

---

**From:** Information Unit  
**Sent:** Tuesday, 14 June 2022 9:30 am  
**To:** [REDACTED]  
**Subject:** RE: OIA Request  
**Attachments:** [2100071.000] Puni Puni Poemy (2001) - Section 38(1) Notice of Decision.pdf

Kia ora [REDACTED],

Thank you for your request under the Official Information Act 1982 about *Puni Puni Poemy*.

Please find attached the Classification Office's decision of 8 June 2021. The decision explains why this title was classified R16 following an application for reconsideration under [section 42\(1\) of the Films, Videos, and Publications Classification Act 1993](#).

Please let me know if you would like any more information.

Kind regards,



[REDACTED]  
Kaitohutohu Matua | Senior Advisor

**Te Mana Whakaatu | Classification Office**

Ph: +64 4 471 6770 | [classificationoffice.govt.nz](http://classificationoffice.govt.nz)

[Subscribe](#) | [Facebook](#) | [Twitter](#) | [Instagram](#)

**From:** [REDACTED] [mailto:[REDACTED]]  
**Sent:** Tuesday, 14 June 2022 7:07 am  
**To:** Information Unit <Information.Unit@classificationoffice.govt.nz>  
**Subject:** OIA Request

Name: [REDACTED]

Contact address: [REDACTED]

I would like to request the reason on why Puni Puni Poemy is rated "Restricted to persons 16 years and over". Thank you

**NOTICE OF DECISION UNDER SECTION 38(1)**

TO: Phoenix Almeida-Amir

**Title of publication:** Puni Puni Poemy  
**Other known title:** Not stated  
**OFLC ref:** 2100071.000  
**Medium:** DVD  
**Distributor:** AV Channel NZ / Gamewizz Interactive  
**Director:** Shinichi Watanabe  
**Producer:** Shigeru Kitayama  
**Country of origin:** Japan  
**Language:** Japanese, English

<b>Classification:</b>	Objectionable except if the availability of the publication is restricted to persons who have attained the age of 16 years.
------------------------	---

**Excisions:** No excisions recommended  
**Descriptive note:** Violence, cruelty, sexual violence & content that may disturb  
**Display conditions:** None

	Components	Running time
Menu:	Episode One! Episode Two! Extras! Languages	
Feature(s):	Part 1: Poemy is in a Bad Mood Part 2: With a Dream Greater Than Earth	30:03 29:41
Timed component(s):	Warning / Madman Entertainment / ADV Films Notices Clean Opening Clean Closing Behind the Scenes Production Sketches Character Art Gallery Chrono Crusade Fist of the North Star Excel Saga Imperfect Collection Neon Genesis Evangelion: The Platinum Edition	0:30  1:44 1:39 12:51 2:43 2:01 1:52 1:25 1:19 1:17
Untimed component(s):	Credits  Commentary	
Total running time:		87:05

## 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.

### Description of the publication:

The DVD *Puni Puni Poemy* contains two episodes from the feature series *Puni Puni Poemy*, a 'behind the scenes' documentary related to the making of the episodes, two sketch drawing portfolios of the characters, and several trailers for other animated features.

Originating in Japan, these episodes satirise the 'magical girl'<sup>1</sup> genre satirising various conventions associated with Japanese anime. The story is quite farcical and follows Poemy, an overly energetic 10-year-old girl who wants to be a voice actor. When her adoptive parents are killed she is taken in by her best friend, Futaba Aasu, and her six magical sisters. Poemy has power of her own, which she receives from a magic fish and together with the Aasu sisters, she defends the World against tentacled space aliens who want to 'ravish' the women of Earth.

<sup>1</sup> Magic Girl is a subgenre of Japanese fantasy media (including anime, manga, light novels, and live-action media) centered around young girls who possess magical abilities, which they typically use through an ideal alter ego into which they can transform.

## Previous Classification Decisions:

The DVD was initially classified as objectionable by the Classification Office on 20 December 2004.

That decision focused on one particular scene that involved the rape of female characters interpreted as children:

The strongest example of this kind of material occurs during the culminating scene to the second and final episode. It opens with 10 year old Poemy bound in chains, talking to the Alien leader, who informs her that they have invaded earth to have sex with all earth women. Some explanation is given as to why he feels earth women are deemed such a prize. It then moves to depict the Aasu sisters bound and chained. Soon after, a sequence runs which implies that the sisters are being raped. This is presented through depictions of their faces shown in a grimace and the sounds of moaning heard in the background. Accompanying narrative dialogue also directly implies what activity is occurring. Included in this sequence is the rape of 3 year old Hitomi, 10 year old Futaba, and 15 year old Mitsuki.

