

NOTICE OF DECISION UNDER SECTION 38(1)

TO: Chief Censor

Title of publication: The Shitposter
Other known title: Not stated
OFLC ref: 1900543.000
Medium: Computer Game
Distributor: 2Genderz
Country of origin: Not stated
Language: English

Classification:	Objectionable.
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Excisions: No excisions recommended
Descriptive note: None
Display conditions: None

	Components	Running time
Game:	The Shitposter	
Total running time:		

REASONS FOR THE DECISION

The Office of Film and Literature Classification (Classification Office) examined the publication and recorded the contents in an examination transcript. A written consideration of the legal criteria was undertaken. This document provides the reasons for the decision.

Submission procedure:

The Chief Censor called in this game for classification on 15 October 2019 under s 13(3) of the Films, Videos, and Publications Classification Act 1993 (FVPC Act) due to concerns that it is currently available in New Zealand, and may contain objectionable or restricted content.

The game's developer, 2Genderz, was informed of their right as interested parties to make a written submission on the classification of *The Shitposter*. Submissions closed on 25 October 2019. No submission was received from the developer. The Secretary for Internal Affairs, who has an automatic right to make a submission, was also notified but did not make a submission.

Under s23(1) of the FVPC Act the Classification Office is required to examine and classify the publication.

Under s23(2) of the FVPC Act the Classification Office must determine whether the publication is to be classified as unrestricted, objectionable, or objectionable except in particular circumstances.

Section 23(3) permits the Classification Office to restrict a publication that would otherwise be classified as objectionable so that it can be made available to particular persons or classes of persons for educational, professional, scientific, literary, artistic, or technical purposes.

Description of the publication:

The Shitposter is a first-person shooter game. The player controls an avatar who commits a mass shooting in a city. Neither the character nor the city are named in the game, but a description on the game's website – the only way to obtain the game – states that players play as 'Brenton Torrent' in 'Clowntown'. The game is simplistic and lacking in interactivity; the only action the player can take is to shoot non-playable characters. All non-playable characters are non-hostile.

A simulated 'live' graphic, including subscriber and view counts, and chat box on the screen clearly contextualise the game's action as a livestream which is being filmed in the first person. The subscriber and view counts increase as the player shoots more non-playable characters. After using all the ammunition in the six weapons the player has (including a pistol, machine gun, and assault rifle), the player character then kills themselves using a suicide vest, after which the game unceremoniously throws the player back to the game's start screen.

The title of the game's executable file is called 'Shitpost showdown Tarrants revenge' – an overt reference to the Christchurch mosque shooter.

New Zealand Bill of Rights Act 1990:

Section 14 of the New Zealand Bill of Rights Act 1990 (NZBORA) states that everyone has "the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form". Under s5 of the NZBORA, this freedom is subject "only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society". Section 6 of the NZBORA states that "Wherever an enactment can be given a meaning that is consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning".

The meaning of "objectionable":

Section 3(1) of the FVPC Act sets out the meaning of the word "objectionable". The section states that a publication is objectionable if it:

describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good.

The Court of Appeal's interpretation of the words "matters such as sex, horror, crime, cruelty or violence" in s3(1), as set out in *Living Word Distributors v Human Rights Action Group (Wellington)*, must also be taken into account in the classification of any publication:

[27] The words "matters such as" in context are both expanding and limiting. They expand the qualifying content beyond a bare focus on one of the five categories specified. But the expression "such as" is narrower than "includes", which was the term used in defining "indecent" in the repealed Indecent Publications Act 1963. Given the similarity of the content description in the successive statutes, "such as" was a deliberate departure from the unrestricting "includes".

[28] The words used in s3 limit the qualifying publications to those that can fairly be described as dealing with matters of the kinds listed. In that regard, too, the collocation of words "sex, horror, crime, cruelty or violence", as the matters dealt with, tends to point to activity rather than to the expression of opinion or attitude.

[29] That, in our view, is the scope of the subject matter gateway.¹

The content of the publication must bring it within the "subject matter gateway". In classifying the publication therefore, the main question is whether or not it deals with any s3(1) matters in such a manner that the availability of the publication is likely to be injurious to the public good:

Matters such as crime

The game is clearly intended to simulate and reference real-world terrorist violence. This will be discussed further under cruelty and violence, below.

Matters such as cruelty and violence

Violence and cruelty are central to the game. The only way the player can interact with the game world is by playing as a terrorist mass-shooter. This will be discussed under ss 3(2)(f) and 3(3)(d), below.

Certain publications are "deemed to be objectionable":

Under s3(2) of the FVPC Act, a publication is deemed to be objectionable if it promotes or supports, or tends to promote or support, certain activities listed in that subsection.

