currently charged have remained at their 1997 levels without being inflation-adjusted. In real terms, classification fees have effectively declined 33% since they were set in 1997.²² Notwithstanding the relatively static and predictable levels of classification fees over the long term, this year there was some comment in the media about the high cost of classification in New Zealand.²³ Such commentary did not mention that classification fees have not risen for 12 years and ignored the availability of, and the greater use being made of, fee waivers under Fees Regulations 7 and 8 discussed above. Nor did it compare the cost of classification in New Zealand with other jurisdictions.

²²The calculation is based on the rise in the consumer price index from second quarter 1997 to the third quarter 2009: <http://www.rbnz.govt.nz/statistics/0135595.html>.

²³ For example, <http://gordoncampbell.scoop.co.nz/2009/06/12/gordon-campbell-on-censorship-%E2%80%93-bring-back-worth/>.

This chart compares the current cost of censorship in New Zealand with that in Australia and the United Kingdom.²⁴ When classification fees are eventually recalibrated to take into account the current costs of examining and classifying content in range of mediums, some benchmarking against fees currently charged for the same activities in Australia and the United Kingdom, the two jurisdictions from which New Zealand cross-rates its Gs, PGs and Ms, should also be considered.

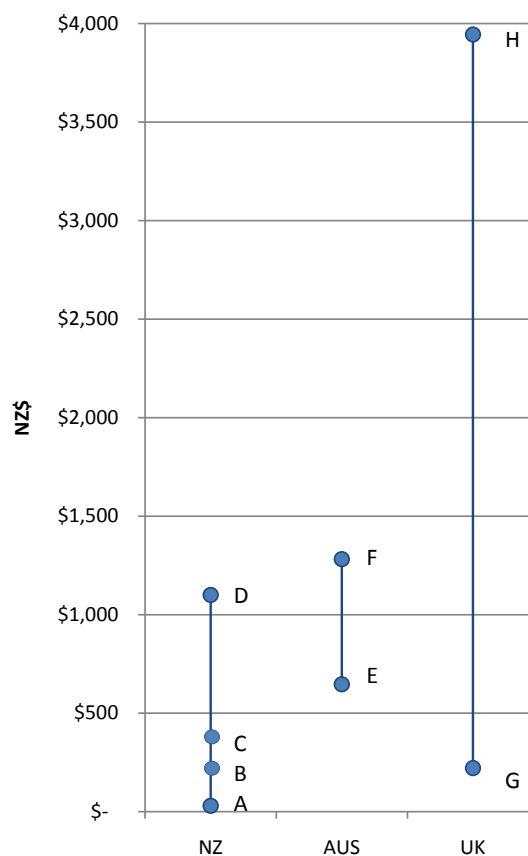
Strategic Issues

Facing the Office

1. Short term - regulating digital content

The law requires the Office to maintain its traditional role in examining and classifying tangible mediums such as videos, DVDs and films so that injury to the public good can be remedied, offence provisions can be enforced, and consumer advice given. The outcome of these activities will be felt in cinemas, schools, libraries, and video, DVD and computer game retail stores.

At the same time, digital technology and the internet challenge the Office to come up with new ways of remedying injuries to the public good that take place in private homes, and new ways of giving consumer advice with respect to digital publications downloaded on telephone lines. The significance of these challenges will increase as broadband becomes faster and less costly for the consumer.



²⁴ The chart is taken from <http://www.censorship.govt.nz/industry-cost-of-censorship.html> :

A	NZ\$30.38	The fee for any DVD rated G, PG or M in NZ, G, PG or M in Australia, and Uc, U, PG, 12 or 12A in the UK.
B	NZ\$236.25	The fee for any DVD over 2 hours to be rated G, PG, or M.
C	NZ\$275.00	The fee for any DVD to be classified by the OFLC waived by 75%.
D	NZ\$1,100.00	The fee for any DVD to be classified by the OFLC.
E	NZ\$647.00	The base fee for any DVD to be rated or classified in Australia.
F	NZ\$1,282.00	The fee for a 3 ½ hour DVD to be rated or classified in Australia.
G	NZ\$221.67	The base fee for any DVD to be rated or classified in the UK.
H	NZ\$3,945.00	The fee for a 3 ½ hour DVD to be rated or classified in the UK.

The Office has adopted a number of strategies to achieve its mandate to minimise the risk to New Zealand society caused by the unrestricted availability of digital publications depicting matters such as sex, horror, crime, cruelty and violence. Some of these strategies require the help of the executive and Parliament.

The first strategy has been to strengthen the Office's capacity to disseminate censorship information so that people can equip themselves to cope with potentially injurious publications. The Office disseminates information on the classification system via its "Censor for a Day" high schools programme, material to support NCEA Media Studies Level 3 Achievement Standard AS90779, its website (www.censorship.govt.nz), community group talks, advertisements, and information brochures and posters distributed to libraries, cinemas, DVD and game retailers. The Office has invested in improvements to its publicly searchable database and has conducted and made available research on new technologies.

The second strategy is to manage issues raised by digital technology with other regulators and content providers. Such management involves the identification of overlapping jurisdiction, or gaps in jurisdiction, and informing providers of digital content of their legal obligations. An example of this is the Office's work with the Telecommunications Carriers' Forum to develop a *Code of Practice for Provision of Content via Mobile Phones*. The Office maintains regular dialogue with the Broadcasting Standards Authority, the Film and Video Labelling Body and overseas regulators with respect to issues raised by digital technology.

The third strategy is to identify areas where legislative or regulatory reform is needed to cope with digital technology. For example, the definition of "publication" and the offence provisions were updated in 2005 to cover digital content. The labelling provisions were not updated, only partly provide for digital labelling on trailers and television advertisements, and need to be made consistent with the offence provisions and current haphazard voluntary practice.

2. Medium term - law reform

Any law reform proposal should ensure that the public good is protected from injury, that members of the public are provided with the best available information about ratings and content across the range of mediums available at any single time, and as a result, that members of the public trust the classification system because it is reliable, consistent and is comprehensive. This was well put by members of the public who participated in research commissioned by the Classification Office and the Broadcasting Standards Authority and published in *Viewing Violence*:²⁵

²⁵ *Viewing Violence: Audience Perceptions of Violent Content in Audio-Visual Entertainment* (October 2008), p35 (http://www.censorship.govt.nz/pdfword/Viewing%20Violence%20Book%20Oct%2008_Lo%20Res.pdf).

Participants were generally consistent in applying classifications across formats – if they classified a clip R18, then they considered it to be R18 in whatever format it was viewed. An exception to this might be where a DVD of a theatre-released film contained extra content or special features. For the internet and mobile downloads, participants considered a warning both appropriate and the only form of classification possible.

Protection of the public good from injury, the provision of better and more comprehensive information to the public, and public confidence in the classification system, would be enhanced by three amendments to the Classification Act and Regulations. These amendments would include digital content in the definition of “film”, would include making content available for free in the definition of “supply”, and would permit labels to be digitally “affixed” to digital files as well as to physical product.

Few people would doubt that *Gone With The Wind* is a film when it is screened in theatres, viewed as a video recording or watched as a DVD. It seems absurd to argue that it stops being a film when it is viewed as a digital file, yet the absence of a reference to digital content in the definition of film in the Films, Videos, and Publications Classification Act makes such an argument possible. This argument could be used to exempt films that are delivered as digital files from the rating and labelling requirements that are imposed on films delivered on film, video and DVD. If this were to happen, the public good would not be protected from injury, consumers would not be informed, and public confidence in the scope and utility of the classification system would diminish. An amendment to the offence provisions was made in 2005 to define digital content; for the sake of consistency, the definition of film should also be amended to include digital content.

Few people thought films, particularly in the form of podcasts, would ever be given away by commercial enterprises when the Films, Videos, and Publications Classification Act was drafted in 1993. The Act’s labelling and rating requirements were only imposed on people who intended to supply, offer for supply, or exhibit, films to the public. The current definition of supply means “supply by way of sale, hire, exchange, or loan, in the course of any business”. The definition excludes free supply, which means that films, including previously rated and labelled films, do not need to be rated or labelled if they are supplied to the public without cost. Once again, if this were to happen, the public good would not be protected from injury, consumers would not be informed, and public confidence in the scope and utility of the classification system would diminish. An amendment to the offence provisions was made in 2005 to include giving in the definition of distribute; for the sake of consistency, the definition of supply should be amended to include making films available for free in the course of business.

The law requires labels to be “affixed” to publications that are rated by the Labelling Body or classified by the Classification Office. Although not defined, the word seems to require a physical surface to attach or fasten a label to. Where this is inappropriate, such as on television, radio and newspaper advertisements, and on theatrical trailers, the law allows for the content of labels, rather than the labels themselves, to be displayed, including by digital

means. Once again, it should make no difference to the consumer how the content of a rating is conveyed, as long as it is conveyed accurately. Industry should be able to choose how labels are displayed. To protect the public good from injury, to inform consumers, and to maintain public confidence in the scope and utility of the classification system, the law should make it clear that labels may be affixed by any means, including digital means, to any medium, including digital mediums.

The Office is currently working with the Department of Internal Affairs and the Labelling Body on a project to produce digital rating and classification labels with advanced security features that are intended to substantially reduce industry compliance costs, increase ease of enforcement and most importantly, provide more information to the consumer. Preliminary indications are that our labels will be more technologically advanced than similar labels offered by the Australian Classification Board and the British Board of Film Classification.

3. Long term - does convergence require structural reform?

Convergence has become a fashionable concept. To converge is to come together from different directions so as eventually to meet.²⁶ Convergence is generally taken to mean the ability to obtain information and entertainment delivered in a range of mediums to one device. Digital mediums are said to have facilitated convergence. A current example is the ability to use a computer hooked up to a telephone line to communicate with friends using audio, video and text software, to watch podcasts of television programmes, to download movies and songs, and to play video games on line. That all of this can be done with one machine is often used to advocate the creation of a single multi-media regulatory agency. The Australian Communications and Media Authority (ACMA) is the government agency responsible for the regulation of broadcasting, the internet, radiocommunications and telecommunications.²⁷ The United Kingdom now has Ofcom to regulate television, radio, fixed line and mobile telecommunications and the airwaves over which wireless devices operate.²⁸ In its 2008 briefing to the incoming Minister of Broadcasting, the Ministry of Culture and Heritage argued that “In the era of convergence, however, with broadcasting content being delivered across different platforms and being received through different devices, some degree of convergence in regulation is needed. Some anomalies are already evident (e.g. in relation to content standards) and more are likely to emerge.”²⁹ But is this necessarily true?

Convergence exists, but it would be unwise to ignore divergence. To diverge is to go in a different direction. Both concepts are real. Television did not destroy the cinema, CDs did not replace vinyl, some cameras still use film, video did not kill the radio star. My children rent DVDs to watch at home with their parents. They are happy to go to the cinema to watch a movie. They occasionally watch free-to-air television. They use consoles to play

²⁶ Concise Oxford Dictionary, 10th edition.

²⁷ http://www.acma.gov.au/WEB/STANDARD/pc=ACMA_ROLE_OVIEW.

²⁸ <http://www.ofcom.org.uk/>.

²⁹ <http://www.mch.govt.nz/publications/bim2008/broadcasting.html>.

Playstation, Xbox360 and Wii games. When left to their own devices (that is, when their parents are not around to pay for their entertainment), they entertain themselves by watching television show podcasts and YouTube online, playing games online (including talking with fellow gamers all over the world) and downloading content using the computer or gaming consoles and a widescreen television monitor. They even read books. With a few exceptions, almost every medium that was ever invented to convey entertainment and information continues to exist and continues to be accessible with different equipment. Medium often changes the nature of the content to be regulated. As Marshall McLuhan said, the medium can change the message. It is perhaps for this reason that the United Kingdom kept the British Board of Film Classification out of Ofcom, and why Australia retained the Classification Board as an entity separate from ACMA. Indeed, ACMA continues to refer internet content to the Classification Board.³⁰ There is something to be said for retaining the expertise developed over the years by boutique agencies regulating content in discrete mediums for different purposes.

For example, the Broadcasting Standards Authority has developed considerable expertise in regulating “the transmission of programmes . . . for reception by the public by means of broadcasting receiving apparatus” which excludes the transmission of programmes “made on the demand of a particular person for reception only by that person.”³¹ It is the transmission of a programme to the public that is of concern. The Classification Office on the other hand, is concerned with the classification of content regardless of medium, not what is done with it.³² The purpose of the regulation and the nature of the medium arguably warrant the application of different criteria. In Decision 2004-207, the BSA decided that the download of a podcast of a television programme was not a broadcast because it was made on the demand of a particular person for reception only by that person. The podcast, as a digital file, falls squarely within the definition of a “publication” in the Films, Videos, and Publications Classification Act. Similarly, content downloaded on demand to a person’s mobile phone is not a broadcast. As a digital file, it is a publication within the Films, Videos, and Publications Classification Act, and its transmission is regulated by the Telecommunications Carriers’ Forum’s *Code of Practice for Provision of Content via Mobile Phones*. In Australia, the Classification Board, rather than ACMA, has just asserted jurisdiction to classify iPhone video game applications.³³ Perceived gaps are filled, and perceived inconsistencies in the application of standards disappear, when the purpose of the regulation is considered and the expertise of existing agencies applied.

³⁰ Under Schedule 7 of the Broadcasting Services Act 1992, the Classification Board classifies online content on application from ACMA and other applicants. ([http://www.classification.gov.au/www/cob/rwpattach.nsf/VAP/\(3A6790B96C927794AF1031D9395C5C20\)-CBOARDAR+0809.pdf/\\$file/CBOARDAR+0809.pdf](http://www.classification.gov.au/www/cob/rwpattach.nsf/VAP/(3A6790B96C927794AF1031D9395C5C20)-CBOARDAR+0809.pdf/$file/CBOARDAR+0809.pdf)).

³¹ Broadcasting Act 1989, section 2.

