

with policy

cc M.A. 2



ROYAL COURTS OF JUSTICE
LONDON, WC2A 2LL

01-405 7641 Extn

30 January 1984

The Rt Hon Leon Brittan QC MP
Secretary of State for the Home Department
Home Office
Queen Anne's Gate
London SW1

Prime Minister: *JF*
21

Dear Leon.

The vote is
tomorrow but there
is no doubt about the
outcome *JF 31/1*

RE: VIDEO RECORDINGS

You kindly copied to me your minute of 19 January 1984 to the Prime Minister setting out your intention to support certain amendments to the Video Recordings Bill which would have the effect of precluding certification by the designated body of a category of material suitable for sale only to adults under controlled conditions. Subsequently you have made your intention public and it is already clear that the amendments in question will be strongly resisted by many members of the Committee including Graham Bright, the sponsor of the Bill.

Against that background I felt it right to draw your attention to a further factor which militates in favour of such a restriction. The current criteria and standards applicable to censorship by the British Board of Film Censors of film material is based upon the premise that they will be shown to audiences which can be restricted according to age in the legally controlled environment of the cinema. Happily there has been no occasion when a prosecution against a film certified for this purpose by the British Board of Film Censors has been successful. This form of censorship accordingly has proved effective and broadly acceptable



to the public, the local licensing authorities, your Department and the trade.

Different considerations apply in respect of works in video cassette form which are freely available on hire or for sale in shops and which are clearly designed for home entertainment. The Government's position with regard to the Obscene Publications Act 1959 is that it shall continue to exist in parallel with the new legislation because it is considered desirable that the ultimate arbiter of what is obscene should be the Court. Section 1 of that Act requires that determination of the issue of obscenity in any particular case shall take account of the "persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it." The law thus requires that different standards be applied in respect of films in cassette form to those which are available for viewing in the cinema. I communicated this view to Lord Harlech when I discussed difficulties which had arisen over prosecution of certain works with him together with the Director of Public Prosecutions. I know that your officials have also been made aware of this view.

At present a substantial number of video traders are facing prosecution in relation to video works which bear a BBFC certificate as to their suitability for cinema audiences. The British Board of Film Censors is at present considering the implications of this application of the Obscene Publications Act 1959 and as you are aware I have provided the Board with certain guidance as to the approach adopted by the Director of Public Prosecutions to the issue of obscenity. It is the confident hope and belief of David Mellor and myself that the Board will be able to devise a system of classification which will avoid differences of interpretation with the courts.



The purpose of this letter is simply to emphasise that whatever categories of classification it is decided to adopt and whatever criteria determines the boundaries between those categories, it is essential that this is done within the framework which I have outlined above. As I have mentioned, certain material certified by the BBFC for cinema purposes is subject to prosecution. Some of that material is in the "18" category and it does not necessarily follow that the removal of the "R18" classification from the Bill would obviate this problem.

I am of course anxious not to overstep the boundaries of my responsibility into an area of policy but I felt it right to draw my reservations to your attention.

I am copying this letter to
the Prime Minister.

Yours etc.

Michael

Home Affairs: OAscenily 10/83

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