In *Moonen v Film and Literature Board of Review (Moonen I)*, the Court of Appeal stated that the words "promotes or supports" must be given "such available meaning as impinges as little as possible on the freedom of expression"² in order to be consistent with the Bill of Rights. The Court then set out how a publication may come within a definition of "promotes or supports" in s3(2) that impinges as little as possible on the freedom of expression:

Description and depiction ... of a prohibited activity do not of themselves necessarily amount to promotion of or support for that activity. There must be something about the way the prohibited activity is described, depicted or otherwise dealt with, which can fairly be said to have the effect of promoting or supporting that activity.³

¹ *Living Word Distributors v Human Rights Action Group (Wellington)* [2000] 3 NZLR 570 at paras 27-29.

² *Moonen v Film and Literature Board of Review* [2000] 2 NZLR 9 at para 27.

³ Above n2 at para 29.

Mere depiction or description of any of the s3(2) matters will generally not be enough to deem a publication to be objectionable under s3(2). When used in conjunction with an activity, the Classification Office defines "promote" to mean the advancement or encouragement of that activity. The Classification Office interprets the word "support" to mean the upholding and strengthening of something so that it is more likely to endure. A publication must therefore advance, encourage, uphold or strengthen, rather than merely depict, describe or deal with, one of the matters listed in s3(2) for it to be deemed to be objectionable under that provision.

The Classification Office has considered all of the matters in s3(2). The relevant matter is:

s3(2)(f) Acts of torture or the infliction of extreme violence or extreme cruelty.

Violence is the sole focus of the game – there is no other way in which the player can interact with the game. Characters scream and run away after an initial gunshot is fired, as if in a panic. Large groups huddle in crowds where they are easier to kill. However, the depiction of violence overall is unrealistic and crudely rendered. Reactions to gunshots are entirely unrealistic: characters fall down in response to being shot, but do not show any visible injury; blood is black and pools underneath them rather than spurting from their bodies; character models stand up after being shot in order to die. Eventually, the player runs out of ammunition and detonates a suicide vest, but the character model simply slumps onto the ground and red blood decals are placed on the side of the screen.

Simulated subscriber comments appearing on-screen celebrate the violence and cruelty of the game. However, given the unrealistic nature of the violence in the game, it in and of itself does not reach the high threshold of tending to promote or support extreme violence or cruelty more generally under s 3(2). However, the game's perspective on violence is clear and will be discussed further below under s 3(3).

Matters to be given particular weight:

Section 3(3) of the FVPC Act deals with the matters which the Classification Office must give particular weight to in determining whether or not any publication (other than a publication to which subsection (2) of this section applies) is objectionable or should in accordance with section 23(2) be given a classification other than objectionable.

The Classification Office has considered all the matters in s3(3). The matters relevant to the publication are:

s3(3)(d) The extent and degree to which, and the manner in which, the publication promotes or encourages criminal acts or acts of terrorism;

and

s3(3)(c) The extent and degree to which, and the manner in which, the publication degrades, dehumanises or demeans any person;

and

s3(3)(e) The extent and degree to which, and the manner in which, the publication represents (whether directly or by implication) that members of any particular class of the public are inherently inferior to other members of the public by reason of any characteristic of members of that class, being a

*characteristic that is a prohibited ground of discrimination specified in section 21(1) of the Human Rights Act 1993.*⁴

While the violence in the game does not approach anything resembling realistic, it has a degrading and dehumanising tone. Many of the game's non-playable characters are caricatures of people from categories of persons protected under the Human Rights Act 1993, such as race, religious belief, ethnic origin, and sexual orientation. For example, a man in leather gear (a gay male caricature) flails his arms in the air around him as he runs; some characters have exaggerated noses. Many of the characters are clearly people of colour. Some even reference real-life people, such as 'Big Red', a woman with short bright red hair, thick glasses, and a white jacket.⁵ All of the non-playable characters are from groups commonly targeted by white supremacist/violent nationalist extremists. The game presents them as hapless targets to shoot.