³² There are exceptions, one of which is that section 4 of the Broadcasting Act 1989 requires broadcasters to obtain the consent of the Chief Censor before broadcasting banned films or the uncut versions of cut films.

³³ <http://www.smartcompany.com.au/legal/20091022-iphone-apps-should-be-subject-to-classification-board-says.html>.

Any argument for the creation of a single multi-media regulatory agency on the basis that many agencies create inconsistencies must be weighed against the dangers of concentrating power to regulate content across mediums in one agency, especially if that agency licences, adjudicates breaches and enforces its own decisions. There is no doubt that the appearance of inconsistencies can be reduced by creating a single multi-media regulatory agency. The appearance of inconsistencies can also be managed and minimised by standardising the criteria applied by agencies that regulate similar content for similar purposes, and by making relatively small amendments to existing legislation to clarify the jurisdiction existing authorities already have over digital content. This would also be consistent with the findings of the *Viewing Violence* research cited above. Parliament, and the New Zealand public, will eventually have to decide which is preferable.


Conclusion

Rating and classification decisions are just decisions. They are invisible until a label signifies them. Labels, and the information displayed on labels, are the front of house, the visible sign the public looks to see that the system works and that they are informed. If there is nothing in the front of the house, the back of the house might as well not exist. Labels are therefore the most important part of the system. The need for a label on anything that is supplied or exhibited to the public is what triggers the rating and classification system. The less visible are indigenous New Zealand labels, the less familiarity the public will have with them, the more likely the public will look to foreign labels for guidance on the appropriateness of content, the more likely the industry will fill the void with foreign labels, or no labels at all. It is imperative that an indigenous New Zealand labelling system is seen everywhere the public wants guidance or reassurance, and that the system is trusted for its integrity. If a comprehensive indigenous labelling system is allowed to fall by the wayside because of disputes over jurisdiction, and uncertainty over the application of the law to digital formats, then New Zealand will have lost a rating and classification system that reflects its culture, is understood, and most importantly, is trusted. The acid test for any law reform proposal should be, does this protect the public good from injury, are members of the public provided with the best available information about ratings and content across the range of mediums available at any single time, and as a result, will members of the public trust the classification system because it is reliable, consistent and comprehensive?

There is goodwill in the industry. Many in the industry want to use New Zealand labels for content offered to New Zealanders, regardless of whether or not the law strictly requires it or needs updating. This should be encouraged. There is a danger that this goodwill will be squandered by delays in reforming the law and arguments over jurisdiction. It will be the public who will suffer if this goodwill is lost.

The Classification Office is well-placed to respond to the challenges of regulating content delivered by a variety of mediums now and in the future. It has developed a breadth of expertise over the years classifying content in a broad range of mediums, writing decisions, disseminating information to the public, exercising its exclusive jurisdiction to determine

the character of publications which are the subject of civil or criminal proceedings, directing the issue of labels, consenting to broadcasts, approving film posters and slicks, and receiving inquiries and complaints. I am immensely proud to work with staff who maintain discretion and balance even though they are regularly exposed to a variety of information ranging from how to manufacture drugs and bombs, to the identities of people alleged to be involved in criminal activity. Their dedication, intelligence and professional manner have produced a body of precedent that has balanced the freedom of expression with our mandate to protect the public good from injury. They have made New Zealand a better place.

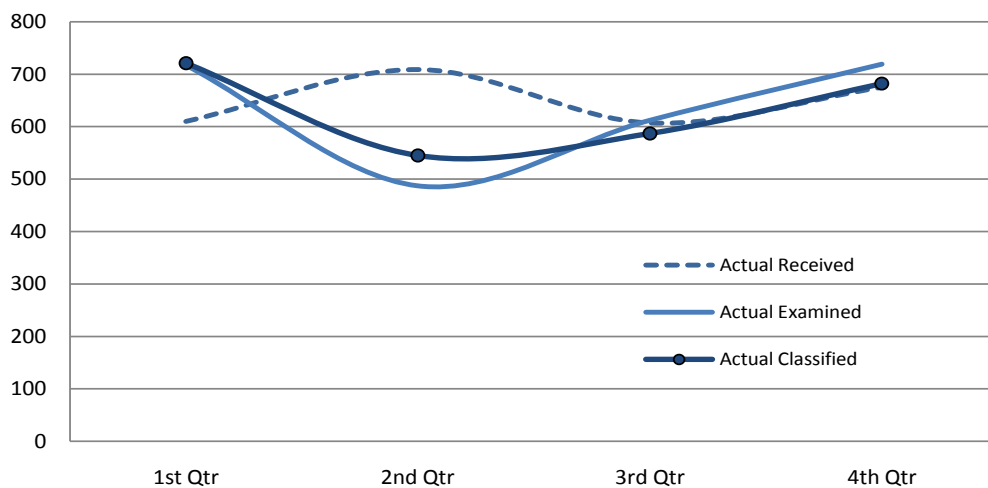
A handwritten signature in black ink, appearing to read 'W K Hastings', written in a cursive style.

W K Hastings
Chief Censor

Classification Statistics

The following charts and tables show historical trends, and information about the different types of publications that arrived at the Office for classification, the classifications they received, and their subject matter. Although this information forms no part of the audited Statement of Objectives and Service Performance, it does help to flesh out the nature of what the Office achieved this year, and to that end, assists readers in assessing the extent to which public resources and statutory powers have been used prudently, legally and in the public interest.

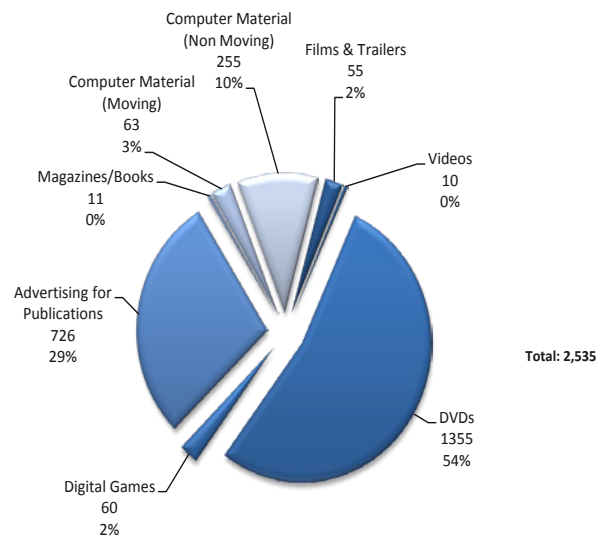
Chart 10: Publications Received, Examined and Classified



The Computer Moving Image File **Bumfights III: The Felony Footage** is classified as *Objectionable*.

The feature originates from the USA and is a collection of scenes in which homeless and other disadvantaged people are physically assaulted, enticed with offers of money and drugs to fight each other, made to perform stunts that put themselves and others at risk of injury, and who are otherwise ridiculed by the film makers. The publication is classified as objectionable due to the manner in which it presents degrading, violent, and criminal activity. The publication tends to glamorise and trivialise true life violence and crime purely as a means of entertainment. In doing so it also exploits a number of homeless people living in the Untied States by presenting them as spectacles for the purpose of entertainment. Depictions of street fighting, assaults and drug taking are edited together with little or no context. There is also the probability that glamorising this type of material will encourage others to emulate it in order to achieve notoriety or financial gain.

Chart 11: Publications Registered by Medium



A classification of “objectionable” places a limit on the right to the freedom of expression as set out in s14 of the New Zealand Bill of Rights Act 1990. However, given the high extent and degree to which the DVD presents criminal acts, violence and degrading behaviour as a means of entertainment, the classification is a reasonable limit prescribed by law that can be demonstrably justified in a free and democratic society.

Table 1: Submissions by Channel & Medium 2008/09

	Films & Film Trailers	Videos	DVDs	Digital Games	Magazines/Books	Advertising for Publications	Computer Material (Moving)	Computer Material (Non-Moving)	Other Material	Total
Section 12 Labelling Body	54	11	1,345	66	N/A	689	0	0	0	2,165
Section 13(1)(a) Comptroller of Customs	0	0	2	0	7	0	4	27	0	40
Section 13(1)(ab) Police	0	0	0	0	1	0	16	150	0	167
Section 13(1)(b) Secretary for Internal Affairs	0	0	0	2	3	0	0	8	0	13
Section 13(1)(c) (Commercial & Public)	0	0	0	0	21	0	2	5	0	28
Section 13(3) Chief Censor's Own Motion	1	0	1	0	0	0	0	0	0	2
Section 29(1) Courts	0	0	7	0	0	0	63	104	0	174
Section 41(3) Courts	0	0	0	0	0	0	0	0	0	0
Section 42 Reconsiderations	0	0	0	0	0	0	0	0	0	0
Regulation 27 Film Poster Approvals	N/A	N/A	N/A	N/A	N/A	12	N/A	N/A	N/A	12
Total	55	11	1,355	68	32	701	85	294	0	2,601

Table 2: Comparison of Publications Received 2000-2009

	2008/09	2007/08	2006/07	2005/06	2004/05	2003/04	2002/03	2001/02	2000/01	1999/00
Section 12 Labelling Body	2,165	2,577	2,423	2,471	1,994	1,789	1,747	1,796	1,678	1,519
Section 13(1)(a) Comptroller of Customs	40	80	79	22	36	43	31	25	26	103
Section 13(1)(ab) Police	167	180	44	11	16	N/A	N/A	N/A	N/A	N/A
Section 13(1)(b) Secretary for Internal Affairs	13	21	38	27	46	73	40	89	27	40
Section 13(1)(c) (Commercial & Public)	28	2	4	14	6	0	4	41	5	16
Section 13(3) Chief Censor's Own Motion	2	3	1	5	2	0	1	0	1	12
Section 29(1) Courts	174	80	115	143	143	164	191	20	165	278
Section 41(3) Courts	0	0	0	0	0	0	4	0	0	5
Section 42 Reconsiderations	0	0	0	0	12	1	0	7	6	1
Regulation 27 Film Poster Approvals	12	31	17	10	1	3	9	12	23	9
Total	2,601	2,974	2,721	2,703	2,256	2,073	2,027	1,990	1,931	1,983

Table 3: Comparison of Publications Examined 2000-2009

	2008/09	2007/08	2006/07	2005/06	2004/05	2003/04	2002/03	2001/02	2000/01	1999/00
Section 12 Labelling Body	2,165	2,455	2,442	2,416	1,898	1,812	1,732	1,793	1,665	1,435
Section 13(1)(a) Comptroller of Customs	36	84	76	27	28	57	18	28	53	72
Section 13(1)(ab) Police	129	145	44	20	7	N/A	N/A	N/A	N/A	N/A
Section 13(1)(b) Secretary for Internal Affairs	20	14	41	31	36	107	23	82	27	73
Section 13(1)(c) (Commercial & Public)	10	2	4	14	5	0	4	41	6	15
Section 13(3) Chief Censor's Own Motion	1	3	5	1	2	1	0	0	10	3
Section 29(1) Courts	161	78	134	124	147	192	160	14	165	558
Section 41(3) Courts	0	0	0	0	0	0	4	0	1	4
Section 42 Reconsiderations	0	0	0	0	12	1	3	4	6	2
Regulation 27 Film Poster Approvals	13	31	16	10	1	3	11	10	23	10
Total	2,535	2,812	2,762	2,643	2,136	2,173	1,955	1,972	1,956	2,172

Table 4: Comparison of Classifications Registered 2000-2009

	2008/09	2007/08	2006/07	2005/06	2004/05	2003/04	2002/03	2001/02	2000/01	1999/00
Section 12 Labelling Body	2,189	2,462	2,451	2,378	1,905	1,822	1,715	1,798	1,663	1,453
Section 13(1)(a) Comptroller of Customs	36	84	74	27	28	57	16	31	66	57
Section 13(1)(ab) Police	109	146	41	20	7	N/A	N/A	N/A	N/A	N/A
Section 13(1)(b) Secretary for Internal Affairs	20	17	41	27	51	90	29	78	31	105
Section 13(1)(c) (Commercial & Public)	10	2	7	11	5	2	3	40	13	26
Section 13(3) Chief Censor's Own Motion	0	3	5	1	2	1	0	1	8	3
Section 29(1) Courts	158	78	127	124	157	189	138	4	163	544
Section 41(3) Courts	0	0	0	0	0	0	4	0	4	1
Section 42 Reconsiderations	0	0	0	0	13	0	3	4	6	3
Regulation 27 Film Poster Approvals	13	29	16	10	1	3	9	9	22	10
Total	2,535	2,821	2,762	2,598	2,169	2,164	1,917	1,965	1,976	2,202

