

**For discussion on
12 July 2021**

**Legislative Council
Panel on Information Technology and Broadcasting
Film Censorship Regulatory Framework**

Purpose

This paper briefs Members on the film censorship regulatory framework and reports on the amendments to the Film Censorship Guidelines for Censors (the Guidelines for Censors).

Background

Film Censorship Regulatory Framework

2. Section 8(1) of the Film Censorship Ordinance (Cap. 392) (the Ordinance) stipulates that any film intended for exhibition in Hong Kong¹ shall be submitted to the Film Censorship Authority (the Authority) to be dealt with under the Ordinance. The Authority will, having regard to the circumstances of the film, determine whether it requires classification², or is exempted from classification³. Under section 10(1) of the Ordinance, if the Authority decides that a film requires classification, he shall assign a censor

¹ Section 2 of the Ordinance prescribes that “exhibition” means the screening of a film in Hong Kong -

- (a) at any place of public entertainment within the meaning of section 2 of the Places of Public Entertainment Ordinance (Cap. 172);
- (b) at any public place within the meaning of section 3 of the Interpretation and General Clauses Ordinance (Cap. 1); or
- (c) at any place to which a person has access by reason of the fact of being a member of a club, society, company, partnership or association of persons.

² In general, films for commercial release at cinemas and those for exhibition at film festivals require classification.

³ Pursuant to section 9 of the Ordinance, films of a cultural, educational, instructional, promotional, sports, musical or religious nature and travelogues may be exempted from classification as the Authority thinks fit. Generally speaking, advertisements, film trailers, etc. shown in public places (e.g. at MTR stations, on screens mounted on external walls of buildings or in other public places or venues) are exempted from classification. Exempted films shall still be submitted to the Authority for approval prior to exhibition.

in respect of the film. The Authority may also assign not less than two members from the Panel of Advisers on Film Censorship to view the film with the censor, and to advise the latter on the suitability of the film for exhibition and its classification.

3. A film classification system is established under the film censorship framework: Category I (suitable for all ages); Category IIA (not suitable for children); Category IIB (not suitable for young persons and children); and Category III (for persons aged 18 or above only). Categories I, IIA and IIB are advisory in nature. Parents and guardians may make reference to the classification of films in deciding what is suitable for children or young persons. The age restriction for Category III (for persons aged 18 or above only) is legally enforced.

4. After viewing the film, the censor has to decide whether a film can be approved for exhibition and its appropriate classification. The censor shall consider the following matters under section 10(2) of the Ordinance –

- (a) whether the film portrays, depicts or treats cruelty, torture, violence, crime, horror, disability, sexuality or indecent or offensive language or behaviour; and
- (b) whether the film denigrates or insults any particular class of the public by reference to the colour, race, religious beliefs or ethnic or national origins or the sex of the members of that class.

5. In making his decision, section 10(3) of the Ordinance requires the censor to take the following into account –

- (a) the effect of a film as a whole and its likely effect on the persons likely to view the film;
- (b) the artistic, educational, literary or scientific merit of the film and its importance or value for cultural or social reasons; and
- (c) in relation to the intended exhibition of the film, the circumstances of such exhibition. In considering films against the criteria set out in section 10(2) of the Ordinance, the censor must also take into account the matters set out in section 10(3) of the Ordinance.

6. The censor shall, after viewing a film and considering the requirements mentioned above, (a) if he is of the opinion that the film is suitable for exhibition, approve the film for exhibition and give it a

classification; (b) if he is of the opinion that the film is not suitable for exhibition, refuse to approve the film for exhibition; or (c) if he is of the opinion, by reason of a certain piece or certain pieces of the film, that the film is not suitable for exhibition or that he is unable to give the film a classification, inform the applicant of the classification he would be prepared to give to the film if such piece or pieces were excised from the film. After the censor approves a film for exhibition and gives it a classification, the Authority shall issue to the person who submitted the film a certificate of approval. The person who submitted the film and persons aggrieved by the exhibition and classification of the film may request the Board of Review (Film Censorship) to review the decision of the Authority or the censor.

Amendments to the Guidelines for Censors

7. Section 30 of the Ordinance stipulates that the Secretary for Commerce and Economic Development may from time to time cause to be prepared the Guidelines for Censors not inconsistent with the Ordinance, indicating the manner in which it is proposed that censors exercise their functions under the Ordinance. The Guidelines for Censors give a more detailed description of the matters which censors are required under the Ordinance to consider when making a decision. Censors will make decisions on approval for exhibition and classification of films in accordance with the requirements of the Ordinance and the general principles set out in the Guidelines for Censors.

