

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

Film and Publication Board (FPB)

Applicant

and

CULTPIX

1st Respondent

Richard Glafors

2nd Respondent

Joe Pacual

3rd Respondent

Case No: 015/2025/RD/Sweden

Date of hearing: 10 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

Ms. N Baloyi

For the Respondent

(No Appearance)

DECISION

Judge Thokozile Masipa

INTRODUCTION

[1] This matter was referred to the Enforcement Committee in terms of Rule 9(3) of the Enforcement Committee Rules for investigation and adjudication of allegations of failure by the Respondents to comply with the provisions of the Films and Publications Act No. 65 of 1996 as amended ("the FP Act.").

[2] It was alleged that the first Respondent, an online distributor of adult films, had contravened section 18(1)(a) and 18(1)(b) of the FP Act.

THE PARTIES

[3] The Applicant is the Film and Publication Board (FPB), established in terms of section 3 of the Films and Publications Act 65 of 1996 as amended.

[4] The first Respondent is CULTPIX, an online distributor of adult films operating from its headquarters situated at Steampix AB, Postfack 193, Stockholm, 11674, Sweden.

[5] The second Respondent is Richard Gramfors, the owner and co-founder of CULTPIX conducting business at Steampix, AB Postfack 193, Stockholm 11674, Sweden.

[6] The third Respondent is Joe Pascual, owner and co-founder of CULTPIX, conducting business at Steampix AB, Postfack 193, Stockholm 11674, Sweden.

THE RELIEF SOUGHT

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

- 7.1. condoning the Applicant's non-compliance 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.
- 7.2. an 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)(b) read together with section 24A (1) and 24A (2) and 24A (6) of the Films and Publications Act, 65 of 1996 through its website with URL <https://www.cultprix.com> or any other digital platform accessible within the Republic of South Africa without being registered to do so with the Applicant.
- 7.3. directing the Respondents to pay a fine in the amount of R150000 (one hundred and fifty thousand rand) for distributing films or publications to the 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.
- 7.4. directing the Respondents to pay a fine in the amount of R500000 (five hundred thousand rand) for distributing unclassified films or publications to

the public within the Republic of South Africa as prescribed in terms of 24A (2) of the FP Act.

- 7.5. directing the Respondents to pay a fine in the amount of R50000 (fifty thousand rand) for advertising films without indicating clearly, and conspicuously and in the prescribed manner, the age restrictions, customer advice and any other condition that might be imposed on a distribution of that film as prescribed in terms of section 24A (6) of the FP Act.
- 7.6. directing the Respondents to pay costs in respect of these proceedings.
- 7.7. In addition, the Applicant sought further and/or alternative relief.

LEGAL REPRESENTATION

[8] Ms. N Baloyi appeared for the Applicant. There was no appearance for the Respondent.

CONDONATION APPLICATION

[9] The Applicant applied for the condonation of the late referral of the matter to the Enforcement Committee.

[10] The granting of a condonation application is not for the asking but an indulgence. To succeed, the Applicant must show good cause which includes an explanation of the nature, reasons and extent of the delay, the prejudice likely to be caused to the Respondents if the application were to be granted, the prospects of success for the Applicant in the main application, and whether it would be in the public interest to grant the application.

[11] Before we proceed, it is necessary to state that this application is one of several condonation applications for the late filing of a Notice of Referral which the Enforcement Committee has heard recently.

Delay

[12] The reason for the delay was the same in all the applications. The Applicant's Compliance and Monitoring Unit was severely under-resourced, which hindered its performance and ability to meet deadlines.

[13] Since the same reason applied to all the matters that came before the Enforcement Committee, it became necessary to write only one decision which would cover all such applications.

[14] For that reason, save to state that the Enforcement Committee was satisfied with reasons for the delay, it shall not be necessary to go into any details on this aspect.

Prospects of Success

[15] In the present case, although the delay was excessive, the prospects of success on the merits are good. The Enforcement Committee is also satisfied that the granting of the condonation application will not cause any prejudice to the Respondents. Instead, not granting the condonation application in this matter is likely to lead to more prejudice in the long run. This is so because we are here dealing with the interest of children who are amongst the most vulnerable groups in our society and need to be protected.