Immediately after this event, Futaba is focused on, chained and gagged wearing a ball gag and leather bondage style outfit. The alien leader, who appears as a squid-like creature, then rubs against her in a sexual manner, as he continues talking to Poemy about how nice it is that she is now "broken in". This clearly refers to 10 year old Futaba having been sexually violated. During this sequence 10 year old Poemy continually asks the alien leader why he does not want to have sex with her, and states to him how she would very much like to be his sex slave. He replies to her that he is not much interested in her "skanky little" body. Soon after Poemy transforms into her super-hero character, breaks free, and helps rescue the sisters'.

The reasons for the objectionable classification included:

Having considered the criteria in s3(2), the Classification Office is of the opinion that the publication is objectionable because it tends to promote and support the exploitation of children, or young persons, or both, for sexual purposes. It does this by presenting images in which characters presented as being children or young teenagers are directly related to, or engaged, in sexual acts. This includes imagery relating to acts of sexual coercion, which are added as part of the publications storyline for no other reason than to be entertaining. Therefore, to a lesser extent the publication also tends to support the use of sexual coercion to compel persons to submit to sexual conduct.

Throughout the publication, characters who are portrayed as being children and young persons, are depicted engaging in sexual activity. In addition, constant references of a sexual nature are strewn throughout the dialogue and the imagery. Included is a scene where a number of child characters are sexually violated.

This deliberate exploitation of children is reinforced by individuals involved in the production of the publication itself. They acknowledge in the behind the scenes commentary that characters, portrayed as being children and young persons, are being presented in a deliberately exploitative and sexualised manner, including depictions of sexual coercion.

The DVD was submitted to the Film and Literature Board of Review and also classified as objectionable on 27 July 2005. That decision was by majority with two dissenting opinions:

[93] The [majority of the] Board finds that the applicable sections in respect to this publication include Section 3(2)(a) "The exploitation of children, or young persons, or both, for sexual purposes;".

[94] In the bath scene, although there are no genitalia exposed, there is innuendo of sexual acts.

[95] In the rape scene, it is cartooned and there are a number of possible interpretations about what has actually happened, but a likely interpretation for many viewers will be that at least some, if not all, of the sisters were raped.

[96] The rape scene obviously also has application for Section 3(2)(b) "The use of violence or coercion to compel any person to participate in, or submit to, sexual conduct". The expressions on the victims' faces, and the groaning will generally be seen as evidence that rape has occurred.

[97] The English commentary in "Puni Puni Poemy" acknowledges that there are sequences in the DVD which are of concern. The commentary includes statements such as "They're just children", "That's just wrong", "That's weird", "I'm only 3", "I definitely wouldn't let my children see this", and "I wouldn't let my Presbyterian Church Minister uncle see this either". Although the comments are said to increase the humour of the events, the Board accepts the Classification Office statement that "Although the comments may be said in jest, they acknowledge, and reinforce, the fact that child characters are sexualised within the storyline".

99] The Board finds that the Applicant is a devotee of, and expert in Japanese anime, but prefers the Classification Office view of how the general population in New Zealand may view the publication. The Classification Office states *"Although there is a distinct tongue-in-cheek element to the publication that satirises the conventions of this particular style of anime, the scenes described are nevertheless included as part of the entertainment value of the DVD. By attributing adult sexual characteristics to characters depicted as children, and by presenting the scenes of sexual coercion described above in a light-hearted manner designed to entertain and titillate the viewers, the publication tends to encourage a viewpoint that children and young persons are legitimate objects of adult sexual desire and sexually coercive acts"*.

[102] The Board finds that the depictions of such extreme violence, cruelty and torture is to some extent promoted and supported or tended to be promoted or supported as, although farcical at time. "Puni Puni Poemy" shows few consequences for such actions, thereby reducing their impact in the minds of viewers.

[115] The majority of the Board therefore deems the publication "Puni Puni Poemy" to be objectionable for the purposes of the Act in that it does "promote or support or tend to promote or support" the exploitation of children or young persons for sexual purposes. It also shows acts of torture or the infliction of extreme violence or extreme cruelty without showing consequences for the perpetrators. The Board finds that the amount of extreme violence and extreme cruelty does "tend to promote or support" the activities even if in anime form.