8. The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (the National Security Law) was implemented on 30 June 2021. According to Article 3 of the National Security Law, it is the duty of the Hong Kong Special Administrative Region (HKSAR) under the Constitution to safeguard national security and the HKSAR shall perform the duty accordingly, and that the executive authorities of the HKSAR shall effectively prevent, suppress and impose punishment for any act or activity endangering national security in accordance with the National Security Law and other relevant laws. The censor shall perform the duty to prevent and suppress any act or activity endangering national security in discharging his duties under the Ordinance.

9. Following the implementation of the National Security Law, we have gazetted amendments to the Guidelines for Censors on 11 June 2021 which took effect on the same day. The amended Guidelines for Censors (as set out in the **Annex**) seek to provide censors with clearer guidance when

performing film censorship duties to determine whether and to what extent a film may be related to national security, so as to decide whether the film is suitable for exhibition and its classification. Amendments to the Guidelines for Censors mainly include –

- (a) the censor should be vigilant to the portrayal, depiction or treatment of any act or activity which may amount to an offence endangering national security, or which may otherwise jeopardise the safeguarding of national security by the HKSAR, and any content of a film which is objectively and reasonably capable of being perceived as endorsing, supporting, promoting, glorifying, encouraging or inciting such act or activity;
- (b) when considering a film as a whole and its effect on viewers, the censor should have regard to his duties to prevent and suppress acts or activities endangering national security, and the common responsibility of the people of Hong Kong to safeguard the sovereignty, unification and territorial integrity of the People's Republic of China;
- (c) having regard to the fundamental importance of safeguarding national security and to effectively prevent or suppress any act or activity endangering national security, the censor may come to the opinion that a film is not suitable for exhibition on the basis of the matters referred to in section 10(2) and section 10(3) of the Ordinance;
- (d) generally speaking, if the exhibition of a film would likely constitute an offence endangering national security, or if the film contains a matter referred to in section 10(2) of the Ordinance and the effect of the film as a whole and its effect on viewers may endanger national security or the safeguarding of national security, the censor should form the opinion that the film is not suitable for exhibition;
- (e) the depiction of violent acts which may amount to an offence endangering national security, or violent acts which may cause serious disruptions to public order should not be permitted in a film if such depiction in the film could have the likely effect of encouraging or inciting the commission of similar kinds of criminal acts. The censor should have regard to matters relating to the manner of depiction, such as the level of details of depiction, length of depiction, whether the depiction purports to

be based on or adapted from real-life events; overall arrangement of the film, whether the film contains any biased presentation of viewpoints, etc. The fact that a film purports to be a documentary or purports to report on or re-enact real events with immediate connection to the circumstances in Hong Kong necessitates an even more careful consideration of its contents by the censor; and

- (f) in deciding whether a film title is acceptable, and whether a trailer, a piece of advertising material or packaging is suitable for public display, the Authority shall have regard to whether the title or matter seeks to endorse, support, promote, glorify, encourage or incite any act which may endanger national security.

10. The film censorship regulatory framework is built on the premise of a balance between protection of individual rights and freedoms on the one hand, and the protection of legitimate societal interests on the other. Although fundamental rights (including the right to freedom of expression in the exhibition of films) should be respected, the exercise of such rights is, at the same time, subject to restrictions that are provided by law and are necessary for pursuing legitimate aims, such as respecting the rights or reputation of others, and the protection of national security or public order, or public health or morals. The amended Guidelines for Censors has struck an appropriate balance between protection of freedom of creation and expression on the one hand, and the protection of such legitimate societal interests on the other, with an aim to effectively prevent and suppress acts endangering national security.

Way Forward

11. In parallel with the amendments to the Guidelines for Censors, we have begun communication and explanatory work with the industry and its major groups, as well as responding to their queries.

12. With the implementation of the National Security Law and the revised guidelines, we will further review whether amendments are needed for the existing Ordinance, to ensure that the provisions and penalties can effectively prohibit and prevent exhibition of films which may endanger national security. We will submit an amendment bill to the Legislative Council at an appropriate time.

Advice Sought

13. Members are invited to note this paper and give their views on it.

**Communications and Creative Industries Branch
Commerce and Economic Development Bureau
5 July 2021**

Film Censorship Guidelines for Censors

I. Introduction

Section 30 of the Film Censorship Ordinance (Cap. 392) (the “Ordinance”) states that “The Secretary may, for information, from time to time cause to be prepared and published in the Gazette, for the guidance of censors, guidelines not inconsistent with this Ordinance, indicating the manner in which it is proposed that censors exercise their functions under this Ordinance.”