Chart 12: Moving Image Advertising Material

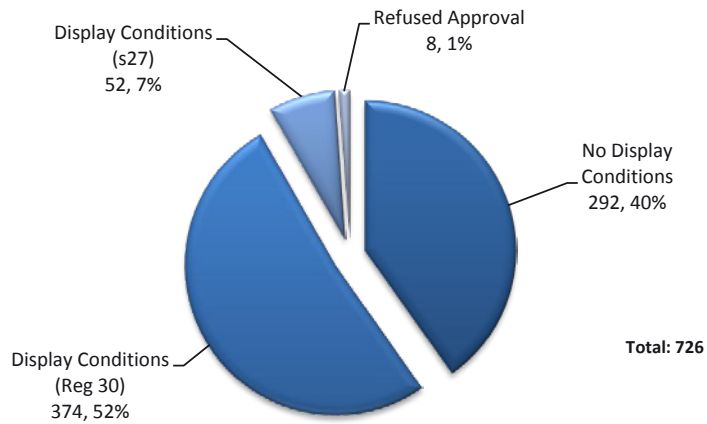
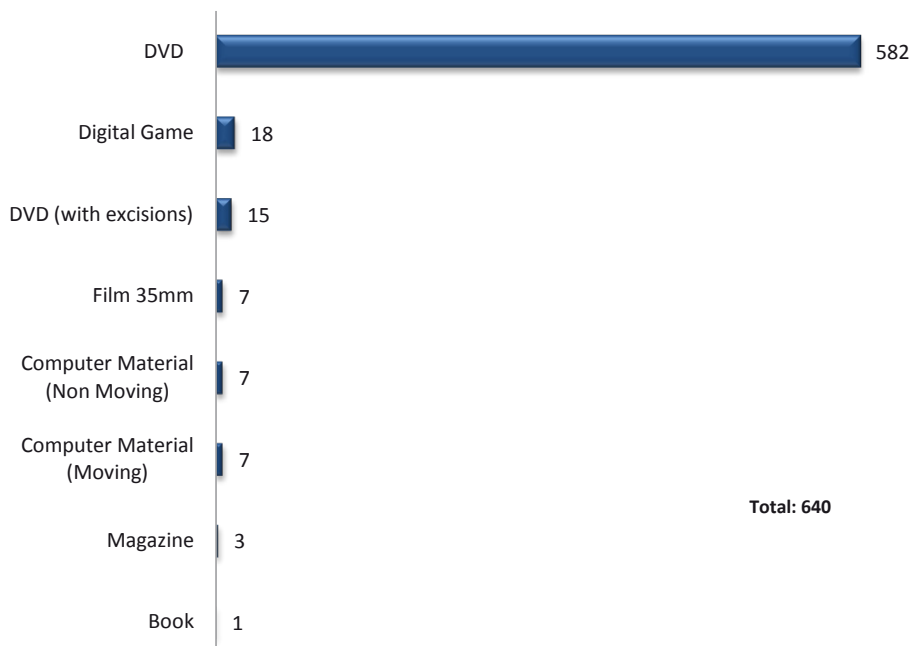


Chart 13: Publications Classified as R18 by Medium

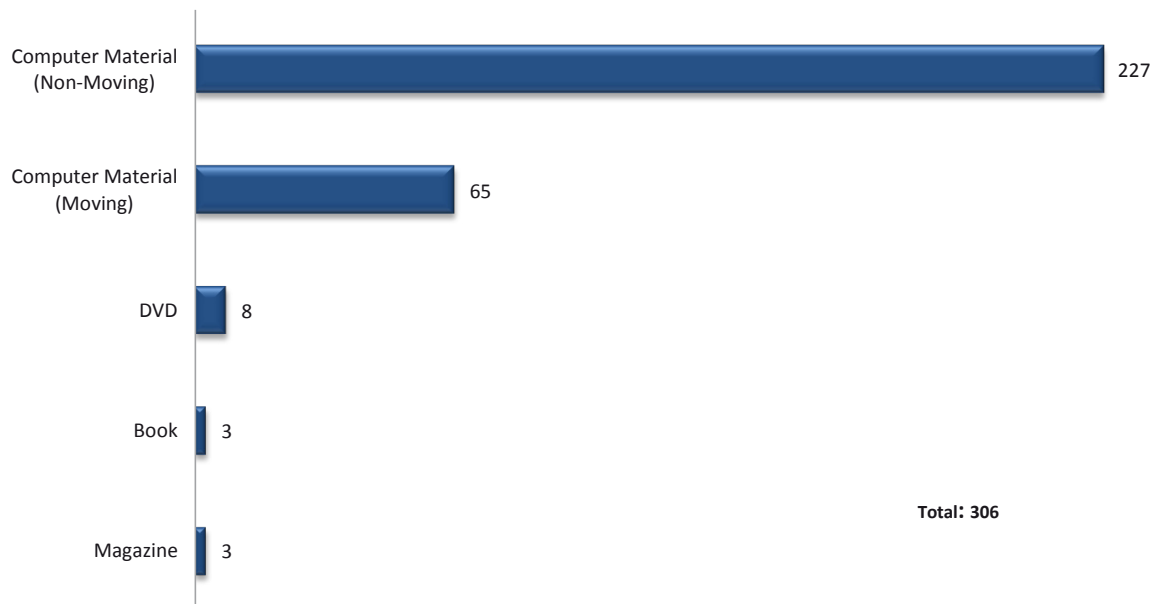


The Book **Secrets Of A Back-Alley ID Man** is classified as *Objectionable*.

The decision is based on the extent and degree to which, and the manner in which, the book promotes and encourages criminal activity.

The publication promotes and encourages the forgery of identity documents which is an offence under the Crimes Act. It does this by giving detailed, practical and easy to follow instructions that would enable readers to construct their own counterfeit identity documents. Furthermore this information is presented in a manner which trivialises criminal offending. The publication does not deviate from its instructional tenor at any point. There is no substantive engagement with the legitimate debate which exists around privacy issues.

Chart 14: Publications Classified as Objectionable by Medium



Having considered the Bill of Rights throughout the Office's application of the statutory criteria to this publication, and having identified the injuries to the public good that the availability of this publication is likely to create, it is apparent that injury to the public good is likely to result from the publication being made available to anyone, regardless of age. Although a classification of "objectionable" violates freedom of expression, it is the only classification that sufficiently reduces the risk presented by the availability of the publication.

The Computer Moving Image File **The Peaceful Pill: Single Shot** is classified as Objectionable. The Chief Censor gave leave under s13(1)(c) to Right To Life New Zealand Inc. to submit this publication.

This is a short, apparently instructional, film about a group of elderly people who illegally manufacture pentobarbital, a controlled chemical substance intended to be used as a “peaceful” suicide pill. Its intended audience of elderly and terminally ill people are likely to gain the impression that it is possible for an untrained person to successfully manufacture pentobarbital using the improvised technique shown. Apart from references to safety measures said to be needed as a precaution against unnamed risks, the film has a reassuring tone, contains no adverse commentary and never mentions criminality. The people in the film do not appear to experience any difficulty in manufacturing the drug. The film promotes and encourages criminal acts under s3(3)(d) by making them seem a completely normal and positive part of everyday life.

While the film may not be intended to be instructional it could easily be mistaken as such. If taken as instructional, the publication is ultimately deceptive because it is unlikely pentobarbital can be manufactured by following the film’s instructions alone. The film does not mention that it leaves out significant steps in the synthesis, nor does it address safety measures adequately. It is precisely this lack of information that is the source of the injury to the public good that is likely to be caused by this film’s availability. The film’s failure to acknowledge explicitly that it omits steps vital to the manufacturing process, and the manner in which its comforting and reassuring tone downplays safety issues, disguises the dangerousness of the activities depicted. This substantially increases the likelihood of accidents occurring if anyone in the film’s intended audience tried to replicate the manufacture of pentobarbital said to be depicted in the film, placing him or her at considerable risk of serious personal injury or death. The film’s intended audience of elderly and terminally ill people may be particularly motivated to obtain information from this film and to follow its instructions. Any use of the film as a basis on which to manufacture a drug said to induce a peaceful death is more likely to cause a violent injury or death by accident.

Having considered the Bill of Rights throughout the Office’s application of the statutory criteria to this publication, and having identified the likely harms that the availability of this publication is likely to create, it is apparent that injury to the public good is likely to result from the publication being made available to anyone, regardless of age. Although a classification of “objectionable” violates the freedom of expression, it is the only classification that sufficiently reduces the risk presented by the availability of this publication.

The DVD **Filthy’s Teenage Delinquents** is classified as Objectionable.

The DVD is classified as objectionable because it tends to promote and support the exploitation of young persons for sexual purposes.

The main component of the DVD is a feature that explicitly depicts sexual activity. The feature strongly emphasises the youth of the women participants to the point that they take on the characteristics of teenagers such as in their facial expressions, behaviour and inexperience in sexual matters. The feature seems designed to advertise young teenagers as being sexually desirable and enthusiastic for adult forms of sexual activity, and the predatory behaviour of the men colours the overall tone.

The pervasiveness of the problematic material is such that excisions are considered impractical and a classification of objectionable is necessary in order to avoid the risk of injury to the public good.

The Classification Office has considered the effects of the Bill of Rights on the application of the classification criteria elsewhere in these reasons. The classification of this publication interferes with the freedom of expression, but this is an outcome that is consistent with Parliament’s intention that publications falling under s3(2) are deemed to be objectionable. The classification is also a reasonable limitation on the freedom of expression that reflects the concern of a free and democratic society to limit the availability of publications that tend to promote and support the exploitation of young persons for sexual purposes.

The Blu-ray **Slumdog Millionaire** is classified as *Objectionable* except if the availability of the publication is restricted to persons who have attained the age of 16 years.

The film **Slumdog Millionaire** was submitted on DVD prior to cinematic release in January 2009 and classified “*Objectionable* except if the availability of the publication is restricted to persons who have attained the age of 13 years”, with the descriptive note “*Contains violence and offensive language*”. This decision was registered on 20 January 2009. The version of the feature now submitted on a Blu-ray disc has a shorter running time but appears to be identical to the earlier version.

However, the Indian short feature **Manjha**, also on the Blu-ray disc, deals with sexual abuse in a manner that gives this component a high impact. The story of the abuse of a small girl is harrowing and her brother’s revenge, resulting in the death of the abuser, is shocking. An already high level of emotional intensity is heightened by the use of black-and-white film stock. The extent of highly offensive language, used aggressively and in conjunction with dialogue explicitly referring to violent sexual acts, is a major component of the dominant effect of the short film. This material is likely to shock and distress children and younger teenagers. The explicit nature of many of the references may also have a harmful effect on the development of sexual behaviour and attitudes in young people who do not have the experience or maturity to deal with such material.

Because of the inclusion of the short film **Manjha** the original classification of **Slumdog Millionaire** requires alteration.

A restriction to persons who have attained the age of 16 years is necessary to avoid injury to the public good. The descriptive note is also changed to reflect the presence of the short feature **Manjha** as one of the additional components on the Blu-ray disc.

The book **Ecodefense: A Field Guide To Monkeywrenching Third Edition** is classified as *Objectionable* except if the availability of the publication is restricted to persons who have attained the age of 18 years.

The main issues considered are the extent and degree to which, and the manner in which, the book promotes or encourages criminal activity.

The book is produced for adults with a specific interest in environmental politics and activism, and presents technically detailed instructions on how to perform targeted acts of vandalism and sabotage. The overall tone of the book is influenced by various factors: the dated nature of some of the information (this edition was printed in 1993), the specificity of much of the information to an American context, and the thoughtful manner in which the instructions are presented. This thoughtful manner includes a consistent ideological framework which is laid out at the beginning of the book, which emphasises causing no harm. The book's political viewpoint is also of interest to New Zealand readers and as a vehicle for this the book has a legitimate purpose. The Office does not consider that the book's provision of information about criminal activity outweighs the valid expression of political views, nor does it contribute in any significant way to the book's dominant effect in the hands of adults.

The book does not aim for a young audience, and is obviously intended for mature readers who are already familiar with political activism. Nevertheless, the book's subject matter is capable of attracting young readers. Adults must be presumed to know what behaviours the law criminalises and must take responsibility for the consequences of their actions. This presumption generally does not apply to persons under the age of 18 years, who are unlikely to possess the maturity of judgement to appreciate that the book's discussion of criminal activity is in the context of environmental advocacy and wider political expression. The book is therefore likely to injure the public good if it is made available to people under the age of 18 years, who may read it as encouraging experimentation with criminal activity.

In the hands of adults, who are presumed to know the law and who must accept responsibility for their actions, the political and ideological aspects of the book are primary. Its promotion or encouragement of criminal acts must be read in this context. The material in question is not presented in a manner that would injure the public good if the availability of the book is restricted to adults.

Restricting the availability of **Ecodefense: A Field Guide To Monkeywrenching Third Edition** to adults limits the rights of New Zealanders to access reading material of their choice but, in this instance, represents the minimum interference with the freedom of expression that is consistent with preventing injury to the public good.

**Statements of the
OFFICE OF
FILM AND LITERATURE
CLASSIFICATION
TE TARI WHAKARŌPŪ TUKUATA,
TUHITUHINGA**

for the year ended 30 June 2009

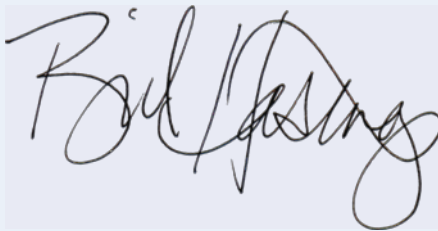
STATEMENT OF RESPONSIBILITY

For the Year Ended 30 June 2009

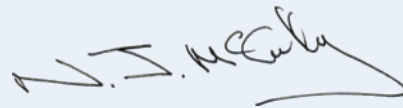
As Chairperson and Deputy Chairperson of the Board of the Office of Film and Literature Classification, we accept responsibility for the preparation of these financial statements and Statement of Service Performance. The financial statements and the Statement of Service Performance have been prepared in accordance with generally accepted accounting practice and include the information required by the Crown Entities Act 2004.

As part of the development of the Classification Office's financial management systems, effective internal controls have been implemented and maintained to provide reasonable assurance as to the integrity and reliability of financial reporting and non-financial reporting. These internal controls are subject to independent random periodic audits to ensure compliance and effectiveness.

We are satisfied that, for the reporting period, the financial statements fairly reflect the financial position and operations of the Classification Office and the Statement of Service Performance fairly reflects the Classification Office's achievements against performance targets as set out in the Statement of Objectives.



W K Hastings
Chairperson



N J McCully
Deputy Chairperson

On behalf of the Board of the Office of Film and Literature Classification

30 October 2009

AUDIT REPORT



TO THE READERS OF THE OFFICE OF FILM AND LITERATURE CLASSIFICATION'S FINANCIAL STATEMENTS AND STATEMENT OF SERVICE PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2009

The Auditor-General is the auditor of the Office of Film and Literature Classification (the Classification Office). The Auditor-General has appointed me, Ajay Sharma, using the staff and resources of Audit New Zealand, to carry out the audit. The audit covers the financial statements and statement of service performance included in the annual report of the Classification Office for the year ended 30 June 2009.

