

Ms Lee Ee Jia
Director (Media Policy)
Infocomm Media Development Authority
(Attention: Ms Tee Yock Sian)
Email: consultation@imda.gov.sg

30 December 2017

Re: Petition for an independent Films Appeal Committee (Section 25, Films Act) and for procedures that promote accountability, fairness, and transparency (Section 24, Films Act).

Dear Ms Lee,

On behalf of 113 individuals, I am submitting a petition for a Films Appeal Committee that is appointed by the community, rather than through the current practice of being appointed by the Minister (Section 25, Films Act). The petition also calls for appeal procedures that fulfill principles of fairness, transparency, and accountability (Section 24, Films Act).

Please see the petition for more details. The list of names is attached at the end of the petition.

Sincerely,



Jason Soo
Filmmaker
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Petition for an independent Films Appeal Committee and for appeal procedures that promote accountability, fairness, and transparency

Synopsis

The public consultation on the Films Act is an opportunity to examine the workings of the Films Appeal Committee (FAC). Few of the proposed amendments ensure that the FAC is an independent body operating under principles of transparency, accountability, and fairness.

Instead of superficial amendments, we call for

- (1) An FAC that is appointed by the community rather than appointed solely by the Minister
- (2) Records of FAC meetings should be made easily available for public scrutiny
- (3) Filmmakers should be allowed to attend FAC hearings
- (4) All appeals should be heard by the FAC, even for films refused classification on grounds of national security

Introduction

The FAC is responsible for hearing appeals over ratings of films, videos and games. Under existing legislation, the Minister appoints 15 members of the FAC, including the Chairman and the Vice-Chairman. The FAC is supposed to be “independent panel”¹ and FAC members are supposed to “represent a cross-section of society and age groups”².

(1) A truly independent FAC

The proposed amendments to the Films Act (Section 25) by IMDA seek to allow the Minister to appoint between 15 to 21 members to the FAC, as well as to determine the period of their appointment.

The crucial issue - ignored by the amendments - is not the size of the FAC, but the powers of appointment. If the FAC is an independent panel, then the power to appoint FAC members cannot rest in the hands of a single person. Merely increasing the size of the FAC to promote diversity in terms of age, race, religion, gender, etc. has zero or little consequence if all members think and

¹ Retrieved 13 December, 2017 from <https://www.reach.gov.sg/participate/public-consultation/info-communications-media-development-authority/public-consultation-on-the-proposed-amendments-to-the-films-act>

² Retrieved 13 December, 2017 from <https://www.imda.gov.sg/regulations-licensing-and-consultations/content-standards-and-classification/consultation-with-committees>

vote roughly in the same way, as they would tend towards if they were all appointed by a single person.

We therefore need a mechanism to ensure real independence and diversity of thought. Such a mechanism would delegate powers of appointment away from a single person. We propose a 2-stage process in which powers of appointment are shared between (1) multiple stakeholders, and (2) members of the public.

(I) Open call from stakeholders

A list of 10 different stakeholders can be identified as follows:

- Ministry of Education
- Public universities
- Law Society
- Singapore International Film Festival
- Film Community
- Arts Community
- AWARE
- Voluntary Welfare Organizations
- Non-Governmental Organizations
- Opposition party with highest percentage of votes in last election

From this first open call, members belonging to organizations in the list can nominate themselves as FAC members. Since there are different organizations within each of the 10 different stakeholder groups, there may obviously be multiple nominations from within each stakeholder group. In such a case, the appointment should simply be decided by ballot from among the multiple nominations.

In the event that there are no appointments from any of the groups, then an additional space is opened up for the next stage.

(II) Open call from the public

To make up the other 11 members of the FAC, there should be an open call for members of the public. Citizens who belong to organizations in the first list can also nominate themselves in this open call. This does not jeopardize the integrity of the process but merely reflects the differing extents to which stakeholders have an interest in the work of the FAC. Just as in the first stage, if the open call generates more nominations than necessary, the appointments are selected through ballot.

(III) The positions of Chairman and Vice-Chairman

Under existing legislation, the Minister appoints the Chairman and Vice-Chairman of the FAC. Again, this procedure does not ensure independence of the FAC. We propose that once the 21 members are appointed through the 2-stage process outlined above, the Chairman and Vice-Chairman should be decided by voting from within the newly-constituted FAC.

(2) Records of FAC meetings should be made easily available for public scrutiny

To ensure transparency and accountability, minutes of FAC meetings should be uploaded on the IMDA website and made available to the public within 7 working days. To ensure that minutes are accurate, audio recordings of the meetings should also be made available on the IMDA website so that verification is possible. If such measures are formalized into legislation, the veil of secrecy that usually surrounds bureaucratic decisions can be stripped away and public confidence in the civil service will be enhanced.

(3) Filmmakers should be allowed to attend FAC hearings

Under existing practice, when an appeal is made, the FAC first listens to a presentation by IMDA officers and then listens to the presentation of the appellant. However, the appellant is not allowed to attend the presentation by IMDA, while the reverse is true. This not only violates the principle of fairness but also deprives the appellant of having adequate information so that he or she can make a proper appeal. In the interests of fairness and transparency, the appellant should therefore be allowed to attend the IMDA's presentation.

(4) All appeals should be heard by the FAC

Under the proposed amendments to the Films Act (Section 24), appeals for films refused classification on grounds of national security will not be heard by the FAC, but by the Minister.

The arguments put forth for this amendment are not convincing. On the contrary, placing too much power in the hands of a single person opens the door to abuses of power. Moreover, in regards to a film, members of the FAC are no less capable than the Minister of evaluating whether a film undermines national security or not. A film is an open text that does not require classified information in order to be evaluated. Moreover, if appointed through the process outlined above, the decisions of the FAC as a community-appointed panel is much more reflective of societal concerns and standards than the single perspective of the Minister.

And finally, the dangers which the proposed amendments seek to curtail, are already covered by existing laws. For example, if a film is considered to be inciting violence or hate, laws such as the

Internal Security Act (Chapter 143) and the Sedition Act (Chapter 290) are more than sufficient to stop the dissemination of the film.

Summary

We, as concerned individuals, object to the proposed amendments to Sections 24 and 25 of the Films Act.

We call for an independent FAC that is appointed by the community, and whose appeal procedures fulfill principles of fairness, transparency, and accountability.

[SIGNATORIES REDACTED]