2. These guidelines are of a general nature: they should be read in conjunction with the Ordinance, and each film must be examined and classified on its own merits. In addition, the aim of the censors should be to reflect contemporary public attitudes towards censorship standards. In this connection, the results of public opinion surveys on film censorship standards carried out from time to time and the advice given by the panel of advisers on a specific film will be of assistance.

II. Legal Principles

3. For the purpose of deciding whether a film should be approved for exhibition and the appropriate classification that should be given, the censor is required under section 10(2) of the Ordinance to consider the following matters –

- (a) whether the film portrays, depicts or treats cruelty, torture, violence, crime, horror, disability, sexuality or indecent or offensive language or behaviour; and
- (b) whether the film denigrates or insults any particular class of the public by reference to the colour, race, religious beliefs or ethnic or national origins or the sex of the members of that class.

4. In making his decision, section 10(3) of the Ordinance requires the censor to take the following into account –

- (a) the effect of the film as a whole and its likely effect on the persons likely to view the film;

(b) the artistic, educational, literary or scientific merit of the film and its importance or value for cultural or social reasons; and

(c) in relation to the intended exhibition of the film, the circumstances of such exhibition.

5. In considering films against any of the criteria set out in section 10(2) of the Ordinance, the censor must take into account the matters set out in section 10(3).

6. Although fundamental rights including the right to freedom of expression which underlies the exhibition of film should be respected, the exercise of such rights may be subject to restrictions that are provided by law and are necessary for pursuing legitimate aims such as for respect of the rights or reputations of others, and the protection of national security or of public order (*ordre public*)¹, or of public health or morals. The film censorship regime is underpinned by the balance to be struck between protection of individual rights and freedoms on the one hand, and the protection of such legitimate societal interests on the other.

7. Further, to give full effect to the requirements under Articles 2² and 3³ of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region ("the National Security Law"), the censor should, in discharging his duties under the Ordinance, accord such considerable weight as appropriate to the need to safeguard national security by effectively preventing or suppressing any act or activity endangering national security or that is likely to endanger national security, insofar as such consideration is relevant to the matters set out in section 10(2) and section 10(3) of the Ordinance. In this connection –

(a) the censor should be vigilant to the portrayal, depiction or treatment of any act or activity which may amount to an offence

¹ Which has been held by the courts to encompass the protection and preservation of the fundamental constitutional principle of "One Country, Two Systems".

² Article 2 of the National Security Law provides that the provisions in Articles 1 and 12 of the Basic Law on the legal status of the Hong Kong Special Administrative Region ("HKSAR") are the fundamental provisions in the Basic Law. No institution, organisation or individual in the Region shall contravene these provisions in exercising their rights and freedoms.

³ Article 3 of the National Security Law provides, amongst others, that it is the duty of the HKSAR under the Constitution to safeguard national security and the Region shall perform the duty accordingly, and that the executive authorities, legislature and judiciary of the Region shall effectively prevent, suppress and impose punishment of any act or activity endangering national security in accordance with the National Security Law and other relevant laws.

endangering national security⁴, or which may otherwise jeopardise the safeguarding of national security by the HKSAR, and any content of the film which is objectively and reasonably capable of being perceived as endorsing, supporting, promoting, glorifying, encouraging or inciting such act or activity;

- (b) when considering the effect of the film as a whole and its likely effect on the persons likely to view the film, the censor should have regard to the duties to prevent and suppress act or activity endangering national security, and the common responsibility of the people of Hong Kong to safeguard the sovereignty, unification and territorial integrity of the People's Republic of China⁵ and consider if the likely effect of the film would endanger national security or jeopardise the safeguarding of national security by the HKSAR;
- (c) having regard to the fundamental importance of safeguarding national security, the imperative of effectively preventing or suppressing any act or activity endangering national security, the censor may in some circumstances come to the opinion that a film is not suitable for exhibition on the basis of the matters referred to in section 10(2) and section 10(3) of the Ordinance. Further guidance on this issue is set out in the Guidelines below; and
- (d) generally speaking, if the exhibition of the film would likely constitute an offence endangering national security (such as incitement to secession, subversion or collusion with foreign countries, advocating terrorism, publishing or displaying seditious publication, etc.), or if the film contains a matter referred to in section 10(2) of the Ordinance and the likely effect of the film as a whole and the likely effect on the persons likely to view the film may endanger national security or the safeguarding of national security, the censor should form the opinion that the film is not suitable for exhibition.