Unqualified opinion

In our opinion:

The financial statements of the Classification Office on pages 64 to 85:

- comply with generally accepted accounting practice in New Zealand; and
- fairly reflect:
 - the Classification Office's financial position as at 30 June 2009; and
 - the results of its operations and cash flows for the year ended on that date.

The Statement of Service Performance of the Classification Office on pages 48 to 63:

- complies with generally accepted accounting practice in New Zealand; and
- fairly reflects for each class of outputs:
 - its standards of delivery performance achieved, as compared with the forecast standards outlined in the statement of forecast service performance adopted at the start of the financial year; and
 - its actual revenue earned and output expenses incurred, as compared with the forecast revenues and output expenses outlined in the statement of forecast service performance adopted at the start of the financial year.

The audit was completed on 30 October 2009, and is the date at which our opinion is expressed.

The basis of our opinion is explained below. In addition, we outline the responsibilities of the Board and the Auditor, and explain our independence.

Basis of opinion

We carried out the audit in accordance with the Auditor-General's Auditing Standards, which incorporate the New Zealand Auditing Standards.

We planned and performed the audit to obtain all the information and explanations we considered necessary in order to obtain reasonable assurance that the financial statements and statement of service performance did not have material misstatements, whether caused by fraud or error.

Material misstatements are differences or omissions of amounts and disclosures that would affect a reader's overall understanding of the financial statements and statement of service performance. If we had found material misstatements that were not corrected, we would have referred to them in our opinion.

The audit involved performing procedures to test the information presented in the financial statements and statement of service performance. We assessed the results of those procedures in forming our opinion.

Audit procedures generally include:

- determining whether significant financial and management controls are working and can be relied on to produce complete and accurate data;
- verifying samples of transactions and account balances;
- performing analyses to identify anomalies in the reported data;
- reviewing significant estimates and judgements made by the Board;
- confirming year-end balances;
- determining whether accounting policies are appropriate and consistently applied; and
- determining whether all financial statement and statement of service performance disclosures are adequate.

We did not examine every transaction, nor do we guarantee complete accuracy of the financial statements and statement of service performance.

We evaluated the overall adequacy of the presentation of information in the financial statements and statement of service performance. We obtained all the information and explanations we required to support our opinion above.

Responsibilities of the Board and the Auditor

The Board is responsible for preparing the financial statements and statement of service performance in accordance with generally accepted accounting practice in New Zealand. The financial statements must fairly reflect the financial position of the Classification Office as at 30 June 2009 and the results of its operations and cash flows for the year ended on that date. The statement of service performance must fairly reflect, for each class of outputs, the Classification Office's standards of delivery performance achieved and revenue earned and expenses incurred, as compared with the forecast standards, revenue and expenses adopted at the start of the financial year. The Board's responsibilities arise from the Crown Entities Act 2004 and the Films, Videos and Publications Classifications Act 1993.

We are responsible for expressing an independent opinion on the financial statements and statement of service performance and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001 and the Crown Entities Act 2004.

Independence

When carrying out the audit we followed the independence requirements of the Auditor-General, which incorporate the independence requirements of the Institute of Chartered Accountants of New Zealand.

Other than the audit, we have no relationship with or interests in the Classification Office.



Ajay Sharma
Audit New Zealand
On behalf of the Auditor-General
Wellington, New Zealand

Matters Relating to the Electronic Presentation of the Audited Financial Statements and Statement of Service Performance

This audit report relates to the financial statements and statement of service performance of the Office of Film and Literature Classification (Classification Office) for the year ended 30 June 2009 included on the Classification Office's website. The Classification Office's Board is responsible for the maintenance and integrity of the Classification Office's website. We have not been engaged to report on the integrity of the Classification Office's website. We accept no responsibility for any changes that may have occurred to the financial statements and statement of service performance since they were initially presented on the website.

The audit report refers only to the financial statements and statement of service performance named above. It does not provide an opinion on any other information which may have been hyperlinked to or from the financial statements and statement of service performance. If readers of this report are concerned with the inherent risks arising from electronic data communication they should refer to the published hard copy of the audited financial statements and statement of service performance as well as the related audit report dated 30 October 2009 to confirm the information included in the audited financial statements and statement of service performance presented on this website.

Legislation in New Zealand governing the preparation and dissemination of financial information may differ from legislation in other jurisdictions.

STATEMENT OF OBJECTIVES AND SERVICE PERFORMANCE

For the Year Ended 30 June 2009

Classification Services

(Report against Statement of Intent 2008-2011)

Objectives

Publications are appropriately classified to prevent injury to the public good.
The public has confidence in the classification system.

Activities

1. Production of Classification Decisions.
2. Maintain the Register of Classification Decisions.
3. Production of List of Decisions.

Resources Employed

		Projected	Actual
		30 June 2009	30 June 2009
		\$	\$
Revenue	Crown Revenue	1,258,221	1,258,221
	Third Party Revenue	1,536,882	1,284,089
	Other (including Interest)	152,400	115,487
	Total Revenue	2,947,503	2,657,797
Expenditure	Total Expenditure	2,961,264	2,955,457
Net Surplus/(Deficit)		(13,761)	(297,660)

Activity 1 - Classification Services - Production of Classification Decisions

(Statement of Intent 2008-2011, Performance Criteria 1.1 - 1.3)

Service Performance

Quantity	Notes	Minimum	Maximum	Actual	
	1	Estimate	Estimate		
Publications Received		2,464	3,141	2,601	
1.1 Publications Examined		2,464	3,141	2,535	Achieved
1.1 Publications Classified		2,464	3,141	2,535	Achieved

Additional Quantity Information - Exemptions/Waivers/Consents etc.

	2	Actual
Alternative Methods of Affixing Labels		3
Broadcast Consents		14
Certificate of Existing Decisions		3
Consultations Held (s21)		1

Quality		Projected	Actual	
1.2 Classification decisions to set standard	3	95%	99%	Achieved
1.3 Number of classification decisions of the Office over-turned on judicial review		Nil	Nil	Achieved

Note 1: Quantity

The actuals and the estimates vary because estimates are based on historic submissions patterns, and the Crown and the Labelling Body have automatic rights of submission.

Note 2: Additional Quantity Information

Estimates are not provided for some activities including decisions to grant or decline leave, waivers and broadcast consents when such an estimate may illegally fetter the discretionary decision-making authority of the Chief Censor.

Note 3: Quality of Classification Decisions

The quality measure target of 95% requires that classification decisions and directions are consistent with the standards set down in the *Classification Office Practice Manual*. The size of the sample consists of at least 15% of the total number of publications classified, with this figure comprising at least 15% from each submission channel employed for the period in question. The target was exceeded with a 99% result for this financial year.

(Statement of Intent 2008-2011, Performance Criteria 1.4 - 1.12)

Timeliness (July 08 - December 08)

Notes	Target		No. of Pubs	Actual Achieved			
	Days	%		No.	%		
Queue Time							
1.4	s12 & s42	20	90%	1,054	804	76%	Not Achieved
1.9	s13	25	70%	99	29	29%	Not Achieved
Processing Time							
1.5	Standard s12 & s42	10	90%	1,101	1,052	96%	Achieved
1.7	6 Complex s12 & s42	15	70%	12	9	75%	Achieved
1.1	5 s13	30	70%	99	97	98%	Achieved
Total Processing Time							
1.6	Standard s12 & s42	30	90%	1,099	1,014	92%	Achieved
1.8	Complex s12 & s42	35	70%	12	10	84%	Achieved
1.11	5 s13	55	70%	99	50	51%	Not Achieved
1.12	6 s29		100%				Achieved

Note 4: Timeliness Measures

Timeliness measures are set in the Statement of Intent 2008-2011. Two timeliness tables are presented. One table provides the first six months of timeliness results under the old CLOSET database and the second sets out results from the new CDA.

Note 5: Targets Not Achieved

- Queue time for s12 publications was not achieved due to uneven submission activity with large volumes submitted over short periods.
- Queue time for s13 was not achieved due to the large volume of publications submitted by the Police. Publications submitted by the Courts took priority over all other Crown work further delaying queue times.

Note 6: s29 Performance

s29 submissions do not have a compliance measure. One hundred percent of s29 submissions are classified within the time mutually agreed between the Court and the Classification Office.

*(Statement of Intent 2008-2011, Performance Criteria 1.4 - 1.12)***Timeliness** (January 09 - June 09)

	<i>Notes</i>	Target		No. of Pubs	Actual Achieved			
		Days	%		No.	%		
Queue Time								
1.4	5 s12 & s42	20	90%	1,119	726	65%	Not Achieved	
1.9	5 s13	25	70%	95	16	17%	Not Achieved	
Processing Time								
1.5	Standard s12 & s42	10	90%	1,071	1,039	97%	Achieved	
1.7	Complex s12 & s42	15	70%	6	5	83%	Achieved	
1.1	s13	30	70%	75	74	99%	Achieved	
Total Processing Time								
1.6	Standard s12 & s42	30	90%	1,071	971	91%	Achieved	
1.8	Complex s12 & s42	35	70%	6	6	100%	Achieved	
1.11	5 s13	55	70%	75	23	31%	Not Achieved	
1.12	6 s29		100%				Achieved	

Note 7: Definitions

- The distinction between 'standard' and 'complex' publications is based on the requirement to consider excisions. Complex publications are those publications for which excisions have been recommended.
- Performance on Queue Timeliness is calculated on publications examined during the reporting period.
- Performance on Processing Timeliness and Total Processing Timeliness are calculated on publications registered during the reporting period.
- Publications which achieve the Total Processing Timeliness target may have failed on either Queue or Processing timeliness.
- s12 and s42 publications requiring assistance under s21 of the Act are excluded from the timeliness measures.
- A large representative sample of publications is used to determine these measures.

CLASSIFICATION ANALYSIS

Performance by Section of the Act against Estimates

Section 12 - Labelling Body	Minimum Estimate	Maximum Estimate	Actual
Publications Received	2,220	2,718	2,165
Publications Examined	2,220	2,718	2,165
Publications Classified	2,220	2,718	2,189
Variance Between Actual and Estimates			
<i>Received</i>	(2%)	(20%)	
<i>Examined</i>	(2%)	(20%)	
<i>Classified</i>	(1%)	(19%)	

Regulation 27 - Film Poster Approvals

Publications Received	6	12	12
Publications Examined	6	12	13
Publications Classified	6	12	13
Variance Between Actual and Estimates			
<i>Received</i>	100%	0%	
<i>Examined</i>	117%	8%	
<i>Classified</i>	117%	8%	

Section 13(1)(a) - Comptroller of Customs

Publications Received	66	123	40
Publications Examined	66	123	36
Publications Classified	66	123	36
Variance Between Actual and Estimates			
<i>Received</i>	(39%)	(67%)	
<i>Examined</i>	(45%)	(71%)	
<i>Classified</i>	(45%)	(71%)	

Section 13(1)(ab) - New Zealand Police

Publications Received	54	84	167
Publications Examined	54	84	129
Publications Classified	54	84	109
Variance Between Actual and Estimates			
<i>Received</i>	209%	99%	
<i>Examined</i>	139%	54%	
<i>Classified</i>	102%	30%	

Section 13(1)(b) - Secretary for Internal Affairs	Minimum Estimate	Maximum Estimate	Actual
Publications Received	26	66	13
Publications Examined	26	66	20
Publications Classified	26	66	20
Variance Between Actual and Estimates			
<i>Received</i>	(34%)	(73%)	
<i>Examined</i>	(56%)	(82%)	
<i>Classified</i>	(47%)	(78%)	

Section 13(1)(c) - Chief Censor Grants Leave (Commercial & Public)

Publications Received	2	6	28
Publications Examined	2	6	10
Publications Classified	2	6	10
Variance Between Actual and Estimates			
<i>Received</i>	1300%	367%	
<i>Examined</i>	400%	67%	
<i>Classified</i>	400%	67%	

Section 13(3) - Chief Censor's Own Motion

Publications Received	0	0	2
Publications Examined	0	0	1
Publications Classified	0	0	0
Variance Between Actual and Estimates			
<i>Received</i>	-	-	
<i>Examined</i>	-	-	
<i>Classified</i>	-	-	

Section 29(1) - Courts

Publications Received	90	132	174
Publications Examined	90	132	161
Publications Classified	90	132	158
Variance Between Actual and Estimates			
<i>Received</i>	93%	32%	
<i>Examined</i>	79%	22%	
<i>Classified</i>	76%	20%	

Section 41(3) - Courts	Minimum Estimate	Maximum Estimate	Actual
Publications Received	0	0	0
Publications Examined	0	0	0
Publications Classified	0	0	0
Variance Between Actual and Estimates			
<i>Received</i>	-	-	
<i>Examined</i>	-	-	
<i>Classified</i>	-	-	

Sections 42(1),(2) & (3) Reconsiderations	Minimum Estimate	Maximum Estimate	Actual
Publications Received	0	0	0
Publications Examined	0	0	0
Publications Classified	0	0	0
Variance Between Actual and Estimates			
<i>Received</i>	-	-	
<i>Examined</i>	-	-	
<i>Classified</i>	-	-	

SUMMARY

Publications Received For the Year	2,464	3,141	2,601
Publications Examined	2,464	3,141	2,535
Publications Classified	2,464	3,141	2,535
Variance Between Actual and Estimates			
<i>Received</i>	6%	(17%)	
<i>Examined</i>	3%	(19%)	
<i>Classified</i>	3%	(19%)	

Note 1:

The figures in the estimated range have been rounded to the nearest whole number.

Note 2:

Publications Received may be Examined and/or Classified in the next year.

Publications Examined and/or Classified may have been Received in the previous year.

