

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

Film and Publication Board (FPB)

Applicant

and

EPIC GAMES

1st Respondent

Tim Sweeney (CEO)

2nd Respondent

Case No: 020/2025/RD/USA

Date of hearing: 20 April 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 is an application for an alleged noncompliance by the Respondent with the provisions of the Films and Publications Act No 65 of 1996 as amended (“the FP Act”).

[2] It is referred to the Enforcement Committee of the Film and Publication Board (“FPB”) in terms of section 6B of the FP Act, read together with Rule 9(1) of the Enforcement Committee Rules, 2023.

[3] Section 6B (b) reads thus:

“The Enforcement Committee shall adjudicate all cases and make appropriate findings, after the Board and the Respondent have been heard or granted a reasonable opportunity to be heard.”

THE PARTIES

[4] The Applicant is the Film and Publication Board, a public entity established in terms of section 3 of the Films and Publications Act 65 of 1996, as amended (“the FP Act”).

[5] Section 2 of the FP Act provides that the objects of the FPB, are, *inter alia*, to regulate the creation, production, possession and distribution of films, games and certain publications by way of classification to:

- protect consumers against harmful and disturbing material while allowing adults to make informed choices for themselves and children in their care by providing consumer advice.
- protect children from exposure to disturbing and harmful material and from premature exposure to adult material.
- make use of children in pornography and exposure to pornography punishable
- criminalise the possession, production and distribution of pornography; and
- create offences for noncompliance with the FP Act.

[6] The first Respondent is EPIC GAMES, an online distributor/exhibitor of games, conducting business and/or situated at 620 Crossroads Boulevard Cary, United States of America.

[7] The second Respondent is TIM SWEENEY (CEO) conducting business at 620 Crossroads Boulevard Cary, United States of America.

THE ALLEGED NONCOMPLIANCE

[8] The Applicant alleged that Epic, an online distributor of games to the public in the Republic of South Africa, was in contravention of section 18(1)(a) and (b), in that it had failed to register with the Applicant as a distributor of games and had not submitted its games to the Applicant for classification, respectively.

HISTORICAL BACKGROUND

[9] Circumstances that led to the filing of this application are set out in brief hereunder:

- 9.1. On 21 August 2024, Mr. Yakeen Singh, the Compliance Officer and Regional Coordinator of the Film and Publication Board, conducted an online inspection on the site of the first Respondent, alternately second Respondent.
- 9.2. During the inspection, Mr. Singh established that the Respondents were contravening the provisions of section 18(1)(a) and (b) of the FP Act in that they had failed to register as distributors of games with the Applicant and to submit their games to the Applicant for classification, respectively.
- 9.3. Mr. Singh issued a Notice of Contravention and served it on the Respondents through the following email address: epiccinemas@gmail.com and requested the Respondents to remedy the noncompliance within 30 days.
- 9.4. Applicant further issued a Cease-and-Desist Letter advising the Respondents to refrain and/stop distributing the games to the public within the Republic of South Africa.
- 9.5. On 10 September 2025, the Applicant conducted a follow-up online inspection at the site of the first Respondent to establish if the Respondents had complied with the Notice of Contravention issued and served on 21 August 2024. It was found that the Respondents had still not complied with the provisions of the FP Act.
- 9.6. On the same date the Applicant addressed a courtesy letter to the Respondents notifying them that the matter was now being referred to the Enforcement Committee for adjudication.

PROCEEDINGS BEFORE THE ENFORCEMENT COMMITTEE

Condonation Application

[10] At the outset, the Applicant made an application for condonation for the late filing of the referral of the application to the Enforcement Committee.

[11] For a condonation application to be granted, the Applicant must show good cause which includes an explanation of the nature and extent of the delay as well as the reasons thereof. The Applicant must also show what prejudice, if any, is likely to be caused to the Respondent if the application were to be granted. In addition, the Applicant must show that its main application has good prospects of success and that it is in the public interests that the condonation application should be granted.

Delay

[12] In the present case, the Applicant set out the nature, extent and reasons for the delay. The explanation was that the delay emanates from a serious shortage of Human Resources in the Unit that deals with compliance issues. This has seriously affected the overall performance of the unit and led to the Applicant's inability to meet deadlines. Full details have been set out in a separate judgment.