## FIRST MINORITY DECISION

[117] After careful consideration of the publication "Puni Puni Poemy," we two are unconvinced that its availability to persons 18 years of age and older would be injurious to the public good. Our close consideration of this publication has led us to the view that it does not promote or support or tend to promote or support the exploitation for sexual purposes of children or young persons. We do not believe that the provisions of Section 3 (2) of the Act apply and therefore we are required to consider the provisions of Section 3 (3) of the Act.

[118] The presentation of the characters in this Japanese anime DVD is complicated and far from straightforward. There is a complex mix of frenetic parody, self-reflexivity and irony in its story of the youthful heroine Puni Puni Poemy. We accept [the applicant's] contention that

it is an “ironic, multi-leveled parody of clichés in Japanese animation” and that the content should not necessarily be taken at face value. Of course, the claims of parody cannot be used to exculpate a truly objectionable and injurious publication, but in our view “Puni Puni Poemy” does not fall into that category.

[119] In terms of its most contentious specific scene, we do not believe the publication promotes or supports the rapes of Puni and the sisters. Rather we believe that this particular scene definitely does not show rape positively, instead it stresses the distress and pain of the victims who clearly do not enjoy the treatment to which they are subjected. Furthermore, in the scenes depicting (a) the girls together in the bath and (b) Puni and Futaba rolling around in a mildly sexual manner, we do not find this material to be clearly objectionable in terms of the provisions of the legislation.

[120] In deciding on an appropriate classification, we took into particular account Sections 3(3)(a)(ii), and (iv) and Section 3(3)(b). After weighing up the extent and degree of material linked to these sub-sections of the Act, we suggest that an appropriate classification for “Puni Puni Poemy” would be: objectionable unless its availability is restricted to persons 18 years of age and older.

## SECOND MINORITY DECISION

[121] I do not believe that the provisions of section 3(2) apply. I am therefore required to consider section 3(3) of the Act.

[122] Anime is an increasingly popular genre in many parts of Asia, particularly Japan and “Puni Puni Poemy” is commendable of its genre contextualised in Japan. In making the decision, consideration is given to differing media.

[123] The medium is the message and here the medium (anime) is probably akin to an animated cartoon and as such given the fast ‘montage effects’ the message is subliminal.

[124] Persons above 13 today are exposed to multimedia and have life experience and a moral code (that fits their age group and culture) to view “Puni Puni Poemy” and place scenes in context., For example: (a) two 10 year olds frolicking under the bedclothes is normal play amongst children in Asian Cultures and devoid of sexual connotations. (b) the communal bathtub scene, again is common practice in Japan and seven ‘sisters’ in a tub is culturally accepted.

[125] In deciding on an appropriate classification I took into particular account section 3(3)(a)(ii) and (iv) and section 3(3)(b). After weighing up the extent and decree of material linked to these subsections of the Act I suggest that an appropriate classification of “Puny Puni Poemy” would be objectionable unless its availability is restricted to persons aged 16 and over.

### Submission procedure:

On 4 February 2021 an application was received from a resident of the UK, seeking leave to submit *Puni Puni Poemy* for reconsideration under s42(1) of the Films, Videos, and Publications Classification Act 1993 (FVPC Act) on the following grounds:

- It does not promote and support the exploitation of children and young persons for sexual purposes because it is parody
- It does not promote and support sexual violence as this conduct is presented as wrong within the narrative
- The animated medium does not exploit or harm real individuals
- Banning animations wrongly penalises animations and animation fans

- It is classified 18 by the British Board of Film Classification with a note for 'strong sex' [note is 'strong language, and moderate sex and violence']
- It has artistic merit, and should be available for criticism and discourse around the issues it presents.

The applicant states:

... *Puni Puni Poemy* uses sexual situations for purposes of parody and satire. The anime therefore does not promote or support exploitation of children and young people by never presenting itself as something to be taken seriously. It instead frankly mocks the risqué motifs in adult animation hyperbolically through parody, thus negating the prospect of malice.

In the case of *Puni Puni Poemy*, tropes of mature anime are parodied and lambasted by characters, who sometimes break the fourth wall to comment on the ridiculousness of their situations. One trope is 'fan service' to such an absurd extent that it becomes parody. Characters criticise their own situations and even animation production staff to make sure the viewer understands. In one instance even stating titillation is not intended.