Activity 2 - Classification Services - Maintain the Register of Classification Decisions

(Statement of Intent 2008-2011, Performance Criteria 2.1 - 2.2)

Service Performance

Quantity	Notes 1	Minimum Estimate	Maximum Estimate	Actual	
Classification and Film Poster Decisions Registered		2,464	3,141	2,535	Achieved

Quality		Target	Actual	
Percentage of Classification Decisions made in each month which are registered in the same month	2,3	100%	99.88%	Not Achieved

Note 1:

The actuals and the estimates vary because the Crown and the Labelling Body have automatic rights of submission. Estimates are based on historic submission patterns.

Note 2: Register of Classification Decisions

Under s39 of the Act, the Chief Censor is required to set up and maintain a *Register of Classification Decisions*. The Register must contain:

- the classification given to a publication by the Classification Office; and
- where that publication is examined by the Film and Literature Board of Review, the classification given to the publication by the Board; and
- such other particulars as may be prescribed.

Note 3: Quality of Registrations

100% of decisions classified in each month are required to be registered within that month. During the 2008/09 year two publications were registered in the month following the month in which they were classified.

Activity 3 - Classification Services - Production of List of Decisions

(Statement of Intent 2008-2011, Performance Criteria 3.1 - 3.5)

Service Performance

Quantity	Notes	Target	Actual	
3.1 List of Decisions published	1	12	12	Achieved
Quality	2	Target	Actual	
3.2 Percentage of Corrigenda which are issued on all entries into the List of Decisions		<2.5%	0.17%	Achieved
3.3 Percentage of entries in the List of Decisions which are in alphabetical order		100%	100%	Achieved
3.4 Percentage of Classification Decisions of the Office and of the Film & Literature Board of Review which are entered into the List of Decisions for the month in which they are classified	3	100%	99.88%	Not Achieved
Timeliness		Target	Actual	
3.5 List of Decisions published by the 10th working day of the month	4	100%	100%	Achieved

Note 1: List of Decisions

Under s40 of the Act, the Classification Office is required to produce a monthly list of classification decisions, which includes approvals of associated advertising material.

Note 2: Quality standard for List of Decisions

The List of Decisions consists of all publications that, during the month immediately preceding the month in which the list is produced, have been classified by the Classification Office or the Film and Literature Board of Review (when directed by the Board under s55(1)(e)(ii) of the Act).

Each List of Decisions produced in accordance with s40(1) of the Act shall:

- be in alphabetical order; and
- contain particulars of the publications listed as prescribed.

Corrigenda are to be issued on fewer than 2.5% of all entries in the List of Decisions. This quality measure is calculated using the number of decisions registered, which excludes associated advertising material.

Note 3: Quality Measures

Two processing errors, one breach of timeliness and the other a production error, meant that these two publications were not included in the *List of Decisions* in the month they were classified. Failure to process these documents within the agreed timeframe saw the required compliance rate of 100% reduced to 99.88%.

Note 4: Timeliness

The List of Decisions is required to be:

- published by the 10th working day of the month following the month in which the decisions have been made; and
- is required to be open to inspection by the public during ordinary office hours.

STATEMENT OF OBJECTIVES AND SERVICE PERFORMANCE

For the Year Ended 30 June 2009

Information Services

(Report against Statement of Intent 2008-2011)

Objectives

Publications are appropriately classified to prevent injury to the public good.

The public has confidence in the classification system.

The public is well educated and informed about the classification system.

Activities

4. Dissemination of Information.
5. Complaints and Inquiries.
6. Research Activities.

Resources Employed

		Projected	Actual
		30 June 2009	30 June 2009
		\$	\$
Revenue	Crown Revenue	701,779	701,779
	Third Party Revenue	0	0
	Other (including Interest)	0	0
	Total Revenue	701,779	701,779
Expenditure	Total Expenditure	701,779	741,081
Net Surplus/(Deficit)		0	(39,302)

Activity 4 - Dissemination of Information

(Statement of Intent 2008-2011, Performance Criteria 4.1 - 4.2)

Service Performance

Quantity and Quality	Notes	Targets	Actual
4.1.1 Estimated number of visits to the Classification Office website	1	350-450 (average per day)	130* Not Achieved
4.1.2 Significant errors identified on the website are corrected within 1 working day		90%	100% Achieved
4.2.1 Estimated number of presentations given by members of the Office		24-48	54 Achieved
4.2.2 Percentage of client satisfaction surveys which assess the presentations as 'very good' or better		80%	100% Achieved

Note 1: Visits to Classification website

Since setting the target range, the Classification Office changed the method used to track visits to the website. The new Google Analytics web monitoring system was implemented on 1 September 2008 replacing the former log reader. Log readers had been found to be indiscriminating about what they counted as hits or visits to sites.

Growing www.censorship.govt.nz

- During the year, additions to the website included new pages on Internet Classification, Electronic Games, FAQs From Students, and Information for Parents.
- The new public classification decisions database (CDAX), accessed from the home page of our site, went live in late January and a Help Page was added to assist users with the features of this database.
- The website performed well in a State Services Commission accessibility audit, and recommendations for improving accessibility were adopted.

Website stability

A report in May from a member of the public that the site search engine was not working resulted in resolution of the problem within 48 hours. A simple fix was required. Otherwise, no significant errors or outages were reported.

Speaking Engagements

The Chief Censor and other staff made presentations to 54 groups during the year – to a total of between 4,000-5,000 attendees. The groups presented to included high school students, tertiary students, the New Zealand Police, New Zealand Customs Service, librarians, and Lions, Rotary and Probus groups. Topics covered included the classification process and the

role of the Office, New Zealand's censorship legislation, film censorship and media violence. Feedback on presentations was positive, with 100% of returned client satisfaction surveys assessing the presentations as 'Very Good' or better.

Censor for a Day

Two Censor for a Day events were held. The first took place in Tauranga, Rotorua, Hamilton and Wellington where the film *American Teen* was evaluated against the Classification Act criteria by 295 students from 16 schools. The second event in Term 1 of 2009 was held at 5 locations in Wellington and Auckland where the film *Defiance* was studied by 596 students from 29 schools. Feedback from students and teachers illustrates the value of a programme which supports and informs the media studies of high school students and also allows the Classification Office to hear the views of the young New Zealanders.

Comments from teachers included:

A fantastic experience for students and teachers alike. Excellent insight into the censorship process. Extremely valuable to Media Studies.

- Glendowie College, Auckland

Engaging day – students enjoyed putting into practise theory. Interesting to watch them think critically about issues they usually tolerate in their own environment.

- Otumoetai College, Tauranga

[My students] were impressed by the questions and looked at films differently, not just as entertainment, but critically analysing their worth.

- Te Kura Kaupapa Maori O Mangere, Auckland

Media Interviews

The Chief Censor gave 54 media interviews on various aspects of the censorship system during the year.

Issues of interest to the media included:

- the banning of the *Cradle of Filth* t-shirt
- the Classification Office's *2008 Annual Report*
- the joint OFLC and BSA research report *Viewing Violence*
- the Chief Censor's press release "Where are the G movies?"
- violence in video games.

Activity 5 - Complaints and Inquiries

(Statement of Intent 2008-2011, Performance Criteria 5.1 - 5.5)

Service Performance

Quantity and Timeliness	Notes	Targets	Actual	
5.1 Estimated number of Inquiries received	1	1,000 - 1,500	956	Not Achieved
5.2 Estimated number of Complaints received		40 - 80	60	Achieved
5.3 Estimated number of Classification Information requests received	2	200 - 300	136	Not Achieved
5.4 Number of reports to the Minister regarding the quality of information provided by the Office		4	4	Achieved
Reports will incorporate analysis of trends in Complaints and Endorsements received by the Office			100%	Achieved
5.5 Percentage of written responses to Inquiries, Complaints, Endorsements and Classification Requests made within 20 working days of receipt		95%	100%	Achieved

Note 1: Inquiries

This is a demand driven activity.

Note 2: Classification Information requests

While the number of inquiries is below the expected range the inquiries related to 348 titles.

The Classification Office received 1,270 Inquiries, Classification inquiries, Comments, Complaints and Endorsements during the year – an average of 5 per working day. The groups most frequently in contact with the Classification Office were, in descending order:

- members of the public
- film and games industry members
- libraries
- high school students and teachers
- media
- the Film and Video Labelling Body
- tertiary students and educational institutions
- the Inspectors of Publications at the Department of Internal Affairs
- NZ Police
- film-makers
- television broadcasters
- government organisations
- NZ Customs.

Activity 6 - Research Activities

(Statement of Intent 2008-2011, Performance Criteria 6.1 - 6.3)

Service Performance

Quantity and Timeliness	Targets	Actual
6.1 Quantity Number of Research Projects	1	2 Achieved
6.2 Timeliness Supplier engaged to provide research serviced	By 30 March 2009	Achieved
6.3 Draft report on research supplied	By 30 June 2009	Achieved

1. Literature Review

The purpose of the research

The Classification Office commissioned Victoria University researchers to conduct a review of the literature on audio-visual representations of sexual violence. The report was peer-reviewed by Nicola Gavey, Associate Professor at the Department of Psychology at Auckland University.

The research objectives were:

- to be updated on the recent literature about issues of sexual violence in audio-visual representations
- identification of important literature relevant to New Zealand's censorship regime
- a critical assessment of the methodological approaches and conclusions of the literature reviewed.

Indications for future research

The researchers concluded that more research is needed about people who participate in online sexually violent fantasy activity. The internet blurs the distinction between representation and performance, raising new questions about media effects and requiring innovative research methods. Any future research should investigate aspects of sexually violent representations available on new media such as mobile phones and digital games.

Another area where research is lacking is representations of sexual violence against homosexual men. Finally, future research should investigate whether sexual violence is prevalent in texts introduced into New Zealand by diasporic groups and whether there is a large New Zealand audience for non-Western sexually violent material, such as some Japanese manga.

2. Focus Group Research

The purpose of the research

Focus groups were conducted in May 2009 with the assistance of research agency UMR Research who recruited members of the public aged 18 and over to participate. One group comprised 12 people who played action video games, and another group was made up of 12 non-game players. Both groups contained a mix of ages, males and females, and parents and non-parents. The purpose of the research was to help the Classification Office better understand adult audience reception to a violent video game.

The video game chosen was *X-Men Origins: Wolverine*, classified 'R18 contains violence' by the Classification Office in June 2009.

Indications for future research

While the law clearly sets out the criteria for classifying a publication such as a video game, it is important for the Classification Office to ensure that its classification decisions are in keeping with the standards and expectations of New Zealand society.

Particular concerns arising from participants' discussions included risks of desensitisation and increased aggression from viewing violence in video games, as well as potential injuries from mimicry of violent behaviours. While participants felt that violent video games were likely to have a negative impact on some people, most agreed that if the game was restricted to older people the likelihood of injury to the public good would be reduced. They suggested that younger people lacked the life experience and skills to fully understand and contextualise what they saw in games, whereas the older one got the more those skills developed.

The study demonstrated that people who play games, and to a lesser extent people who don't, are concerned that the public good can be injured by exposing young people to video games. It confirmed a perception that injury arises not only from a game's violent content, but also from two characteristics inherent in the nature of the medium conveying that content, namely interactivity and repetition over time. For the Classification Office, the study affirmed its emphasis on 'the impact of the medium' in s3(4) in its application of the Films, Videos, and Publications Classification Act 1993 to violent video games submitted for classification.

On the other hand, the study also showed the extent to which participants' discourse around video games has been shaped by popular media, which in turn is based on or influenced by media effects theory. Little mention was made of the many ways young people and adults interact with games or of the variety of often critical ways they negotiate the messages of games. Although media effects theory is directly aligned with the Classification Office's obligation to consider 'the impact of the medium' when classifying games, it is not without its critics.

The study indicated that future research needs to explore the extent to which the public's perception of causal links between game playing and various social ills is moderated or

even undermined by how players actually respond to and negotiate their way through the content and characteristics of the medium conveying the content. This could lead to the Classification Office giving more accurate weight to other criteria in s3(4) of the Act, such as 'dominant effect', 'merit', 'purpose' and 'other relevant circumstances', when it classifies video games.

Library Services

The Classification Office's library collection was reclassified to the Dewey decimal system.

Other

Public Records Act 2005 Compliance Project

A draft policy was created as a basis for the Classification Office's programme to institute recordkeeping practices that comply with the Public Records Act 2005 and the mandatory standards issued by Archives New Zealand.

Decisions Database Historical Records Project

With the implementation of the new classification decisions database (CDA), the Information Unit began a project to input the decisions of the Chief Censor of Films into the database. These decisions span the period 1916 to 1994. It is anticipated that record capture could take up to five years but the result will be a comprehensive publicly available record of all classification decisions of the present Office of Film and Literature Classification and its predecessor agencies, the Indecent Publications Tribunal, Video Recordings Authority, and Chief Censor of Films.

STATEMENT OF FINANCIAL PERFORMANCE

For The Year Ended 30 June 2009

		Budget 2009	Actual 2009	Actual 2008
REVENUE	<i>Notes</i>	\$	\$	\$
Crown Revenue	1	1,960,000	1,960,000	1,960,000
Labelling Body Revenue		1,534,838	1,283,311	1,438,394
Other Fee Revenue		2,044	778	156
		3,496,882	3,244,089	3,398,550
OTHER REVENUE				
Interest Revenue		150,000	113,928	223,069
Sundry Revenue		2,400	1,248	1,416
Gain on sale of fixed assets		0	311	1,411
		152,400	115,487	225,896
TOTAL REVENUE		3,649,282	3,359,576	3,624,446
LESS EXPENSES				
Audit Fee		20,580	22,665	21,585
Audit Fee (IFRS)		0	0	4,500
Depreciation & Amortisation	7,8	318,000	235,242	134,421
Insurance		15,380	22,095	14,760
Lease & Rental Costs		375,042	371,348	381,891
Other Operating Costs		672,945	793,620	633,295
Personnel Expenditure	14	2,261,096	2,251,568	2,183,792
Loss on Sale of Assets		0	0	3,216
		3,663,043	3,696,538	3,377,460
NET OPERATING SURPLUS (DEFICIT)		(13,761)	(336,962)	246,986

Note: The accompanying accounting policies and notes form an integral part of, and should be read in conjunction with, these financial statements.