Likelihood of Prejudice to the Respondents

[13] Insofar as the likelihood of prejudice, against the Respondents, is concerned, it was argued that there was no likelihood that the Respondents would suffer prejudice if the condonation application were to be granted. This was because all they needed to do was to comply with the FP Act. On the other hand, refusing the condonation application would likely cause great prejudice to the Applicant. Most importantly, its mandate of being the public "watchdog" would be seriously undermined. If the Respondents were to go unpunished, they would be

emboldened to break the law with impunity while children would continue to be exposed to harmful and disturbing content.

Prospects of Success in the Main Application

[14] The prospects of success for the Applicant in the main application are, beyond any doubt, good. This is so because the evidence of noncompliance in this matter has not been contradicted.

Public Interests

[15] When all the facts of this matter are taken into account, including the objects of the FP Act, as set out in section 2, it is in the public interest that the condonation application should be granted.

[16] Having heard submissions from the Applicant, the Enforcement Committee is persuaded that the granting of the condonation application is warranted.

DISCUSSION AND ANALYSIS OF THE MERITS

[17] At the hearing there was no appearance on behalf of the Respondents.

[18] The Applicant presented evidence to the effect that the Respondents had failed to comply with section 18(1)(a) and 18(1)(b) in that EPIC failed to register with the Applicant as a distributor of games and failed to submit its games to the Applicant for classification, respectively.

[19] The Enforcement Committee's attention was drawn to the game termed ***Assassins Creed Unity*** which is not classified and boldly

indicates “***Assassins Creed Unity*** contains content that is unrated and may not be appropriate for all ages”.

[20] None of this evidence was contradicted. Also not contradicted was that a year after the Respondents had been warned to remedy their noncompliance, it was found that the Respondents were still noncompliant. EPIC was still not registered with the Applicant as distributor/exhibitor of games. In addition, it was still streaming ***Assassins Creed Unity*** without the game being classified.

[21] With only one party before it, the Enforcement Committee, had to thoroughly examine both the procedural issues before examination of the merits to reach its decision.

[22] Having considered the relevant facts, the Enforcement Committee was satisfied that the required notices and documents were properly issued and served on the Respondents, as the Applicant complied with Rule 5 of the Enforcement Committee Rules.

[23] In addition, the evidence of noncompliance with the provisions of the FP Act by the Respondents was overwhelming. In the absence of any contrary evidence, the Enforcement Committee was satisfied that the version of the Applicant was true and reliable.

FINDING

[24] Having regard to the totality of the evidence, the Enforcement Committee makes the following findings:

- 24.1. The Respondents are found to have contravened section 18(1)(a) of the FP Act in that Epic failed to register with the Film and Publication Board as a distributor/exhibitor of games.
- 24.2. The Respondents are found to have contravened section 18(1)(b) of the FP Act in that Epic failed to submit its games to the Film and Publication Board for classification.

ORDER

[25] Accordingly the Enforcement Committee grants an order in the following terms:

- 25.1. the Applicant's condonation application for the late filing of the Notice of Referral in terms of Rule for 9(1) of the Rules of the Enforcement Committee is granted.
- 25.2. Order is granted interdicting and restraining the Respondents from unlawfully distributing 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) and 24A(2) of the FP Act through its website <https://store.epicgames.com/en-US/> or any other digital platform accessible within the Republic of South Africa without being registered to do so with the Applicant.
- 25.3. The Respondents shall pay a fine in the amount of R150 000 (One Hundred and Fifty Thousand Rand) for distributing games within the Republic of South Africa without being registered with the Film and Publication Board as a distributor of games as prescribed in terms of 24A(1) of the FP Act.

25.4. Such payment is to be deposited into the following FPB account by the Respondent: within forty-five (45) days of the issue of this Order.

Account Holder: Film and Publication Board

Account Number: 4050451190

Bank: ABSA

25.5. The Respondents shall pay an amount of R500 000 (Five Hundred Thousand Rand) as a fine for the Respondents' failure to submit the games distributed to the Film and Publication Board for classification.

25.6. Such payment is to be deposited into the following FPB account by the Respondents: within forty-five (45) days of the issue of this Order.

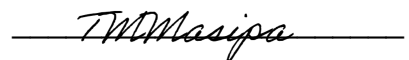
Account Holder: Film and Publication Board

Account Number: 4050451190

Bank: ABSA

25.7. The Respondents shall provide the CEO, of the Film and Publication Board, with proof of payment within forty-eight (48) hours of such payment.

25.8. The Respondents shall pay costs in respect of the proceedings.



ENFORCEMENT COMMITTEE

Judge Thokozile Masipa – Chairperson

Ms Nalini Maharaj – Member

Dr. Adv Nzumbululo Silas Siphuma – Member

29/07/2026