

**IN THE ENFORCEMENT COMMITTEE OF THE FILM AND PUBLICATION
BOARD (FPB)**

Film and Publication Board (FPB)

Applicant

and

AYLO t/a BRAZZERS

1st Respondent

Stephan Manos

2nd Respondent

Quissam Youssef

3rd Respondent

Fabian Thylman

4th Respondent

Feras Antoon (CEO)

5th Respondent

Case No: 017/2025/RD/Canada

Date of hearing: 27 March 2026

MEMBERS OF THE ENFORCEMENT COMMITTEE

Judge Thokozile Masipa - Chairperson

Ms Malini Maharaj - Member

Dr. Adv Nzumbululo Silas Siphuma - Member

OFFICE OF THE ENFORCEMENT COMMITTEE

Mpho Mooketsi - Registrar

LEGAL REPRESENTATION

For the Applicant

Mr Lebogang Mohlakoana

For the Respondent

(No appearance)

DECISION

Judge Thokozile Masipa

INTRODUCTION

[1] This matter was referred to the Enforcement Committee for adjudication in terms of section 6B of the Films and Publication Act No: 65 of 1996 as amended (“the FP Act”), read with Rule 9(1) of the Enforcement Committee Rules, 2023.

THE PARTIES

[2] The Applicant is the Film and Publication Board, established in terms of section 3 of the Films and Publications Act 65 of 1996 as amended (“the FP Act”). It is a public entity responsible for the regulation of the creation, production, possession and distribution of films, videos, DVDs, computer games and certain publications by imposing restrictions (including appropriate viewership age) on content.

[3] The first Respondent is AYLO t/a BRAZZERS conducting business from and/or situated at 6975 Decarie BLVD, Montreal, Quebec, H3W 2B6, Canada. It is an online distributor, streaming adult films through its website <https://www.brazzers.com>. Four other Respondents have been cited with no particulars provided. The first Respondent shall be referred to as Brazzers or the first Respondent.

THE COMPLAINT

[4] The Applicant alleged that the first Respondent, a commercial online distributor, failed to comply with section 18(1)(a) of the Films and Publications Act No 65 of 1996 (“the FP Act”), in that it failed to register as a distributor of films with the FPB.

[5] In addition, the first Respondent allegedly failed to submit its films to the FPB for classification, as required by section 18(1)(b) of the FP Act.

THE RELIEF SOUGHT

[6] The Applicant sought an order in the following terms:

- 6.1. Condoning the Applicant’s noncompliance with Rule 9(1) of the Enforcement Committee Rules.
- 6.2. Order interdicting and restraining the Respondents from unlawfully distributing, exhibiting or making available any unclassified film content for streaming within the Republic of South Africa in contravention of section 18(1)(a) and (b) read with sections 24A(1), 24A(2) and 24A(3) of the FP Act.
- 6.3. Directing the Respondents to pay a fine of R150 000 (one thousand and fifty thousand rand) for distributing films or publications in public within the Republic of South Africa without being registered with the Applicant as a distributor as prescribed in terms of section 24A (1) of the FP Act.
- 6.4. Directing the Respondents to pay a fine in the amount of R500 000 (five hundred thousand rand) for distributing unclassified films or publications in public within the Republic of South Africa as prescribed in terms of section 24A (2) of the FP Act.

- 6.5. Directing the Respondents to pay a fine in the amount of R750 000 for not being the holder of a licence to conduct the business of adult premises and with regard to films and games, not being registered with the Board as a distributor of films or games, and who knowingly broadcast, distributes, exhibits in public, offers for exhibition, sale or hire or advertises for sale or hire any film, game or a publication which has been classified “X18”, or would have been so classified had it been submitted for classification, as prescribed in terms of section 24A(3) of the FP Act.
- 6.6. Ordering the Respondents to pay the costs in respect of the whole or part of the proceedings.
- 6.7. Further and/or alternative relief.

THE RESPONDENTS’ RESPONSE

- [7] There was no response from any of the Respondents. This triggered a concern on the part of the Enforcement Committee. The question was whether there was proper service on the Respondents.
- [8] Representative for the Applicant submitted that there had been proper service on the Respondents. In support of this submission, he referred to a sheaf of unmarked papers annexed to the hearing bundle.
- [9] The first document from this sheaf was an email from Lebogang Mohlakoana, the attorney, on behalf of the Applicant.
- 9.1. The email was dated Wednesday 18 March 2026 at 12h46 and was addressed to support@brazzers.com ; privacy@aylopriumltd.com ; brazzerssupport@probillier.com

- 9.2. Subject: Film and Publication Board//Brazzers and Others
- 9.3. Attachments: FPB v Brazzers. Hearing Bundle.pdf; visible Annexures, FPB v BRAZZERS .pdf The relevant portion of the email reads thus:

“We refer to the above matter and the emails addressed to you on 11 December 2025 and 11 March 2026.