STATEMENT OF CHANGES IN EQUITY

For The Year Ended 30 June 2009

	Budget 2009 \$	Actual 2009 \$	Actual 2008 \$
TAXPAYERS' FUNDS AS AT 1 JULY	3,341,902	3,700,562	3,453,576
Net Surplus	(13,761)	(336,962)	246,986
Total recognised revenues & expenses for the year	(13,761)	(336,962)	246,986
TAXPAYERS' FUNDS AS AT 30 JUNE	3,328,141	3,363,600	3,700,562

Note: The accompanying accounting policies and notes form an integral part of, and should be read in conjunction with, these financial statements.

STATEMENT OF FINANCIAL POSITION

As at 30 June 2009

		Budget 2009 \$	Actual 2009 \$	Actual 2008 \$
CURRENT ASSETS				
	<i>Notes</i>			
Cash & Cash Equivalents	2	48,412	1,751,946	735,183
Debtors & Other Receivables	3	227,331	160,261	270,276
Investments	4	2,024,142	0	1,750,000
Total Current Assets		2,349,885	1,912,207	2,755,459
CURRENT LIABILITIES				
Creditors & Other Payables	5	182,832	173,070	323,242
Employee Entitlements	6	196,706	282,881	235,727
Total Current Liabilities		379,538	455,951	558,969
WORKING CAPITAL		1,970,347	1,456,256	2,196,490
NON CURRENT ASSETS				
Property, Plant & Equipment	7	987,794	295,972	327,132
Intangible Assets	8	370,000	1,611,372	1,176,940
Total Non Current Assets		1,357,794	1,907,344	1,504,072
NET ASSETS		3,328,141	3,363,600	3,700,562

Represented By:

TAXPAYERS' FUNDS

Taxpayers' Funds	3,264,550	3,300,009	3,636,971
Revaluation Reserve	63,591	63,591	63,591
TOTAL TAXPAYERS' FUNDS	3,328,141	3,363,600	3,700,562

Note: The accompanying accounting policies and notes form an integral part of, and should be read in conjunction with, these financial statements.

STATEMENT OF CASH FLOWS

For The Year Ended 30 June 2009

		Budget 2009	Actual 2009	Actual 2008
CASH FLOWS FROM OPERATING ACTIVITIES	<i>Notes</i>	\$	\$	\$
<i>Cash was provided from:</i>				
Crown Revenue		1,960,000	1,960,000	1,960,000
Receipts from Customers		1,515,411	1,325,625	1,540,932
Interest Received		150,000	152,740	247,574
Net Goods & Services Tax Received		3,709	33,386	0
		3,629,120	3,471,751	3,748,506
<i>Cash was disbursed to:</i>				
Net Goods & Services Tax Paid		0	0	57,136
Payments to Suppliers & Employees		3,345,398	3,566,785	3,491,754
		3,345,398	3,566,785	3,548,890
Net Cash Flows from Operating Activities	16	283,722	(95,034)	199,616
CASH FLOWS FROM INVESTING ACTIVITIES				
<i>Cash was provided from:</i>				
Sale of Property, Plant and Equipment		0	311	2,918
Sale of Intangibles		0	0	0
Sale of Investments		0	1,750,000	1,200,000
		0	1,750,311	1,202,918
<i>Cash was disbursed to:</i>				
Purchase of Property, Plant and Equipment		373,500	84,808	120,543
Purchase of Intangibles		0	553,706	844,875
Acquisition of Investments		0	0	0
		373,500	638,514	965,418
Net Cash Flows from Investing Activities		(373,500)	1,111,797	237,500
CASH FLOWS FROM FINANCING ACTIVITIES				
Net Cash Flows from Financing Activities		0	0	0
Net Increase/(Decrease) in Cash Held		(89,778)	1,016,763	437,116
Add Cash at Beginning of Year		2,162,332	735,183	298,067
Balance at 30 June	2	2,072,554	1,751,946	735,183

Note: The accompanying accounting policies and notes form an integral part of, and should be read in conjunction with, these financial statements.

STATEMENT OF ACCOUNTING POLICIES

For the Year Ended 30 June 2009

Reporting Entity

The Office of Film and Literature Classification is a Crown Entity formed under the Films, Videos, and Publications Classification Act 1993. These statements have been prepared in accordance with the Crown Entities Act 2004.

The Office of Film and Literature Classification's primary objective is to provide public services to the NZ public, as opposed to making a financial return.

Accordingly, the Classification Office has designated itself as a public benefit entity for the purposes of the New Zealand Equivalents to International Financial Reporting Standards.

The financial statements for the Classification Office are for the year ended 30 June 2009 and were approved on 30 October 2009.

Key Judgements and Assumptions

The preparation of financial statements in conformity with NZ IFRS requires judgements, estimates and assumptions that affect the application of policies and reported amounts of assets and liabilities, income and expenses. The estimates and associated assumptions are based on historical experience and various other factors that are believed to be reasonable under the circumstances. Actual results may differ from these estimates.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised if the revision affects only that period, or in the period of the revisions and future periods.

Basis of Preparation

Statement of compliance

The financial statements of the Classification Office have been prepared in accordance with the requirements of the Crown Entities Act 2004, which includes the requirement to comply with New Zealand generally accepted accounting practice ("NZ GAAP"). The financial statements also comply with NZ IFRS.

Measurement base

The financial statements have been prepared on the historical cost basis, except where modified by the revaluation of certain items of property, plant and equipment.

Functional and presentation currency

The financial statements are presented in New Zealand dollars (\$), which is the Classification Office's functional currency. All financial information is presented in New Zealand dollars.

Standards, amendments and interpretations issued that are not yet effective and have not been early adopted

Standards, amendments and interpretations issued but not yet effective that have not been early adopted, and which are relevant to the Classification Office include:

- NZ IAS 1 *Presentation of Financial Statements (revised 2007)* replaces NZ IAS 1 *Presentation of Financial Statements (issued 2004)* and is effective for reporting periods beginning on or after 1 January 2009. The revised standard requires information in financial statements to be aggregated on the basis of shared characteristics and introduces a statement of comprehensive income. The statement of comprehensive income will enable readers to analyse changes in equity resulting from non-owner changes separately from transactions with the Crown in its capacity as “owner”. The revised standard gives the Classification Office the option of presenting items of income and expense and components of other comprehensive income either in a single statement of comprehensive income with subtotals, or in two separate statements (a separate income statement followed by a statement of comprehensive income). The Classification Office intends to adopt this standard for the year ending 30 June 2010, and is yet to decide whether it will prepare a single statement of comprehensive income or a separate income statement followed by a statement of comprehensive income.

Significant Accounting Policies

The accounting policies set out below have been applied consistently to all periods presented in these financial statements.

Revenue

Revenue is measured at the fair value of consideration received or receivable.

Crown revenue

The Classification Office is primarily funded through revenue received from the Crown, which is restricted in its use for the purpose of the Classification Office meeting its objectives as specified in the Statement of Intent.

Revenue from the Crown is recognised as revenue when earned and is reported in the financial period to which it relates.

Interest

Interest income is recognised using the effective interest method. Interest income on an impaired financial asset is recognised using the original effective interest rate.

Other revenue

Labelling Body income, other fee income and sundry income are recognised when earned and is reported in the financial period to which it relates.

Expenses*Operating leases*

Leases that do not transfer substantially all the risks and rewards incidental to ownership of an asset to the Classification Office are classified as operating leases. Lease payments under an operating lease are recognised as an expense on a straight-line basis over the term of the lease in the statement of financial performance.

Finance leases

The Classification Office has no finance leases.

Cash and cash equivalents

Cash and cash equivalents comprise cash balances and call deposits, with a maturity of less than 3 months.

Debtors and other receivables

Debtors and other receivables are initially measured at fair value and subsequently measured at amortised cost using the effective interest method, less any provision for impairment.

Impairment of a receivable is established when there is objective evidence that the Classification Office will not be able to collect amounts due according to the original terms of the receivable. Significant financial difficulties of the debtor, probability that the debtor will enter into bankruptcy, and default in payments are considered indicators that the debtor is impaired. The amount of the impairment is the difference between the asset's carrying amount and the present value of estimated future cash flows, discounted using the original effective interest rate. The carrying amount of the asset is reduced through the use of an allowance account, and the amount of the loss is recognised in the statement of financial performance. When the receivable is uncollectible, it is written off against the allowance account for receivables.

Property, plant and equipment

Items of property, plant and equipment are shown at cost less any accumulated depreciation and impairment losses.

Where parts of an item of property, plant and equipment have different useful lives, they are accounted for as separate items (major components) of property, plant and equipment.

Additions

The cost of an item of property, plant and equipment is recognised as an asset only when it is probable that future economic benefits or service potential associated with the item will flow to the Classification Office and the cost of the item can be measured reliably.

Where an asset is acquired at no cost, or for a nominal cost, it is recognised at fair value when control over the asset is obtained.

Disposals

Gains and losses on disposal are determined by comparing the proceeds with the carrying amount of the asset. Gains and losses on disposals are included in the statement of financial performance.

Depreciation

Depreciation is provided on a straight-line basis on all property, plant and equipment at the rates that will write off the cost of the assets to their estimated residual values over their useful lives. The useful lives and associated depreciation rates of major classes of assets have been estimated as follows:

Computer Hardware	3 - 4 years
Fit Out	8 - 9 years
Furniture and Fittings	10 years
Office Equipment	4 - 5 years
Other Equipment	4 - 5 years
Technical Equipment	4 - 5 years
Vehicles	5 - 6 years

The residual value and useful life of an asset is reviewed, and adjusted if applicable, at each financial year end.

Intangible assets***Software acquisition and development***

Acquired computer software licenses are capitalised on the basis of the costs incurred to acquire and bring in to use the specific software.

Costs that are directly associated with the development of software for internal use by the Classification Office are recognised as an intangible asset. Direct costs include the software development, employee costs and an appropriate portion of relevant overheads.

Staff training costs are recognised as an expense when incurred.

Costs associated with maintaining computer software are recognised as an expense when incurred.

Costs associated with the development and maintenance of the Classification Office's website are recognised as an expense when incurred.

Intangible assets are reviewed annually for impairment.

Amortisation

The carrying value of an intangible asset with a finite life is amortised on a straight-line basis over its useful life. Amortisation begins when the asset is available for use and ceases at the date that the asset is derecognised. The amortisation charge for each period is recognised in the statement of financial performance.

The useful lives and associated amortisation rates of intangible assets have been estimated as follows:

Software	3 – 4 years
Classification database	7 years

Impairment

Property, plant and equipment that have a finite useful life are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and its value in use.

Value in use is the depreciated replacement cost of an asset where the future economic benefits or service potential of the asset are not primarily dependent on the asset's ability to generate net cash inflows and where the Classification Office would, if deprived of the asset, replace its remaining future economic benefits or service potential.

If an asset's carrying amount exceeds its recoverable amount, the asset is impaired and the carrying amount is written down to the recoverable amount. For revalued assets the impairment loss is recognised against the revaluation reserve for that class of asset. Where that results in a debit balance in revaluation reserve, the balance is recognised in the statement of financial performance.

For assets not carried at a revalued amount the reversal of an impairment loss is recognised in the statement of financial performance.

Creditors and other payables

Creditors and other payables are initially measured at fair value and subsequently measured at amortised cost using the effective interest method.

Employee benefits

Entitlements to salary and wages and annual leave are recognised when they accrue to employees. This includes the estimated liability for salaries and wages and annual leave as a result of services rendered by employees up to the balance date at current rates of pay.

Entitlements to sick leave are calculated based on an actuarial approach to assess the level of leave that is expected to be taken over and above the annual entitlement, and calculated using current pay rates at the time of creation.

Superannuation Schemes

Defined contribution schemes

Obligations for contributions to Kiwisaver are accounted for as defined contribution superannuation scheme and is recognised as an expense in the statement of comprehensive income as incurred.

Provisions

The Classification Office recognises a provision for future expenditure of uncertain amount or timing when there is a present obligation (either legal or constructive) as a result of a past event, it is probable that expenditures will be required to settle the obligation and a reliable estimate can be made of the amount of the obligation.

Provisions are measured at the present value of the expenditures expected to be required to settle the obligation using a pre-tax discount rate that reflects current market assessments of the time value of money and the risks specific to the obligation.

Goods and services tax

All items in the financial statements are presented exclusive of GST, except for receivables and payables, which are presented on a GST inclusive basis. Where GST is not recoverable as input tax then it is recognised as part of the related asset or expense.

The net amount of GST recoverable from, or payable to, the Inland Revenue Department (IRD) is included as part of receivables or payables in the statement of financial position.

The net GST paid to, or received from the IRD, including the GST relating to investing and financing activities, is classified as an operating cash flow in the statement of cash flows.

Commitments and contingencies are disclosed exclusive of GST.

Income tax

The Classification Office is exempt from the payment of income tax in terms of the First Schedule to the Films, Videos, and Publications Classification Act 1993.

Budget figures

The budget figures are derived from the Statement of Intent as approved by the Board at the beginning of the financial year. The budget figures have been prepared in accordance with NZ IFRS, using accounting policies that are consistent with those adopted by the Classification Office for the preparation of the financial statements.

Cost of service statements

The Resources Employed statements, as reported in the Statement of Objectives and Service Performance, report the net cost of services for the outputs of the Classification Office and are represented by the costs of providing the output less all the revenue that can be allocated to these activities.

Cost Allocation: The Classification Office has derived the net cost of service for each significant activity of the Office using the cost allocation system outlined below.

Definition of Terms: Direct costs are those costs which are directly attributable to output classes. Indirect costs are all other costs that cannot be identified with output classes in an economically feasible manner. These costs include financial and administration costs, property costs, depreciation and computing costs.