⁴ Offences endangering national security are not limited to those offences under the National Security Law but refer to acts of that nature capable of constituting an offence under the National Security Law or the laws of Hong Kong (e.g. the offences of treason and sedition under sections 2 and 10 of the Crimes Ordinance (Cap. 200)), etc.

⁵ Article 6 of the National Security Law.

III. The Three-Tier System

8. Films made today tend to depict life as it is. Violence, sex, foul language and controversial themes are to be found in many modern productions. While adults in Hong Kong find certain types of material acceptable, they would not agree that the same material is suitable for children and teenagers under their care. The classification of films into a three-tier system gives adults the opportunity to see a wider range of films dealing with the realities of the adult world, but at the same time restricts children and youth from viewing what could be harmful to them in one way or another.

9. The classification system serves two different functions. On the one hand it lays down a set of legally enforceable rules to restrict admission and access to adult films by minors. On the other hand, it offers to parents some advance information about the suitability of the film so that parents can decide what movies they want their children to see or not to see and thereby exercise appropriate parental guidance.

10. Classification of films for children and young persons involves exercising judgement on the capacity of the different age groups in coping with the depictions and treatment of film material which may not be suitable for them. The perceived maturity and sophistication of children and young persons are also important factors. The category advice should be seen in this light.

11. When a censor, aided by his advisers, approves a film for public exhibition, he is required to classify it as –

- (a) approved for exhibition to persons of any age: Category I.
- (b) approved for exhibition to persons of any age subject to the condition that any advertising material which relates to the film shall contain the following notice, or a notice to the like effect, in block letters and Chinese characters prominently and legibly displayed – NOT SUITABLE FOR CHILDREN: Category IIA or NOT SUITABLE FOR YOUNG PERSONS AND CHILDREN: Category IIB.
- (c) approved for exhibition only to persons who have attained the age of 18 years: Category III.

A censor should assume that when a film has been classified Category III, people under the age of 18 will not get to see it.

IV. Viewing of Films

12. The person who submits a film (distributor) is required to state the classification being sought for the film when it is publicly exhibited. Subject to paragraph 7 above, the censor should try to accommodate this wish with or without excisions; but he may indicate any other classification he would be prepared to give with or without excisions, or refuse approval. In all cases reasons for his decision must be given. The distributor can then decide whether to accept the decision of the censor or appeal against the censor's decision to the Board of Review. In the case of any excisions proposed by the censor, the distributor can proceed with the cutting himself or confirm in writing his request that the censor should make the excisions for him. All pieces of film thus excised will be retained by the Film Censorship Authority (the "Authority") for not less than 5 years.

13. The censor should make his decision as soon as possible but not later than 14 days after the film is submitted to and accepted by the Authority unless the consent from the Secretary for Commerce and Economic Development for a longer period is obtained for a particular case. The Authority must forthwith issue a certificate of approval, notice of refusal to approve or notice concerning excision in each case as appropriate.

V. Approaches in Classification

14. Films intended for public exhibition will have to be examined and classified within the parameters set out in section 10(2) and 10(3) of the Ordinance. Each film must be considered on its individual merits. The approaches to be adopted in these aspects are proposed in the following paragraphs.

15. Section 10(2)(a) refers to the following matters to be considered by the censor –

“whether the film portrays, depicts or treats cruelty, torture, violence, crime, horror, disability, sexuality or indecent or offensive language or behaviour.”

(a) *Cruelty, Torture or Violence*

16. No person can be protected from being exposed to depictions of cruelty or violence, even in early life. News and even daily events in Hong Kong expose people to depictions of violence. These facts of real life have made more difficult the problem of maintaining a balance in the showing of contrived violence in entertainment films. Violence has always been part of drama and even sports from time immemorial: what should concern the censor is the degree to which it is depicted in a film, and also whether it is gratuitous or not.

17. The fact that a film purports to be a documentary or purports to report on or re-enact real events (as opposed to a fictitious event) with immediate connection to the circumstances in Hong Kong necessitates an even more careful consideration of its contents by the censor, as the local audience may likely feel more strongly about the contents of the film or be led into believing and accepting the whole contents of the film, and the effect on viewers would be more impactful. The censor should carefully examine whether the film contains any biased, unverified, false or misleading narratives or presentation of commentaries, and the tendency of such contents to lead viewers to imitate the criminal or violent acts depicted.