[16] A refusal to grant the condonation application might also send a wrong message to the general public and encourage unscrupulous distributors/exhibitors to flout the law with impunity. So, although the extent of the delay in this case raises a serious concern, the public interests, which include the welfare of children, warrants that the condonation application be granted.

Prejudice

[17] An important question is always whether granting an indulgence to one party might cause prejudice to the other. The question has been partly answered above.

[18] On the other hand, refusing the condonation application might result in prejudice to the Applicant and the public in the long term. It might send mixed signals to the public and trigger loss of confidence in the FPB, as a watchdog for the public. In addition, it might also encourage lawlessness and instability in the industry.

[19] Having regard to the circumstances of this case, our view, as the Enforcement Committee, is that there is absolutely no prejudice at all that can be caused to the Respondents by the granting of the application.

[20] The protection of the children against inappropriate and harmful material is paramount. To refuse the condonation application in circumstances, where evidence of wrongdoing is overwhelming, would send the create an unfortunate precedent in the industry. More importantly, these proceedings are about the interests and the welfare of children which are always of paramount importance. So, not granting indulgence would mean exposing children to the very harm and danger that the FP Act is intended to prevent and punish.

[21] Accordingly, the condonation application is granted.

THE MERITS OF THE APPLICATION

Service

[22] The predominant question, always, in matters where the Respondent fails to attend a hearing, is whether there was proper service.

[23] In the present matter, the Respondent is an online distributor and operates from Stockholm, Sweden, with, apparently, no local offices.

[24] Not only did the Respondent fail to respond to any correspondence by the Applicant, but it also failed to attend the hearing.

[25] The inevitable question, therefore, was whether there was proper service on the Respondents. In answer to this question, the Applicant provided an Affidavit which gave details of how and when different documents were served on the Respondent.

[26] It is necessary to place service by email in perspective. In matters where the Respondent conducts its business online and does not have a physical address, one way to effect service is by way of email.

[27] In the present case, the Compliance Officer conducted his inspection online. Next he issued and served the Cease-and-Desist Letter and the Notice of Contravention per the email address he had sourced from the Respondent's website.

[28] Similarly, a follow up inspection was done online. The same method was followed to serve the Notice of set down and the rest of the papers.

[29] During this period, not once did the Respondent respond to any of the correspondence from the Applicant.

[30] Such lack of response from the Respondent could mean that the Respondent didn't receive any of the emails. On the other hand, it could mean the Respondent received the emails but chose not to respond.

[31] In a similar matter heard recently, a computer-generated Microsoft document was presented as proof of service. The purported proof of service read thus:

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

[32] While the “no delivery notification” from the destination server is not conclusive in proving or disproving service, Rule 5 of the Enforcement Committee Rules is a more reliable guide.

[33] Due to the fact that people on the wrong side of the law are often very evasive, it would not be a surprise if the Respondent received the documents from the Applicant but failed to acknowledge the receipt or respond. In the present case, it is unlikely that the Respondent would publish a wrong or invalid email address that its customers are expected to use in communicating with it. This, coupled with the fact the Applicant complied with Rule 5 of the Enforcement Committee Rules, in respect of service, is enough to prove that there was proper service on the Respondent.

[34] For that reason, the Enforcement Committee is satisfied that there has been proper service on the Respondent.

THE RESPONDENTS’ RESPONSE

[35] The Respondents failed to respond to any allegations against it. There was also no appearance on behalf of the Respondents.

THE BACKGROUND

[36] Circumstances that led to the present complaint are set out hereunder:

- 36.1. On 22 August 2024, Yakeen Singh, a Compliance Officer and Regional Coordinator of the Film and Publication Board (“FPB”/“the Board”/ Applicant”), conducted an online inspection at the website of CULTPIX with URL <https://www.cultpix.com>.