Method of Assigning Costs to Output Classes: Direct costs that can be readily identified with a single output are assigned directly to that output class. For example, personnel costs are charged on the basis of actual time incurred.

Indirect costs are allocated to output classes based on a mix of salary costs, floor space, staff numbers and time spent on each output.

Commitments

Future payments are disclosed as commitments at the point when a contractual obligation arises, to the extent that they are equally unperformed obligations. Commitments relating to employment contracts are not disclosed.

Contingent Liabilities

Contingent liabilities are disclosed at the point when the contingency is evident.

Critical accounting estimates and assumptions

In preparing these financial statements the Classification Office has made estimates and assumptions concerning the future. These estimates and assumptions may differ from the subsequent actual results. Estimates and assumptions are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances. The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year are discussed below:

Property, plant and equipment useful lives and residual value

At each balance date the Classification Office reviews the useful lives and residual values of its property, plant and equipment. Assessing the appropriateness of useful life and residual value estimates of property, plant and equipment requires the Classification Office to

consider a number of factors such as the physical condition of the asset, expected period of use of the asset by the Classification Office, and expected disposal proceeds from the future sale of the asset.

An incorrect estimate of the useful life or residual value will impact the depreciation expense recognised in the statement of financial performance, and the carrying amount of the asset in the statement of financial position. The Classification Office minimises the risk of this estimation uncertainty by:

- Physical inspection of assets;
- Asset replacement programs;
- Review of second hand market prices for similar assets; and
- Analysis of prior asset sales.

The Classification Office has not made significant changes to past assumptions concerning useful lives and residual values. The carrying amounts of property, plant and equipment are disclosed in note 7.

Critical judgements in applying the Classification Office's accounting policies

Management has exercised the following critical judgements in applying the Classification Office's accounting policies for the period ended 30 June 2009:

Lease classifications

Determining whether a lease agreement is a finance lease or an operating lease requires judgement as to whether the agreement transfers substantially all the risks and rewards of ownership to the Classification Office.

Judgement is required on various aspects that include, but are not limited to, the fair value of the leased asset, the economic life of the leased asset, whether or not to include renewal options in the lease term and determining an appropriate discount rate to calculate the present value of the minimum lease payments. Classification as a finance lease means the asset is recognised in the statement of financial position as property, plant and equipment, whereas for an operating lease no such asset is recognised.

The Classification Office has exercised its judgement on the appropriate classification of equipment leases.

NOTES TO THE FINANCIAL STATEMENTS

For the Year Ended 30 June 2009

	2009	2008
	\$	\$
Note 1: Reconciliation of Crown Revenue Received		
Funds received from Vote: Internal Affairs regarding the Estimates of Appropriations 2008/09 (net GST)	1,960,000	1,960,000
Crown Revenue Per Accounts as at 30 June	1,960,000	1,960,000

The Classification Office has been provided with funding from the Crown for the specific purposes of the Classification Office as set out in its founding legislation and the scope of the relevant government appropriations. Apart from these general restrictions, there are no unfulfilled conditions or contingencies attached to government funding (2008 nil).

Note 2: Cash & Cash Equivalents

Petty Cash	300	300
Operating Accounts	177,504	710,741
Call Deposits < 90 days	1,574,142	24,142
	1,751,946	735,183

Note 3: Debtors & Other Receivables

Interest Receivable	0	38,812
Sundry Debtors	3,528	343
Prepayments	35,945	64,522
Trade Debtors	120,788	135,684
GST	0	30,915
	160,261	270,276
Less Provision for Doubtful Debts	0	0
	160,261	270,276

The carrying value of receivables approximates their fair value. As at 30 June 2009 all receivables have been assessed for impairment.

Note 4: Investments

Term deposits > 90 days	0	1,750,000
	0	1,750,000

	2009	2008
Note 5: Creditors & Other Payables	\$	\$
Trade Creditors	57,936	183,660
Receipts in Advance	92,333	106,488
Sundry Creditors	20,330	28,594
GST	2,471	0
Accrual for Audit Fee (IFRS)	0	4,500
	173,070	323,242

Creditors and other payables are non-interest bearing and are normally settled on 30 days terms, therefore the carrying value of creditors and other payables approximates their fair value.

Note 6: Employee Entitlements

Accrued Annual Leave	202,860	168,514
Provision for Staff Accrued Personnel Costs	73,698	57,982
Long Service Leave	5,219	7,131
Sick Leave Provision	1,104	2,100
	282,881	235,727

The value of long service leave is calculated on employee's current hourly rate and the number of days employees have available.

Long service leave is available to employees based on their individual employee contracts.

Note 7: Property, Plant and Equipment

Movements for each class of property, plant and equipment are as follows:

Cost or Valuation	Computer Hardware \$	Fit Out \$	Furniture & Fittings \$	Office Equipment \$	Other Equipment \$	Technical Equipment \$	Vehicles \$	Total \$
Balance at 1 July 2007	608,014	831,972	338,095	184,221	9,218	182,470	22,256	2,176,246
Additions	101,953	6,642	3,063	5,797	1,500	1,588	0	120,543
Revaluation Increase	0	0	0	0	0	0	0	0
Disposals	(10,904)	0	0	(1,152)	(3,786)	(3,595)	0	(19,437)
Balance at 30 June 2008	699,063	838,614	341,158	188,866	6,932	180,463	22,256	2,277,352
Balance at 1 July 2008	699,063	838,614	341,158	188,866	6,932	180,463	22,256	2,277,352
Additions	70,694	0	1,262	2,976	345	9,462	0	84,739
Revaluation Increase	0	0	0	0	0	0	0	0
Disposals	(20,240)	0	(600)	(66,466)	0	0	0	(87,306)
Balance at 30 June 2009	749,517	838,614	341,820	125,376	7,277	189,925	22,256	2,274,785
Accumulated Depreciation and Impairment Losses	Computer Hardware \$	Fit Out \$	Furniture & Fittings \$	Office Equipment \$	Other Equipment \$	Technical Equipment \$	Vehicles \$	Total \$
Balance at 1 July 2007	523,596	704,822	270,812	172,543	4,527	163,936	11,684	1,851,920
Depreciation Expense	59,679	23,651	10,559	4,453	1,882	8,784	4,006	113,014
Eliminate on Disposal	(10,505)	0	0	(911)	(1,212)	(2,086)	0	(14,714)
Eliminate on Revaluation	0	0	0	0	0	0	0	0
Impairment Losses	0	0	0	0	0	0	0	0
Reversal of Impairment Losses	0	0	0	0	0	0	0	0
Balance at 30 June 2008	572,770	728,473	281,371	176,085	5,197	170,634	15,690	1,950,220
Balance at 1 July 2008	572,770	728,473	281,371	176,085	5,197	170,634	15,690	327,132
Depreciation Expense	67,545	20,571	10,101	4,356	703	8,616	4,006	1,950,220
Eliminate on Disposal	(20,240)	0	(600)	(66,466)	0	0	0	115,898
Eliminate on Revaluation	0	0	0	0	0	0	0	(87,306)
Impairment Losses	0	0	0	0	0	0	0	0
Reversal of Impairment Losses	0	0	0	0	0	0	0	0
Balance at 30 June 2009	620,075	749,044	290,871	113,975	5,901	179,251	19,696	1,978,813
Carrying Amounts								
At 1 July 2007	84,418	127,150	67,283	11,678	4,691	18,534	10,572	324,326
At 30 June and 1 July 2008	126,293	110,141	59,787	12,781	1,735	9,829	6,566	327,132
At 30 June 2009	129,442	89,570	50,949	11,401	1,376	10,674	2,560	295,972

Note 8: Intangible Assets

Movements for each class of intangible assets are as follows:

Cost or Valuation	Computer Software	Work In Progress	Total
	\$	\$	\$
Balance at 1 July 2007	872,680	308,071	1,180,751
Additions	0	844,875	844,875
Revaluation Increase	0	0	0
Disposals	0	0	0
Balance at 30 June 2008	872,680	1,152,946	2,025,626
Balance at 1 July 2008	872,680	1,152,946	2,025,626
Additions	1,706,722	545,316	2,252,038
Revaluation Increase	0	0	0
Disposals	0	(1,698,262)	(1,698,262)
Balance at 30 June 2009	2,579,402	0	2,579,402
Accumulated Amortisation and Impairment Losses	Computer Software	Work In Progress	Total
	\$	\$	\$
Balance at 1 July 2007	827,279	0	827,279
Amortisation Expense	21,407	0	21,407
Eliminate on Disposal	0	0	0
Eliminate on Revaluation	0	0	0
Impairment Losses	0	0	0
Reversal of Impairment Losses	0	0	0
Balance at 30 June 2008	848,686	0	848,686
Balance at 1 July 2008	848,686	0	848,686
Amortisation Expense	119,344	0	119,344
Eliminate on Disposal	0	0	0
Eliminate on Revaluation	0	0	0
Impairment Losses	0	0	0
Reversal of Impairment Losses	0	0	0
Balance at 30 June 2009	968,030	0	968,030
Carrying Amounts			
At 1 July 2007	45,401	308,071	353,472
At 30 June and 1 July 2008	23,994	1,152,946	1,176,940
At 30 June 2009	1,611,372	0	1,611,372

Note 9: Financial Instruments

The Office of Film and Literature Classification is party to financial instrument arrangements as part of its everyday operations. These include instruments such as bank balances, investments, accounts receivable, and trade creditors.

Credit Risk

Credit risk is the risk that a third party will default on its obligations to the Classification Office and cause the Classification Office to incur a loss. In the normal course of its business, the Classification Office incurs credit risk from trade debtors, and transactions with financial institutions.

The Classification Office has no significant concentrations of credit risk. No collateral or security is held or given to support financial instruments. The Classification Office places funds on short-term deposit with New Zealand registered banks which have satisfactory credit ratings.

Fair Value

The fair value of all financial instruments is equivalent to the carrying amount disclosed in the Statement of Financial Position.

Currency Risk and Interest Risk Rate

The Classification Office has no significant exposure to either currency risk or interest rate risk.

Note 10: Related Party Information

The Office of Film and Literature Classification is a wholly owned entity of the Crown. The major source of revenue for the Classification Office is received from the Crown through Vote: Internal Affairs.

The Classification Office enters into numerous transactions with other Government departments and Crown agencies. These transactions are carried out on an arm's length basis on normal business terms and are not considered to be related party transactions.

Note 11: Repayment of Profit to the Crown

Under Section 16 of the Public Finance Act 1989, the Minister of Finance may require repayment of any profit (or any portion of the profit). At the date of this report, the Classification Office has not been notified of any such request and therefore has not provided for any repayment relating to the years ended 30 June 1997 to 30 June 2009.

Note 12: Capital Commitments and Operating Leases

The Office of Film and Literature Classification has long-term leases on its premises in Wellington. The lease expires 30 September 2015 and is subject to three-yearly reviews.

Operating leases include lease payments for office equipment committed to at balance date.

	2009	2008
	\$	\$
OPERATING LEASE COMMITMENTS		
Not later than one year	355,529	363,763
Later than one year and not later than five years	1,403,100	1,407,854
Later than five years	438,469	789,244
Total Operating Lease Commitments	2,197,098	2,560,861
Capital Commitments	-	-
TOTAL COMMITMENTS	2,197,098	2,560,861

Note 13: Contingencies

The Office of Film and Literature Classification has no known contingent liabilities or assets as at 30 June 2009 (Nil as at 2008).

Note 14: Personnel Expenditure

	2009	2008
	\$	\$
Salaries & Wages	2,175,070	2,124,699
Employer contributions to defined contributions plans	29,344	30,794
Increase/(decrease) in employee entitlements (Note 6)	47,154	28,299
	2,251,568	2,183,792

Note 15: Key Management and Employee Remuneration**Key Management Personnel Compensation**

	2009	2008
	\$	\$
Salaries & Other	383,207	359,400
Post-employment Benefit	20,642	25,538
	403,849	384,938

The key management personnel and board members are the Chief Censor and Deputy Chief Censor.

Employee Remuneration

Total Remuneration and Benefits \$000	Number of Employees	
	2009	2008
100-110	1	1
160-170	0	1
170-180	1	0
210-220	0	1*
220-230	1*	0

* These refer to the Chief Executive's remuneration.

Severance & Cessation Payments

During the year ended 30 June 2009 1 (2008:0) employee received compensation in relation to cessation totalling \$15,953.78 (2008:0). No Board members received compensation or other benefits in relation to cessation (2008:0).

Note 16: Reconciliation of net surplus/(deficit) to net cash flow from operating activities

	Budget 2009 \$	Actual 2009 \$	Actual 2008 \$
Operating Surplus (Deficit)	(13,761)	(336,962)	246,986
Add/(Less) Non Cash Items			
Depreciation	318,000	235,242	134,421
(Gain)/Loss on Sale of Fixed Assets	0	(311)	1,805
	318,000	234,931	136,226
Add/(Less) Movements in Working Capital Items			
Decrease/(Increase) in Receivables	(26,855)	11,711	51,689
Decrease/(Increase) in Prepayments	0	28,577	5,185
Decrease/(Increase) in GST	6,737	33,386	(57,136)
Decrease/(Increase) in Interest Accrual	0	38,812	24,505
Decrease/(Increase) in Receipts in Advance	0	(14,155)	47,866
(Decrease)/Increase in Payables	(399)	(138,488)	(284,644)
(Decrease)/Increase in Employee Entitlements	0	47,154	28,939
	(20,517)	6,997	(183,596)
Add/(Less) Movements in Non Working Capital Items			
Decrease/(Increase) in Fixed Assets	0	0	0
Net Cash Flows from Operating Activities	283,722	(95,034)	199,616

Note 17: Subsequent Events

There were no subsequent events, which require disclosure in the financial statements.