18. Because of a natural tendency to copy adult behaviour without consideration of broader social implications, children are normally the people who are likely to be badly affected by violence in films. Such effects extend to teenagers but hopefully to a lesser extent. Therefore, the censor must examine and classify a film having in mind the degree to which a young person can be exposed to depictions of violence without being tempted to emulate them.

19. Children's materials (e.g. Westerns and Cartoons), it can be objectively argued, have traditionally depicted violence. Provided that such violence is far enough removed from reality that it does not frighten children or invite ready imitation, it can be tolerated. The general experience has been that children are more seriously disturbed by violence threatened or perpetrated against those (including animals) who are helpless or are clearly unable to escape.

20. For Category I films, the degree of violence should be kept minimal and violent scenes short. Scenes which are likely to frighten, unnerve, unsettle or cause pain to children should simply be absent from films intended for Category I. Scenes of sadism, masochism, use of readily

available weapons (kitchen knives, for instance), violence associated with sexual pleasure and less usual methods of inflicting injury on others should also be left out.

21. For Category IIA films, a limited portrayal of violence may be allowed. The impact and intensity of treatment must be mild. Scenes of sexual assaults, use of readily available weapons for dangerous but easily imitable action and less usual methods of inflicting injury on others should only be suggested or implied rather than depicted graphically. Scenes of sadism, masochism and violence associated with sexual pleasure should not be allowed.

22. The degree to which standards for depiction of violence can be relaxed in relation to Category IIB and Category III can be generally considered in the following terms –

- (a) if violence is depicted in a way which would not cause terror in children, but might invite imitation, then it should be considered whether parental guidance is appropriate: this would indicate Category IIB;
- (b) if the violence is depicted in a way which might terrorise, hurt or seriously unsettle children and young people, but there are sufficient other elements in the film which might make such an effect justifiable, then the film can be shown under Category III.

23. The depiction of violent acts which may amount to an offence endangering national security (such as terrorist activities under Articles 24 to 26 of the National Security Law), or violent acts which may cause serious disruptions to public order (such as riot, arson, criminal damage) should not be permitted in a film if such depiction in the film could have the likely effect of encouraging or inciting the commission of similar kinds of the criminal or violent acts depicted. The censor should have regard to all matters relating to the manner of depiction, such as the level of details of depiction, length of depiction, overall arrangement of the film, whether the depiction purports to be based on or adapted from real-life events as opposed to fictitious events, whether the film contains any biased presentation of viewpoints, etc.

(b) Horror and Shock

24. Horror films are a well-established genre. There is an increasing trend to increase the degree of horror felt by viewers by graphically

depicting the effects of violence or the way in which it is perpetrated. It is also an established trend to depict graphically the effects of death and physical corruption.

25. Children will often be unmoved by a scene in which, for example, an exposed human brain is shown as part of an alien monster; but the same object inspires terror when the context is death or the inflicting of pain. It is possible that psychological harm could be done to a child by exposure to a film which attacks the child's basic sense of safety and security. Horror films which, in the view of the censor, could have such an effect should not be passed in Category I.

26. For Category IIA films, a mild dose of horror special effects may be used. Scenes which may frighten small children, may be included provided the impact is kept to the minimum.

27. In deciding whether to categorise such a film as Category IIB or III, the censor should consider the degree of the impact on young viewers and whether parental guidance would have a mitigating effect.

(c) Disability

28. In viewing films which treat the subject of mental or physical disability, the censor should examine whether the approach adopted is responsible. It should be borne in mind that it is not the fault of the sufferer if he is in this condition. Special attention should be paid to see whether such subjects as physical deformities, mental retardation or psychological aberrations are treated (if they have to be) with sympathy, understanding and a sense of responsibility on the part of the film maker. Censors should bear in mind that a film which encourages public hatred or fear of the physically or mentally handicapped is unlikely to be regarded as suitable for exhibition.

(d) Sex and Nudity

29. The depiction of nudity is an established art form. However, the depiction of nudity before children is not generally tolerated by local audiences. Therefore, such scenes should not normally be permitted in Category I films.

30. The depiction of nudity in Category IIA films should be carried out with tact and discretion. Nudity in sexually suggestive manner or within sensual scenes should not be permitted in Category IIA films.

31. In considering passing films depicting nudity for Category IIB or III showing, the censor should consider the degree of the possible erotic effect of the scene. Scenes considered by the censor as being erotic should only be shown in Category III films.