***Kindly receive the attached hearing bundle for your preparation purposes.
Please be advised that this matter is set down for hearing on 27 March 2026 at 10h00...”***

[10] The following were documents submitted as proof of service for each of the Respondents in this matter. It shall be necessary to deal with only one of these documents as, apart from the email addresses, they convey the same information.

[11] The following appears from the document:

From: Microsoft Outlook
To: brazzensupport@probiller.com
Sent: Wednesday, 18 March 2026 12.47
Subject: Relayed: Film and Publication Board//Brazzers and Others

[12] Next, it is stated in bold letters:

“Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server.”

[13] The Enforcement Committee sought the services of a technician, an expert who would provide guidance to determine if there had been proper service in instances where no delivery notification had been received.

- [14] In response, the Applicant deposed to an Affidavit stating when and how service was effected on the Respondents. Moreover, service was effected in terms of Rule 5 of the Rules of the Enforcement Committee, which can be relied on as a guide on how to service by email.
- [15] The above, and the fact that the same email addresses, used by the Applicant for service, are the very ones that the first Respondent uses daily for business purposes, is an assurance that the addresses are accurate and functional. In the absence of evidence to the contrary, the Enforcement Committee is entitled to the conclude that there was proper service on the Respondents.
- [16] Should the Respondents feel aggrieved by this decision, they can appeal against it. If they can prove that the notice of the hearing did not come to their attention because of an incorrect or nonfunctional email address, they can apply for a rescission of judgment.
- [17] But for the present, there is enough evidence to conclude that there was proper service on the Respondents.

THE FACTUAL BACKGROUND

- [18] On 22 August 2024, the Applicant, through Mr. Rajesh Vishnu, a Compliance Officer and Regional Coordinator of the Applicant, conducted an online inspection on the site of the 1st Respondent, alternatively, 2nd, 3rd, 4th and 5th Respondents. During the course of the inspection, Mr. Vishnu established that the Respondents had failed to comply with section 18(1)(a), and (b) read with section 24A (1), (2) and (3) of the FP Act.
- [19] Mr. Vishnu served a Notice of noncompliance to the Respondents by way of emailing to the following addresses: support@brazzers.com ; privacy@aylopremiumltd.com .

[20] In terms of the above Notice, the Respondents were granted 30 days in which to remedy the noncompliance, failing which they were to request an extension of that period. More than a year later, that is on 21 October 2025, the Applicant conducted a follow up online inspection only to find that the Respondents had still not complied with section 18(1)(a) and section 18(1) (b) of the FP Act. It was noted that they had not requested an extension of the period in which to comply. Hence the referral to the Enforcement Committee to adjudicate the alleged noncompliance.

LEGAL FRAMEWORK

[21] Section 18(1)(a) of the FP Act reads:

“any person who distributes, broadcasts or exhibits any film or game in the Republic shall in the prescribed manner on payment of the prescribed fee, register with the Board as a distributor or exhibitor of films or games.”

[22] Section 18(1)(b) of the FP Act reads:

“any person who distributes, broadcasts or exhibits any film or game in the Republic shall in the prescribed manner on payment of the prescribed fee, submit for examination and classification any film or game that has not been classified or exempted in terms of this Act or the Publications Act, 1974.”

[23] Section 24A(1) of the FP Act reads:

“any person who knowingly distributes or exhibits in public a film or game without first being registered with the Board as a distributor or exhibitor of films or games shall be guilty of an offence and liable upon conviction to a fine not exceeding R150 000 or to imprisonment to a period not exceeding eight months or both such a fine and imprisonment.”

