

New Legislation on Film and Video Classification Garners Little Attention

By Linda McKay-Panos

Legislation Considered:

[Film and Video Classification Act](#), S.A. 2008 c. F-11.5

Without much attention or fanfare, the *Film and Video Classification Act* ("FVCA"), S.A. 2008 c. F-11.5 received royal assent on December 2, 2008. It is awaiting proclamation. It is perhaps ironic that the media did not pay much attention to legislation that will certainly affect some of them. It is clear that the legislation that the FVCA will replace is sorely out of date and needs to be brought into the 21st century (e.g., the *Amusements Act*, R.S.A. 2000, c.A-40, referred to "moving picture machines" and "travelling picture shows"). However, some of the amendments seem to create potential difficulties in implementation. Three aspects of the new legislation merit discussion.

First, the new FVCA is silent regarding what many of us know as "scalping". The *Amusements Act* provided in s. 25 that "No person shall, barter, or exchange a ticket of admission to a place of amusement for a price or consideration greater than that paid or given for it to the owner of the place to which it authorizes admission." The FVCA does not deal with this practice, which has become a concern in the age of technology, with ticket sellers forwarding purchasers to online dealers who sell tickets for much higher prices. The argument is that the *Fair Trading Act*, R.S.A. 2000 c. F-2 ("FTA") will cover this practice. However, the FTA, in section 6, deals with selling items at an inflated price without informing the consumer that the price is inflated. There is no prohibition of selling tickets at over their market value. Some might argue that people should be free to foolishly spend their money if they know that the price has been marked up. However, there are some who are concerned about the practice of buying large blocks of tickets with the sole purpose of re-selling them at a very high markup, thus making it virtually impossible to buy a ticket anywhere else. Cynics might note that this practice has continued despite the existence of the prohibition.

Second, there are concerns about the classification process itself. Currently, films shown in theatres in Alberta are rated by a panel of the Alberta Film Commission, and videos and DVDs are graded by a countrywide average of provincial ratings. Under the *Amusements Act*, the Lieutenant Governor in Council appointed a board of censors, which had the authority to permit or prohibit the exhibition of any film in Alberta. The Act also provided for an appeal of a decision made by the censors. The FVCA, on the other hand, provides for the Minister to appoint

an Executive Director. The Executive Director will be responsible for administering the *FVCA*, providing services and disseminating any information considered advisable, classifying or reclassifying films to be distributed in a theatre and exempting a film or type of film from classification requirements. Under the new legislation, the Executive Director can classify or reclassify films, and there is no appeal process provided in the *FCVA*.

Third, there are concerns about the enforcement provisions in the *FCVA*. Under the *FCVA*, the government can hire inspectors who are able, without warrant, to inspect theatres and video stores and order the owners to give them films and any documents associated with them. Apparently, the purpose for these inspections will become clearer once the regulations are passed.

In addition, the *FCVA* creates a new 18A category under which anyone under 14 cannot view the movie. (Currently, children are permitted to view an 18A movie, as long as they are accompanied by an adult.) The new classification system requires theatre employees (many who are teenagers themselves) to refuse to admit any person who is prohibited from viewing a film because of its classification. The concern with this is that the employee will be required to check the youth's identification and also could get into arguments with the adults who are wishing to take their children to the movie. Apparently, similar legislation in Manitoba has "led to shouting matches in movie theatres between young staff and outraged parents" (Dean Bennett, "[Alberta to proclaim bill to create movie czar](#)" (10 March 2009) Canoe News). A similar provision applies to the selling or rental of videos. Thus, employees will have to ensure the attendees are of age. If these provisions are violated, the theatre employee - and not the moviegoer or purchaser - will be subject to punishment under the *FCVA*, which includes a maximum fine of \$10,000 and/or jail time of up to two years less a day. An offending corporation can be liable for a fine as high as \$100,000.

Some of these concerns were raised at the Committee Stage (Standing Committee on Community Services, Twenty-Fifth Legislature, First Session, [Report on Bill 18: Film and Video Classification Act](#) (October 2008) at p. 5). Also, when Bill 18 was debated in the Legislature, some opposition members raised these concerns. However, very little was said in the media about this legislation until after it received royal assent. Perhaps more concerns will be publicized once the legislation is in force and the theatres attempt to implement it.