32. It is possible to consider nudity separately from sexual acts as in certain contexts, nudity may not be erotic. All depictions of sexual acts, however, should be considered as potentially being erotic. The degree of erotic effect will vary according to the age and sexual experience of the viewer, the sexual preferences of the viewer and the degree of realism in the depiction.

33. Notwithstanding any aims in society for sex education of children, Hong Kong parents resent their children observing sex scenes which give rise to questions at times when parents feel it unacceptable to provide the answers (in this context, even scenes showing sex between animals could cause embarrassment). The prevailing public view in Hong Kong is that scenes depicting or implying sexual act should not be shown to children generally. Such scenes should, therefore, not appear in Category I films.

34. Incidental and mild depictions of sexually suggestive act may be allowed in Category IIA films, whereas depictions of sexual act and other sexual activity may be acceptable in Category IIB films only where they are discreetly implied or simulated.

35. In considering a film for Category III, the censor can apply more liberal standards, assuming that only adults will be present. In general, the demarcation between Category III and banned films should be based on what is accepted as soft porn (Category III) and hard core pornography (banned). Nevertheless, censors should keep themselves aware of changes of public opinion brought to light by public opinion surveys carried out by the Authority from time to time.

(e) *Language*

36. Censors should have regard, in the accurate depiction of real-life actions and emotions, for script-writers to include vulgar language. The Hong Kong public tolerates a lot of obscene language, but usually avoids its use in such a way as to invite imitation by children. Expressions or expletives with sexual connotations, or expressions normally specifically

used in the context of certain criminal groups in Hong Kong, should not be permitted in Category I films.

37. For Category IIA films, mild expletives with sexual connotations or coarse language may be used but only infrequently and are justified in context.

38. In deciding between Category IIB or III, the censor should consider the degree of offensiveness of any such language.

(f) Offensive Behaviour and Criminality

39. A film may be considered depicting offensive behaviour if it directly or indirectly endorses, supports, promotes, glorifies, encourages or incites the commission of crime, the taking of drugs or excessive consumption of alcohol. The censor should consider the likelihood of imitation having regard to the manner of depiction of the offensive behaviour in question, such as the presence of scenes which give accurate and comprehensive instruction in how to carry out any criminal act, or presence of biased presentation of viewpoints, etc. A film could cause a problem if it showed acts which would cause children or young persons, by imitation, to harm themselves, or others. Where the offensive behaviour depicted is an act or activity endangering national security, the censor should carefully consider whether the exhibition of the film may undermine the audience's awareness of national security, their respect for law and order or distort their attitude on lawfulness, thereby causing or encouraging the audience to take the risk of offending the National Security Law or committing other acts or activities endangering national security.

40. The fact that a film purports to be a documentary or purports to report on or re-enact real events with immediate connection to the circumstances in Hong Kong necessitates an even more careful consideration of its contents by the censor as the local audience may likely feel more strongly about the contents of the film or be led into believing and accepting the whole contents of the film, and the effect on viewers would be more impactful. The censor should carefully examine whether the film contains any biased, unverified, false or misleading narratives or presentation of commentaries, and the tendency of such contents to lead viewers to imitate the criminal acts depicted.

41. Certain acts are commonly held to be injurious to the community's well-being or likely to endanger public health or morals, or

to offend accepted standards of public decency. Therefore, the following materials should not be permitted in any film –

- (a) detailed or gratuitous depiction of a child who is, or who is apparently, under the age of 16 years engaging in sexual activity or crime;
- (b) explicit or gratuitous depiction of sexual violence or sexual acts under coercion or non-consent of any kind;
- (c) detailed or gratuitous depiction of extreme violence or cruelty;
- (d) detailed instruction or encouragement in dangerous or criminal techniques which are imitable;
- (e) detailed promotion, incitement or instruction on the use of dangerous drug; and
- (f) depiction of bestiality, necrophilia, sexual acts accompanied by offensive perversion (such as sadism or masochism) or exploitative incestuous behaviours.

42. A depiction which is neither detailed nor explicit of the activities referred to in paragraph 41(a) to (e) may be allowed in a Category IIB or III film provided that it is justified in the context of the film as a whole. Whether the film should be classified as Category IIB or III depends on the intensity and length of the depiction.

43. With regard to the depiction of triad, the censor should consider the following –

- (a) scenes showing triad ceremonies, rituals, hand signs and paraphernalia including cryptic poems and icons should only be permitted in Category III films;
- (b) triad expressions not generally accepted in, or in the process of being absorbed into, daily language should only be permitted in Category III films;
- (c) promotion or endorsement of triad society, triad activities or values should only be permitted in Category III films; and

- (d) glorification of the power of triads and membership in a triad society should not be permitted.