- 36.2. During the online inspection, he found that CULTPIX was distributing/exhibiting and/or streaming various adult films/movies accessible to members of the public in the Republic of South Africa without having been registered as a distributor with the Applicant in contravention of section 18 (1)(a) of the FP Act.
- 36.3. Mr. Singh also found that CULTPIX had not submitted the films it was distributing to the Applicant for classification in contravention of section 18(1)(b).
- 36.4. Furthermore, Mr. Singh discovered that CULTPIX website is distributing/exhibiting and/or streaming these films/movies without displaying, clearly and conspicuously, the classification reference number, the age restriction, customer advice and any other condition that might have been imposed on the distribution as prescribed in terms of the FPB Rules and Regulations.
- 36.5. To confirm CULTPIX registration with the Applicant Mr. Singh checked the online APP for verification and noticed that there were no records of registration by CULTPIX with the Board as required by section 18(1)(a) of the FP Act.
- 36.6. Following the above, Mr. Singh electronically issued and served the Respondents with a Cease-and-Desist Letter in which it was demanded that CULTPIX refrain from unlawfully distributing online content and register with the Applicant as a distributor and submit all content to the Applicant for classification.

EVIDENCE

[37] The Applicant alleged that the First Respondent, an online distributor of adult films, failed to comply with section 18(1)(a) of the FP Act in that it distributed/exhibited/streamed such films without having been registered as distributor with the Applicant.

[38] There is no doubt the First Respondent is an online distributor of adult films. This is confirmed by copies of online screenshots taken from its website on the 22 August 2024 marked as Annexure “**CULT04**”.

[39] Also attached to the papers were copies of the online FPB APP check conducted on the 22 August 2024 by the Applicant. These have been marked Annexure “**CULT05**”.

[40] There is also evidence that the Compliance Officer issued and served the Respondents with a Cease-and-Desist Letter and a Notice of Contravention electronically per the email addresses found on CULTPIX’s website. These are annexed to the papers and marked as Annexures “**CULT06**” and “**CULT07**” respectively.

[41] The Notice of Contravention afforded the First Respondent 30 days in which to remedy the noncompliance or request an extension of the deadline if CULTPIX needed more time.

[42] CULTPIX did not remedy the noncompliance within 30 days. In addition, it did not request an extension of time in which to comply. When the Compliance Officer conducted an online follow up inspection, the First Respondent had still not complied with the provisions of the FP Act. As a result, the matter was referred to the Enforcement Committee for adjudication.

THE LEGAL FRAMEWORK

[43] The Film and Publication Board has a legislative function and mandated to protect children from exposure to distributed and the streaming of harmful or inappropriate content. The Board fulfils this mandate by enforcing compulsory registration and

classification films/movies and games to ensure that distributed content is suitable for children at appropriate stages of their development.

[44] The FP Act and regulations, therefore, are specifically designed to prevent the dissemination of harmful content, protect the rights of children and to empower parents and guardians to make informed choices and decisions on what their children are exposed to.

FACTUAL ANALYSIS

[45] The starting point is whether the Respondent is a distributor as contemplated in the FP Act.

[46] The Respondent is described in the papers as an online distributor of adult films. The Respondent has not denied that this is the true description of its line of business.

[47] It was also not disputed that the First Respondent is not registered with the Applicant as a distributor. Also not disputed was the failure of the Respondent to submit its films to the Applicant or classification.

[48] The Respondent was given an adequate opportunity to remedy the noncompliance but failed to take any remedial steps to address the problem.

[49] At the hearing, the First Respondent was again given an additional opportunity to come and defend itself but failed to make an appearance.

[50] In the absence of any defence or explanation for the noncompliance, the Enforcement Committee is entitled to make an adverse finding against the Respondents.

FINDING

[51] Accordingly, the Enforcement Committee makes the following finding:

- 51.1. The Respondent is found to have failed;
- 51.2. to comply with section 18(1)(a) of the FP Act;
- 51.3. to comply with section 18(1)(b) of the FP Act.

ORDER

[52] In the result, the Enforcement Committee grants the following relief:

- 52.1. The Respondent shall pay a fine in the sum of R150 000 (One Hundred and Fifty Thousand Rand) for failure to comply with section 18(1)(a) of the FP Act.
- 52.2. The Respondent is ordered to pay a fine in the sum of R500 000 (Five Hundred Thousand Rand), for failure to submit the films distributed to the Applicant for classification.
- 52.3. The Respondents shall pay costs in respect of the proceedings.

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ENFORCEMENT COMMITTEE

Judge Thokozile Masipa – Chairperson

Ms Nalini Maharaj – Member

Dr. Adv Nzumbululo Silas Siphuma – Member

29/07/2026