Note 18: Explanation of Key Variances***Labelling Body revenue*****Actual 2008/09 to Actual 2007/08**

Labelling Body revenue in 2008/09 was 11% (\$155,000) less than that received in 2007/08. This was due to a number of factors, the most significant of which are:

- Reduction in Labelling Body submissions – 13% fewer fee-bearing publications were submitted for classification under s12.
- Increase in the number of publications grouped for fees purposes - Due to the increase in boxed sets of DVDs, the number of publications eligible to be grouped for fees purposes under Fees Regulation 8 increased by 44% from 2007/08 to 2008/09. In effect this means that 169 publications were classified at no cost to the submitter in 2008/09, compared to 117 in 2007/08.
- Reduction in Urgency Fees received – In 2008/09, \$64,400 was received under Fees Regulation 4 for the urgent classification of 127 publications, compared with \$85,155 for the urgent classification of 166 publications in 2007/08, a reduction of \$20,755 or 24%.

Actual 2008/09 to Budget 2008/09

Labelling Body revenue in 2008/09 was 16% (\$251,000) less than budgeted. This was due to a number of factors, the most significant of which are:

- Reduction in Labelling Body submissions – 12% fewer fee-bearing publications were submitted for classification under s12 than expected.
- The number of publications grouped for fees purposes – this expense was not budgeted for. The processes operated by the Office at the time did not capture this expense, however the new classification database allows the Office to capture and quantify this data, as distinct from Fees Regulation 7.
- Reduction in Urgency Fees received – In 2008/09, \$64,400 was received under Fees Regulation 4 for the urgent classification of 127 publications against a budget of \$87,050, a variance of \$22,650 or 26%.

*Interest Income***Actual 2008/09 to Actual 2007/08**

Interest revenue in 2008/09 is \$114,000, which is 51% less than interest revenue received in 2007/08. This reduction in interest revenue is due to a reduction in cash reserves of \$733,237 which was the result of expenditure on the Classification Database and reduced Labelling Body revenue, as discussed above.

Actual 2008/09 to Budget 2008/09

Interest revenue was 24% less than budget. While cash reserves were expected to be down due to expenditure on the Classification Database, additional cash reserves were used to fund the Office's deficit position, which was not budgeted.

*Depreciation/Amortisation***Actual 2008/09 to Actual 2007/08**

Depreciation was 75% higher in 2008/09 than 2007/08. Capital expenditure on the Classification Database was not depreciated during 2007/08 as it was designated a 'work in progress'. This asset was brought into production during 2008/09 and as such was able to be depreciated.

Actual 2008/09 to Budget 2008/09

Depreciation was 26% less than budget. When the budget was set, the CDA was scheduled to be in production by the end of the first quarter of the year. However, this release was deferred until the end of the second quarter; therefore this asset was depreciated for 6, rather than 9, months of the year.

*Other Operating Costs***Actual 2008/09 to Actual 2007/08**

Other operating expenditure in 2008/09 was 26% higher than in 2007/08. The main areas which had increased expenditure in 2008/09 were:

- Computing Services, due to costs associated with support for the CDA during the first 6 months of production.
- Management Information Systems, due to costs associated with the quality assurance services and user acceptance testing to bring the CDA into production.
- Consulting – Administration & Finance, due to costs associated with a security review of the Office's applications and network.
- Research Projects, due to costs associated with the research project which was initiated in 2007/08, falling due in 2008/09.
- Periodical & Subscriptions, due to the change in the value of the NZ\$.

Actual 2008/09 to Budget 2008/09

Other operating expenditure in 2008/09 was 19% higher than budgeted. The main areas in which expenditure exceeded budget were:

- Computing Services, due to support costs during the first 6 months of production of the CDA, as well as general maintenance and support projects the Office's IT infrastructure which was budgeted and commenced during in 2007/08 but completed in 2008/09.
- Management Information Systems - the Office outsourced the management of user acceptance testing to bring the CDA into production, following the untimely resignation of the staff member who had responsibility for this activity. This expense was balanced by savings on personnel expenditure.
- Information Materials Development, in response to a high demand for information material, particularly from retailers and libraries.
- Consulting - Finance & Admin, due to costs associated with a security review of Office's applications and network exceeding budget.

MANAGEMENT OF THE OFFICE OF FILM AND LITERATURE CLASSIFICATION

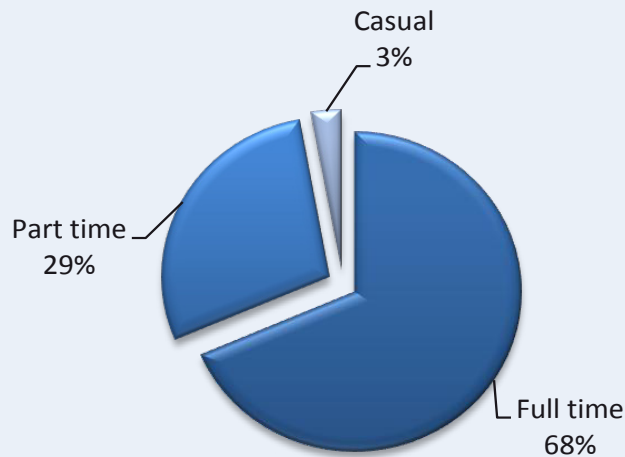
Organisational Health and Capability

Staffing

In the year ended 30 June 2009, 4 staff resigned and 5 new staff were appointed. However the actual number of working hours dropped, due to one staff taking an extended leave of absence. This means that the number of staff employed by the Office remained relatively unchanged over the past 12 months.

The Office's flexible working conditions enable staff to vary their hours of work to meet both personal demands and fluctuations in the workload of the Office. As a result a significant proportion of staff the Classification Office work on a part time basis. There was a slight reduction in part time staff over 2008/09, as two staff increased to fulltime hours following changes in their child care responsibilities. Given the size of the Office, small changes to individual's working conditions can impact on staffing statistics.

Chart 15: Hours of Work of Staff of the Classification Office as at 30 June 2009



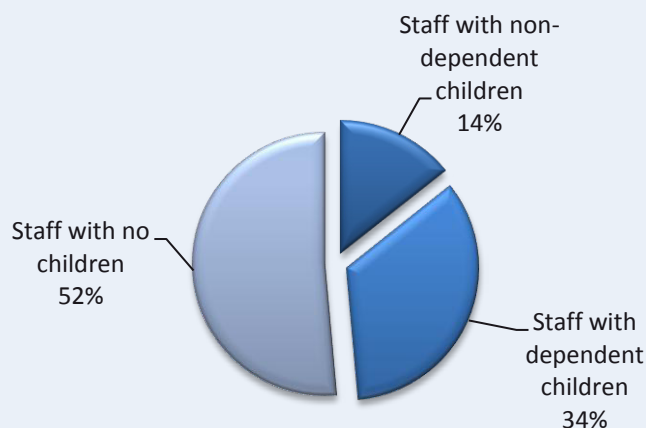
Staff Composition

	Female	Male	Total
Classification	10	9	19
Information Unit	4	1	5
Support	8	3	11
	22	13	35

Good Employer Activities

In addition to providing a family friendly environment with flexible hours and conditions of work, the Office undertakes a range of activities to support the physical and emotional well-being of its staff.

Chart 16: Staff of the Classification Office as at 30 June 2009



Good employer activities undertaken by the Office include:

- **Employee Assistance Programme**

The Employee Assistance Programme provides counsellors who are available to all staff of the Office. Counselling sessions may be used to help staff deal with objectionable material, work relations, career counselling, and personal issues which may affect work performance.

- **Workplace Assessments**

On joining the Office, and subsequently as required, all staff are provided with a workplace assessment which includes a review and adjustment of workstations, equipment recommendations and advice on exercises and self-management techniques to relieve any discomfort.

- **Massage**

The Office provides space for weekly massages onsite and staff time to organise the scheduling of the massages. Members of staff pay the provider directly for the service.

- **Support of Social Indoor Soccer Team**

The Office contributes to the game fees of the Office's social indoor soccer team. This contribution is supplemented by team members, and sporting grants when available.

- **Flu Vaccinations**

The Office pays for flu vaccinations each year for staff who want them.

Classification Information Systems Review

The Classification Database Application (CDA) was put into production on 8 December 2008.

The replacement of the Office's submission processing and tracking system was required to ensure the Office is able to continue to meet its reporting responsibilities to the Crown. The CDA replaces the Office's increasingly antiquated and unsupported systems, which had been in place since the Office opened. The new system provides workflow guidance and monitoring and allows the Office to meet the demands of the growing number of submissions without compromising the integrity of the Office's decisions and processes.

The Films, Videos, and Publications Classification Act 1993 deems classification decisions made by abolished censorship authorities to be current and legally binding. This requires the Office to perform a significant archival function to preserve old records as far back as 1917. Incorporation of historical records and functionality from the New Zealand Censorship Database into the new Classification Database has allowed members of the public real-time access to the registered decisions of the Office. This is a significant improvement over the monthly updates prescribed by law.

Funding for the development of the CDA was met from the Office's reserves, so supplementary funding was not required.

Management of Significant Relationships

The Minister of Internal Affairs and the Chief Censor have agreed to a mutual "no surprises" approach to their relationship. This relationship continued on a good footing throughout the financial year.

Goodwill

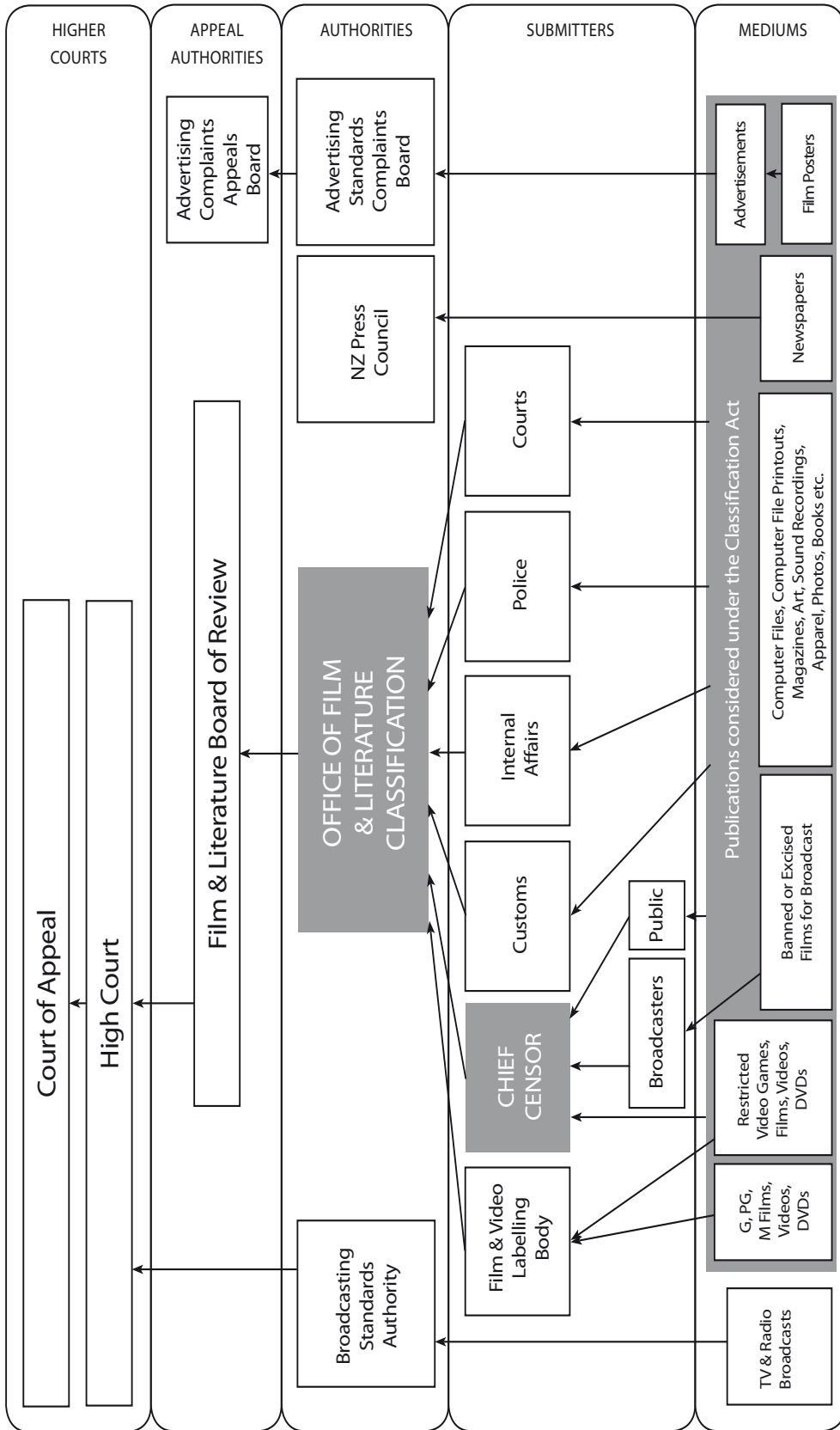
The Office is able to protect its reputation as an impartial provider of classification and information services by performing its functions to a high standard and in a transparent, legal and accountable manner. Ongoing ministerial and official support of the Office and its work is also essential to the maintenance of public confidence in the Office and the classification system. In the year ended 30 June 2009, the Office received sufficient official and ministerial support to perform its functions to a high standard.

Ecologically sustainable development and environmental performance

Classification Office activities relevant to the Ecologically Sustainable Development (ESD) principles are use of energy, water and material consumption, and waste disposal.

The Office's premises are close to public transport and incorporate a range of energy saving technologies. Where commercially viable, the OFLC recycles waste and uses recycled products. The Office gives and stores information electronically to avoid unnecessary paper and toner use. When the Office purchases new equipment, it considers its energy efficiency and overall environmental performance. The staff use double-side copying and printing to reduce paper consumption, and turn off unnecessary lighting and equipment.

Regulatory Environment



Office of Film & Literature Classification
Structure as at June 2009