44. The depiction of criminal acts which may amount to an offence endangering national security, or violent acts which may cause serious disruptions to public order should not be permitted in a film if such depiction in the film could have the likely effect of encouraging or inciting the commission of similar kinds of the criminal or violent acts depicted. Any contents which may have the effect or likely effect of inciting or encouraging the commission of any offence under the National Security Law or seeks to advocate, incite or glorify any acts which jeopardises national security should not be permitted in any film. Whether certain contents in a film may amount to incitement to commit the relevant offences under the National Security Law is a contextual question which depends on the circumstances of each case. The censor should consider (a) whether there is anything in the film which explicitly or implicitly encourages or suggests that the audience may follow the criminal acts, and if so, (b) whether the whole context, arrangement and circumstances of the film are such that an intention to incite the audience to commit such criminal acts is reasonably apparent. If both elements are present, the censor should regard the exhibition of the film as likely amounting to incitement to commit the relevant offences under the National Security Law.

45. Section 10(2)(b) refers to the following matters to be considered by the censor –

“whether the film denigrates or insults any particular class of the public by reference to the colour, race, religious beliefs or ethnic or national origins or the sex of the members of that class.”

46. These issues covered by section 10(2)(b) of the Ordinance generally do not call for any considerations of the age of the audience or availability of parental guidance. The classification of the film will therefore not normally be relevant.

47. A censor should consider refusing showing of a film if he considers that the film has been made with the intention of inciting hatred or denigration on racial, religious, national or sexual differences.

48. Films which seek, without obviously distorting facts, to depict existing or historical cases of racial or religious hatred should not give rise to objection.

49. The main consideration should be whether the film acts in a way which invites the audience's sympathy with views denigrating or insulting to sections of the community by reference to religion, race or sex.

50. Censors should be prepared to accept films with a humorous but irreverent attitude to race, religion or sex, and those which, without malice, raise fair comment or controversy about practices in Hong Kong or overseas. A censor should seek to satisfy himself as to whether the intention is to arouse comment upon or to cause harm to the sectional interest in question. A factor in this decision may be ascertaining whether what is shown is factually true or not.

VI. Exemption of Films

51. Under section 9 of the Ordinance the Authority may exempt a film from classification. The Authority (or his delegates) is the arbiter of what can be exempted from classification under conditions or otherwise as set out in section 9.

52. The classes or description of film suitable to be exempted under this section include –

- (a) cultural;
- (b) educational;
- (c) instructional (including training);
- (d) promotional;
- (e) sports;
- (f) travel;
- (g) musical; and
- (h) religious.

53. The Authority has full discretion to interpret whether a given film falls under one of these classes or descriptions. Even if a film should fall under one of these classes or descriptions, the Authority may, should he consider appropriate, refuse to exempt a film from classification and

proceed to handle a film under section 10 of the Ordinance provided that the discretion is exercised in a reasonable manner and the decision is justified with regard to the objectives of the Ordinance and the duties and functions of the Authority under the Ordinance and the National Security Law. If satisfied that exemption may be granted, the Authority should, not later than 5 working days after the film is submitted to and accepted by him, issue a certificate of exemption with or without conditions as set out in the Ordinance. The Authority may revoke such a certificate if he is of the opinion that the film in respect of which the certificate was issued should again be submitted for censorship.

VII. Film Titles

54. Having regard to the matters specified in section 10(2)(a) and (b) of the Ordinance, the Authority may refuse to issue a certificate of approval if he is of the opinion that the proposed title of a film is unsuitable for exhibition, publication or display to the public.

55. In determining whether a film title is suitable for exhibition, publication or public display, the Authority shall have regard to standards of morality, decency or propriety that are generally accepted by reasonable members of the community; whether the film title seeks to endorse, support, promote, glorify, encourage or incite any criminal conduct or any act which may endanger national security, and its likely effect on the viewers, especially children and young persons.

56. A film title may be rejected if it –

- (a) is likely to cause deep shock or disgust;
- (b) is likely to corrupt morals;
- (c) is likely to promote, incite or encourage crime, violence and drug use;
- (d) contains insulting or sexually suggestive wording or symbols;
- (e) contains coarse language, expressions with sexual connotations or sexual references;

- (f) seeks to endorse, support, promote, glorify, encourage or incite any criminal conduct or any act which may endanger national security;
- (g) contains triad expressions or signs; or
- (h) is likely to incite hatred or denigration on grounds of racial, religious, national or sexual differences.