As the player kills completely non-hostile characters, a simulated 'live chat' at the bottom left of the screen shows 'viewers' commenting on the livestream, talking about the player's actions in an irreverently endorsing manner, such as noting "I love how they fall down lmao" and "One less communist". Many of these comments also employ white supremacist dog-whistles and artefacts from chan culture, some examples being:

- "Why are there so many people, and why haven't they been gassed?"
- "Based and redpilled"⁶
- "That cuck⁷ thought he could get away"
- "Kebab removed"⁸

and some uses of Jewish words, which are currently being forcefully hijacked by white nationalists and anti-Semites:⁹

- "The goyim know, shut it down"
- "Shalom! What let's play is this, frens"¹⁰

References to memes that have been created or co-opted by white supremacists are also seen in the game. For example:

- Honkler, an edited image of Pepe the Frog dressed as a clown that has been turned into a forced meme for white supremacists.
- Le Happy Merchant, a caricature of a scheming Jew with exaggerated features drawn by known racist Nick Bougas (a cartoonist who drew for the White Aryan Resistance, a neo-Nazi outfit in the 1990s). The original image has been edited so that the face is simply a mass of noses.
- A variant of a 'THAT'S a knife' meme¹¹ featuring an MS Paint image of Crocodile Dundee, which says "you call that a shitpost?" and "Hold still while I glass you" – the

⁴ The grounds of discrimination prohibited by s21(1) of the Human Rights Act 1993 are sex, marital status, religious belief, ethical belief, colour, race, ethnic or national origins, disability, age, political opinion, employment status, family status and sexual orientation.

⁵ <https://knowyourmeme.com/memes/people/big-red>

⁶ https://rationalwiki.org/wiki/Alt-right_glossary#Red_pill

⁷ https://rationalwiki.org/wiki/Alt-right_glossary#Cuck

⁸ https://rationalwiki.org/wiki/Alt-right_glossary#Remove_kebab

⁹ https://rationalwiki.org/wiki/Alt-right_glossary#Goy

¹⁰ https://rationalwiki.org/wiki/Alt-right_glossary#Fren

¹¹ <https://knowyourmeme.com/memes/thats-a-knife>

latter is an image that the Christchurch mosque shooter posted onto /pol/ before committing the shootings.¹²

The game's intention is clear. The publication therefore promotes acts of extreme terrorist violence to a high extent and degree.

Publication may be age-restricted if it contains highly offensive language likely to cause serious harm:

Section 3A provides that a publication may be classified as a restricted publication under section 23(2)(c)(i) if it

contains highly offensive language to such an extent or degree that the availability of the publication would be likely, if not restricted to persons who have attained a specified age, to cause serious harm to persons under that age.

"Highly offensive language" is defined in s3A(3) to mean language that is highly offensive to the public in general.

The game contains racist language, which is discussed above along with its potential harms.

Publication may be age-restricted if likely to be injurious to public good for specified reasons:

Section 3B provides that a publication may be classified as a restricted publication under section 23(2)(c)(i) if it

contains material specified in subsection (3) to such an extent or degree that the availability of the publication would, if not restricted to persons who have attained a specified age, be likely to be injurious to the public good for any or all of the reasons specified in subsection (4).

The Classification Office has considered all the matters in s3B(3), but none are relevant to this publication.

Additional matters to be considered:

s3(4)(a) *The dominant effect of the publication as a whole.*

The game is a crude and cheaply made first person shooter that makes light of real-world terrorist violence. It endorses attacks and acts as a celebration of those racist and extremist views. The game's low production value attempts to provide a shield for the game as an offensive and irreverent 'joke'. It is a clear use both of the Christchurch terrorist's brand and recognised extremist chan culture. The gameplay is the relentless and numbing killing of minority groups whilst being cheered on.

The dominant effect for most people will be revulsion. However, the dominant effect for those on a pathway towards violent extremism may be a dark delight.

¹² <https://www.smh.com.au/national/nsw/alleged-mosque-shooter-s-meme-popular-with-australian-far-right-group-20190315-p514ns.html>

The Classification Office has taken into serious consideration the important distinction between offensive and discriminatory language (sometimes referred to as ‘hate speech’) as contained throughout *The Shitposter* and language or rhetoric that is likely to promote acts of violence and terrorism (considered ‘dangerous speech’).

The game reinforces the gamification of mass murder and terrorism that is a recognised phenomenon within the online white extremist community.¹³ Online commentary following recent mosque shooting has referenced the Christchurch mosque shooter’s ‘high score’, framing the death toll as something that extremist attackers should strive to exceed – as if in a game. The documentation apparently posted by the Halle attacker also contained reference to game ‘bonuses’ that were associated with real-world acts of terrorism and murder.

Along with the widespread reach of online content, and of the wider dehumanisation of persons in the game, it is worth reiterating that none of this content is made with any particular effort, sophistication, or realism. However, when all of these elements are clustered together into a single publication, the game’s intent is self-evident; it is a trivialisation and promotion of contemporary real-world terrorist violence and an outright endorsement of racist beliefs that is meant to appeal to those who likely already share those beliefs or are vulnerable to them. On balance the content and context of this publication fits all of the criteria listed above and can fairly be characterised as posing a genuine and identifiable danger to society at the present time.

s3(4)(b) The impact of the medium in which the publication is presented.