[24] Section 24A(2) of the FP Act reads:

“any person who knowingly broadcasts, distributes, exhibits in public, offers for sale or hire or advertises for exhibition, sale or hire any film or game or publication referred to in section 16(2) which has, except with respect to broadcasters that are subject to regulations by Independent Communications Authority of South Africa and except with regard to a publication contemplated in section 16a(1)-

- (a) not been classified by the Board,*
- (b) been classified as a “refused classification”, or*
- (c) been classified as “xx” or would have been so classified had it been submitted for classification; shall be guilty of an offence, and liable upon conviction, to a fine not exceeding R500000 or to imprisonment for a period not exceeding five years or to both fine and such imprisonment.*

[25] Section 24A(3) of the FP Act reads:

“any person, not being the holder of a licence to conduct the business of adult premises and, with regard to films and games, not being registered with the Board as a distributor or exhibitor of films and games and who knowingly broadcasts distributes, exhibits in public, offers for exhibition, sale or hire or advertises for sale or hire any film, game or publication or a publication which has been classified “X18”, or would have been so classified had it been submitted for classification, shall be guilty of an offence and liable, upon conviction, to a fine not exceeding R750000 or to imprisonment not exceeding a period of five years or to both a fine and such imprisonment.”

CONDONATION APPLICATION

[26] The Applicant made an application for the late filing of a Notice of Referral. For a condonation application to succeed, the Applicant must show good cause. This means the Applicant must satisfactorily explain the nature, extent and the reason for the delay, prejudice, if any, to the Respondent, if the condonation application were to be granted, prospects of success for the Applicant in its main application, as well as whether it would be in the public interest to grant condonation.

DELAY

[27] In the present case, the Applicant painted a picture of serious lack of Human Resources in the monitoring unit of the Applicant. This challenge affected the performance of the Applicant including its ability to meet deadlines. It must be noted that this reason for the delay was submitted in a number of matters in which applications for condonation were argued. For that reason, a separate judgment detailing the extent of the problem was written. Consequently, nothing more needs to be said concerning the delay.

PREJUDICE

[28] The Applicant submitted that the Respondents would not suffer any prejudice, if the condonation application was granted. On the other hand, refusing the application, would mean the respondents would go unpunished and, that would cause prejudice to the Applicant and the public.

PROSPECTS OF SUCCESS

[29] The Applicant submitted, correctly, in our view, that it had good prospects of success in the main application. After all, the evidence of noncompliance was not contradicted.

PUBLIC INTEREST

[30] The Applicant submitted that it was in the public interest that the condonation application be granted and that the merits of the case be adjudicated on. Once more this submission was well founded. Where children are involved, their interests and welfare are always paramount.

[31] Having taken all the above into consideration, the Enforcement Committee was satisfied that the Applicant had made out a case for the condonation application.

DISCUSSION AND ANALYSIS

[32] There was overwhelming evidence against the First Respondent that it is an online distributor of adult films and that it is not registered as a distributor with the FPB. Similarly, there was evidence that the First Respondent operated without having submitted its films to the FPB for classification.

[33] None of the above was contradicted since there was no response from the Respondents. There was also no appearance on behalf of the two Respondents.

CONCLUSION

[34] As the Enforcement Committee, we could find no reason to doubt any of the facts presented by the Applicant.

[35] The evidence was found to be true and reliable and the Enforcement Committee was satisfied that the Applicant made out a case for the relief that it sought.

FINDING

[36] The Respondents are found to have contravened:

- 36.1. Section 18(1)(a) of the FP Act in that they failed to register as distributors, exhibitors with the Applicant.
- 36.2. Section 18(1)(b) of the FP Act in that they failed to submit the films they were distributing to the Applicant for classification.

ORDER

[37] In the result, the Enforcement Committee grants an order in the following terms:

- 37.1. The Applicant's application for condonation for its failure to comply with Rule 9(1) of the Enforcement Committee Rules, 2023, ("the Rules") and the late filing of the Notice of Referral in terms of Rule 3 of the Rules is granted.
- 37.2. The Respondents are interdicted and restrained from unlawfully distributing, exhibiting or making available any unclassified film content for streaming within the Republic of South Africa in contravention of section 18(1)(a) and (b) read with sections 24A(1), 24A(2) and 244A(3) of the FP Act.
- 37.3. The Respondents shall pay a fine in the amount of R150000 (One Hundred and Fifty Thousand Rand) for distributing films or publications in public within the Republic of South Africa without being registered with the Applicant as a distributor as prescribed in terms of section 24A(1) of the FP Act.
- 37.4. The Respondents shall pay a fine in the amount of R500000 (Five Hundred Thousand Rand) for failure to submit its films to the Film and Publication Board for classification.
- 37.5. The Respondents shall pay the costs in respect of the proceedings.

29/07/2026

TM Masipa

ENFORCEMENT COMMITTEE

Judge Thokozile Masipa – Chairperson

Ms Nalini Maharaj – Member

Dr. Adv Nzumbululo Silas Siphuma – Member