VIII. Trailers, Advertising Materials and Packagings

57. Each trailer for a film either intended to be shown inside the hall or the cinema lobbies should be submitted to the Authority. A separate certificate will be issued for each trailer, with or without conditions.

58. All advertising materials for Category III films must be submitted for approval before public display. These include, but are not limited to, film stills, posters, print advertisements and billboards. In dealing with the advertising material submitted, the Authority will take into account those factors laid down in section 10(2) and 10(3) of the Ordinance. The Authority may refuse to approve the advertising material which is considered not suitable for display in public under section 15K(5)(b) of the Ordinance.

59. The packaging of a videotape or laserdisc containing a Category III film must be submitted to the Authority for approval. The Authority may require the packaging constituting the cover of the videotape or laserdisc to be enclosed in an opaque wrapper under section 15B(4)(a) of the Ordinance.

60. In deciding whether a piece of advertising material or packaging is suitable for public display, the Authority shall have regard to –

- (a) standards of morality, decency and propriety that are generally accepted by reasonable members of the community;
- (b) the dominant effect of the matter as a whole;
- (c) whether the matter seeks to endorse, support, promote, glorify, encourage or incite any criminal conduct or any act which may endanger national security;

- (d) the location where the matter is likely to be displayed in public and the persons likely to view such matter; and
- (e) any artistic, educational, literary or scientific merit it may possess.

61. As advertising material or packaging is often displayed in public places and available to all passers-by, it should not contain materials which are offensive to public morality, decency and ordinary good taste, or seeks to endorse, support, promote, glorify, encourage or incite any criminal conduct or any act which may endanger national security. The following guidelines will be applied –

- (a) depictions of nudity should not be permitted;
- (b) discreet partial nudity may be permitted if it is not sexually suggestive or does not imply sexual act;
- (c) depiction of a person(s) posed in a sexually provocative or suggestive manner should not be permitted;
- (d) depictions of sexual activity or implications of sexual acts and fetishes should not be permitted;
- (e) depictions of violence should be mild;
- (f) violence associated with sexual pleasure, sexual violence against non-consenting persons, or dangerous practices of inflicting injury on others should not be permitted;
- (g) depictions of frightening images or horror scenarios should be mild;
- (h) language or wording should not be insulting or sexually suggestive. Coarse language, expressions with sexual connotations or sexual references should not be permitted;
- (i) materials which seeks to endorse, support, promote, glorify, encourage or incite any criminal conduct or any act which may endanger national security should not be permitted;
- (j) depictions of triad ceremonies, rituals and hand signs, or descriptions of triad expressions should not be permitted;

- (k) depictions or written descriptions of repulsive or depraved acts should not be permitted;
- (l) depictions or written descriptions which promote, incite or encourage crime, violence and drug use should not be permitted; and
- (m) depictions or written descriptions which are likely to incite hatred or denigration

IX. Films Submitted by Clubs and Cultural Organisations

62. The Ordinance clearly states that films intended to be shown by clubs and cultural organisations must be submitted for censorship (definition of “exhibition” in section 2(1) of the Ordinance).

63. A film submitted by such an organisation may be exempted from classification if the Authority decides that the film comes under one of the classes suitable for exemption. If the film does not fall under one of these classes it must be examined by the censor and classified accordingly.

X. Exemption of Slides of Non-commercial Nature from Censorship Requirement

64. Slides, or still films, of a cultural, educational, instructional, promotional or religious nature are exempt from submission for censorship if they are exhibited or intended to be exhibited by a cultural, educational, religious or professional organisation, or a member of any such organisation for a non-commercial purpose. The Authority may require the exhibitor to submit any such still film to him for censorship if he has reasons to believe that the exemption has been abused or that there is the attempt to circumvent censorship.

XI. Advisory Service

65. A censor can be called upon by the Authority (or his delegates) to give advice to film producers/distributors if needed. Pre-production advice to producers is not binding on the censor. This advice serves to iron out problems, which could arise in the production, the suitability or otherwise of any particular scene, sequence, language or theme.

66. Distributors may also ask for advice before or after the submission of their film for censorship specially in respect of choosing a category and the possibility of changing a film from one category to another. Such advice will likewise not be binding on the censor. The censor should always show co-operation and understanding within the terms of the law. Appeal to the Board of Review is always open to any distributor who feels aggrieved by the decision of the censor.

11 June 2021

Edward YAU
Secretary for Commerce and Economic Development