Online games are easily shared and distributed.

s3(4)(c) The character of the publication, including any merit, value or importance it has in relation to literary, artistic, social, cultural, educational, scientific or other matters.

The game has no particular artistic merit. Its limited playability and crude rendering also limit its value as a game. There could be some potential value to academic researchers and analysts, particularly media studies scholars, who want to examine the landscape of alt-right propaganda, but there is no discernible value for the vast majority of New Zealanders or gamers.

s3(4)(d) The persons, classes of persons, or age groups of the persons to whom the publication is intended or is likely to be made available; and

and

s3(4)(e) The purpose for which the publication is intended to be used.

The game was created with the intent that it would be purchased and promoted on the internet, and is clearly intended as an ‘unofficial’ supplementary text to real-world terrorist attacks, particularly the Christchurch mosque shootings, with clearly references to the shooter. As such, it is intended largely for an international audience who already share the views of those extremists, especially those that also identify as ‘gamers’, a pool that the alt-right actively recruit from.¹⁴ Simultaneously, the game is dressed up as an irreverently offensive but ultimately unrealistic piece of media.

¹³ <https://www.pbs.org/newshour/show/the-gamification-of-domestic-terrorism-online>

¹⁴ <https://www.cnet.com/news/gamergate-donald-trump-american-nazis-how-video-game-culture-blew-everything-up/>
<https://www.npr.org/2018/11/05/660642531/right-wing-hate-groups-are-recruiting-video-gamers;>
<https://www.vox.com/culture/2016/12/14/13576192/alt-right-sexism-recruitment;>

To this end, it presents as being intended as both a cash-in and as a recruitment tool in the online radicalisation of disaffected people into a real world terrorist cause. The game is also likely intended to outrage those that are outside of that group and to achieve notoriety through mainstream media condemnation.

s3(4)(f) *Any other relevant circumstances relating to the intended or likely use of the publication.*

The game is currently only hosted on a website, 2Genderz, where it is priced at \$14.88 – the numeric ‘14’ references a prominent and commonly used white supremacist phrase that refers to David Lane’s white supremacist “fourteen words” slogan, and 88 as a shorthand for Heil Hitler. As with the game itself, the 2Genderz website is filled with alt-right iconography.

Conclusion:

The Shitposter is classified objectionable.

The game trivialises and promotes criminal activity, including mass murder and terrorism, to a high extent and degree that is likely to be injurious to the public good. The game goes beyond being an edgy, inflammatory product, such as *Hatred* (OFLC Ref. 1600966, R18), which courts controversy for facilitating the targeting of civilians through a filter of nihilism and misanthropy. The key differences include the fact that *Hatred* does not promote any terrorist or extremist ideology, nor does it explicitly link to or promote particular real world crimes. *The Shitposter* does both. It promotes a highly recognisable and current brand of violent white supremacist extremism, while clearly linking to and echoing recent attacks, particularly the horrific terrorist massacre carried out in Christchurch on 15 March.

It is a crudely produced game with very basic gameplay. As such, for most New Zealanders, the overall effect of the game is likely to be unpersuasive and offensive. However, it is likely to greatly shock and disturb those who have been personally affected by the Christchurch mosque shootings. Muslim and migrant communities targeted by white supremacist attacks will have very real and valid concerns about a game with these characteristics being sold to New Zealanders. The framing of the game is also inextricably linked to the recent white supremacist attacks around the world.

The Classification Office has had extensive and careful regard to NZBORA and the need to ensure that freedom of expression continues to be preserved in New Zealand. *The Shitposter* is not classified as objectionable merely because it is an example of ‘hate speech’, nor is it objectionable because of the political beliefs presented in the game.

In this case an objectionable classification for this publication is considered to be a demonstrably justified limit on freedom of expression due to the high likelihood of significant, real injuries to the public good arising directly from the publication’s continued availability. This game explicitly references and rejoices in recent terrorist atrocities and mass murder, most notably the March 15 mosque attack. The gameplay consists solely of the murder of helpless minorities, while being cheered on by white supremacists. It crosses the line.

Organisations and members of the New Zealand public who believe they have a legitimate interest in accessing the publication may lodge an application with the Chief Censor for an exemption under s44 of the FVPC Act. The publication may also have value for governmental

enforcement agencies who are seeking to tackle violent extremism. These parties are already permitted to possess the publication for these and other purposes under s131(4) of the Act.

Date: 31 October 2019

For the Classification Office (signed):

Note:

You may apply to have this publication reviewed under s47 of the FVPC Act if you are dissatisfied with the Classification Office's decision.

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