

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

Film and Publication Board (FPB)

Applicant

and

CRUNCHY ROLL

1st Respondent

Mark Smith

2nd Respondent

Case No: 022/2025/RD/USA

Date of hearing: 11 May 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 Ntweleng Baloyi

For the Respondent

(No Appearance)

DECISION

Judge Thokozile Masipa

INTRODUCTION

[1] This matter was referred to the Enforcement Committee in terms of section 6B of the Films and Publications Act 65 of 1996 (“FP Act”) read together with Rule 9(1) of the Enforcement Committee Rules, 2023.

[2] It was alleged that the Respondents had failed to comply with the provisions of the FP Act.

THE PARTIES

[3] The Applicant is the Film and Publication Board (“FPB”/“BOARD”), a statutory body which is the Authority regulating films and publications industry.

[4] The First Respondent is CRUNCHY ROLL conducting business and/or situated at 444 Bush Street, San Francisco, CA 94108, United States of America.

[5] The Second Respondent is Mark Smith conducting business from 444 Bush Street, San Francisco, CA 94108, United States of America.

THE ALLEGED NONCOMPLIANCE

[6] The Applicant alleged that the Respondents were in contravention of section 18(1)(a) and section 18(1)(b) of the FP Act in that the First Respondent had failed to register as a distributor/exhibitor of films and in that it had failed to submit its films to the Applicant for classification, respectively.

THE RELIEF SOUGHT

[7] The Applicant sought the following relief:

- 7.1. Condoning the late filing of the notice of referral to the Enforcement Committee in terms of Rule 9(1) of the Enforcement Committee Rules.
- 7.2. Interdicting and restraining the Respondent 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 (6) of the FP Act through its website <https://www.crunchyroll.com/series/GG5H5XQZQ/the-dark-history-of-the-reincarnated-villainess> or other 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 R150 000 (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. Such payment of fine to be effected by the Respondents within forty-five (45) days upon receipt of this Order.
- 7.4. Directing the Respondents to pay a fine in the amount of R500 000 (Five Hundred Thousand Rand) for distributing unclassified films or publications to the public within the Republic of South Africa as prescribed in terms of section 24A (2) of the FP Act. Such payment of fine to be effected by the Respondents within forty-five (45) days upon receipt of this Order.

- 7.5. Directing the Respondent to pay a fine in the amount of R50 000 (Fifty Thousand Rand) for advertising a film or game in any medium without indicating, clearly and conspicuously so as to be plainly visible to the public, the age restriction, consumer advice and any other condition imposed on the film or game being advertised as prescribed in terms of section 24A (6) of the FP Act. Such payment of fine to be effected by the Respondents within forty-five (45) days upon receipt of this Order.
- 7.6. Ordering the Respondents to pay the costs in respect of the proceedings.
- 7.7. Further and/or alternative relief.

RESPONDENT'S DEFENCE

- [8] There was no response from the Respondents. In addition, there was no appearance on behalf of the Respondents at the hearing. For that reason, the Enforcement Committee had to assure itself first that the Respondents knew that the matter was before the Enforcement Committee for adjudication.

FACTUAL BACKGROUND

- [9] On 18 September 2025, Circumstances which led to the referral of this matter to the Enforcement Committee are set out hereunder:
- 9.1. On 2 September 2025, the Applicant conducted an online inspection on the website of the Respondents with URL <https://www.crunchyroll.com/series/GG5H5XQZQ/the-dark-history-of-the-reincarnated-villainess>
 - 9.2. The purpose of this inspection was to ascertain if the Respondents were compliant with sections 18(1)(a) and 18(1)(b) of the FP Act. During the course of the inspection, the Applicant established that the Respondents were noncompliant with and were contravening both the above provisions of the FP Act.

- 9.3. On 8 September 2025, the Applicant served the Respondents through an email, with a Notice of Contravention issued in terms of section 15A(1)(e) of the FP Act read with Regulation 36 of the Film and Publication Amendment Regulations, 2022. The Notice of Contravention afforded the Respondents a period of thirty (30) working days in which to remedy the noncompliance.
- 9.4. On 18 November 2025, Applicant conducted a follow-up online inspection at the platform of the First Respondent with the same URL used in the initial inspection. This was to determine whether the Respondents had complied with the Notice of Contravention that was issued to them on 8 September 2025. On this occasion, the Applicant found that the Respondent was still noncompliant.
- 9.5. It was this failure of the Respondent to remedy the noncompliance that led to the referral of the matter to the Enforcement Committee.

EVIDENCE DISCUSSION AND ANALYSIS

Service

[10] To ensure procedural fairness, the Enforcement Committee examined evidence regarding when and how the relevant documents and notices were served on the Respondents.

[11] The Applicant provided evidence that service was per email in terms of Rule 5 of the Enforcement Committee Rules.

[12] The Enforcement Committee is of the view that service in terms of Rule 5 was proper and sufficient service.

The Merits

[13]The Applicant alleged that the Respondents were in contravention of section 18(1)(a) and section 18(1)(b) of the FP Act. The allegations were set out clearly in Affidavits properly commissioned and corroborated by confirmatory affidavits.

[14]In particular, the affidavit of the Complaint's Officer showed how and when he conducted the online inspection, the purpose thereof, his observations and conclusions.

[15]The noncompliance was corroborated by the fact that there was no FPB official record of the Respondents having been registered.

[16]In addition, the Applicant provided screenshots of the website of the First Respondent which confirmed, *inter alia*, the allegations that the films had not been submitted to the Applicant for classification.

[17]None of this evidence was contradicted and the Enforcement Committee found no reason to reject it. Instead, having regard to the totality of the facts and the evidence in this matter, the Enforcement Committee found no reason not to accept the version of the Applicant.

FINDING

[18]Accordingly, the Enforcement Committee makes the following findings:

- 18.1. The First Respondent is in contravention of section 18(1)(a) of the FP Act in that it failed to register with the Film and Publication Board as a distributor/exhibitor of films.
- 18.2. The First Respondent is in contravention of section 18(1)(b) of the FP Act in that it failed to submit its films to the Film and Publication Board for classification.

CONCLUSION

[19] Section 2 of the FP Act sets out objects which aim at regulating the creation, production, possession and distribution of films, games and certain publications to

- promote consumer advice to enable adults to make informed decisions about viewing, reading and gaming for themselves and for the children in their care.
- protect children from exposure to disturbing and harmful material and from premature exposure to adult experiences.
- make use of children in and the exposure of children to pornography punishable.
- criminalise the possession, production and distribution of child pornography; and
- create offences for noncompliance with this Act.

[20] In the present case, the First Respondent is a distributor/exhibitor of films which persists in distributing films without having registered with the Applicant as a distributor of films.

[21] The Respondent also persists in its refusal to submit its films to the Applicant for classification.

[22] The conduct of the Respondent is indicative of lack of respect for the Regulatory Authority and those that the Authority is mandated to protect. This, in our view, is an aggravating factor that calls for stringent penalties.

ORDER

[23] In the result, the Enforcement Committee grants relief in the following terms:

- 23.1. The Applicant's noncompliance 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 condoned.

- 23.2. Order is granted 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
- 23.3. The Respondents shall pay a fine in the amount of R150 000 (One Hundred and Fifty Thousand Rand) for its failure to register with the Film and Publication Board as a distributor of films.
- 23.4. The Respondents shall pay a fine in the amount of R500 000 (Five Hundred Thousand Rand) for its failure to submit its films to the Film and Publication Board for classification.
- 23.5. The Respondents shall pay a fine in the amount of R50 000 (Fifty Thousand Rand) for advertising films without indicating, clearly and conspicuously so as to be plainly visible to the public, the age restriction, consumer advice and any other condition imposed on any film being advertised as prescribed in terms of section 24A (6) of the Films and Publications Act as amended.
- 23.6. Such payment of fine shall be effected by the Respondents electronically into the bank account of the Films and Publication Board provided herein, within forty-five (45) days upon receipt of this Order.
- 23.7. The Respondents shall provide the CEO of the Film and Publication Board with a copy of proof of payment *per* the email address (Makhosazana.lindhorst@fpb.org.za) provided herein within forty-eight (48) hours of such payment.

TMMasipa

ENFORCEMENT COMMITTEE

Judge Thokozile Masipa – Chairperson

Ms Nalini Maharaj – Member

Dr. Adv Nzumbululo Silas Siphuma – Member

Date: 14 August 2026