The content of *Puni Puni Poemy* might be considered tasteless to some, but will not be harmful to society when restricted only to an adult audience. The target audience of *Puni Puni Poemy* can be expected to be reasonably intelligent. Therefore the publication will not be misconstrued.

*Puni Puni Poemy* is a spin-off from *Excel Saga*, another anime which has enjoyed popularity in North America, the UK, Australia and New Zealand. *Puni Puni Poemy* continues displays of parody, satire and farcical comedy found in *Excel Saga*, meaning most of *Puni Puni Poemy's* audience are familiar with *Excel Saga*, and therefore will be aware of what comedic style to expect. While *Puni Puni Poemy* may appear lowbrow, there is no doubt it has things to say, and a place in the minds of those who appreciate adult animation. Anime continues to be a niche market in English-speaking countries, so it is highly unlikely *Puni Puni Poemy* will be seen by anyone other than sincere enthusiasts of Japanese animation.

The Chief Censor granted leave to submit the DVD for reconsideration on 25 February 2021 given the amount of time that has passed since it was last classified and the changes in cultural awareness that have taken place in the interim.

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.

#### **Synopsis of written submission(s):**

No written submissions were sought or received.

## 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.<sup>2</sup>

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 sex*

Throughout the two episodes there are many allusions to sex and situations that can be viewed in a sexual manner, including bondage imagery.

The older Aasu sisters (aged 15, 18, 19, 22 and 28), are presented in an exaggeratedly sexualised manner with the bodies of well-developed women. Their behaviour is overtly sexual at times.

As some of the characters are said to be children or young persons the content is considered further under s 3(2)(a).

### *Matters such as cruelty and violence*

---

<sup>2</sup> *Living Word Distributors v Human Rights Action Group (Wellington)* [2000] 3 NZLR 570 at paras 27-29.

The episodes contain fantasy style cartoon violence, involving characters being hit and beaten in a slapstick or over-the-top manner. The cartoon style and satirical nature of this material lowers its impact. Some of these sequences result in blood-splatter, represented by flat red colour fields. These are brief and absurd. Some of the sexual content has elements of cruelty in the guise of satirising BDSM activities.

### 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"<sup>3</sup> 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.<sup>4</sup>

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)(a)            The exploitation of children, or young persons, or both, for sexual purposes.*

In *Moonen v Film and Literature Board of Review (Moonen II)* [2002] 2 NZLR 754, the Court of Appeal stated that the absence of definitions of "young persons" and "children" in s3(2)(a) was deliberate. The provision does not require proof of the models' ages; it requires an assessment of whether or not the publication in which the models appear promotes or supports the exploitation of children or young persons for sexual purposes:

The legislation is concerned with the vulnerability of young people and with the corrosive injury to the public good of depicting persons perceived to be children or young people as subjects for exploitation. The Board properly assessed whether the publication of the photographs would tend to promote or support the exploitation of children or young persons, not limited to the impact on the particular persons photographed. The inquiry under s3 does not require the ascertainment of the precise age of the person photographed.<sup>5</sup>

---

<sup>3</sup> *Moonen v Film and Literature Board of Review* [2000] 2 NZLR 9 at para 27.

<sup>4</sup> Above n2 at para 29.

<sup>5</sup> *Moonen v Film and Literature Board of Review* [2002] 2 NZLR 754 at para 40.

Parliament's intention therefore was that s3(2)(a) should apply to any publication that promotes, supports, or tends to promote or support, the exploitation of children or young persons for sexual purposes. As long as a publication at least tends to promote or support such exploitation, whether or not it depicts underage models, no underage models or no models at all is irrelevant to the proper application of s3(2)(a). The issue is whether, on the evidence presented by the publication itself, the publication at least tends to promote or support the exploitation of children or young persons for sexual purposes.

As outlined above, both the 2004 Classification Office and the 2005 majority decision of the Board of Review considered that the DVD at least tended to promote and support the exploitation of children and young persons for sexual purposes and to a lesser extent, the use of violence or coercion to compel a person to submit to sexual conduct. The Board also considered that the DVD at least tended to promote and support the infliction of extreme violence or extreme cruelty.

While there are several scenes across the episodes which put characters, who are said to be children or young persons, in sexual situations, the overall tone of the publication is not exploitative, nor is it intended to be taken seriously. It is a common anime convention for a character to be depicted with a range of body types depending on context. For instance, Poemy's superhero form is that of a well-developed woman. In that form there is nothing youthful or childish about her. When she transforms into the adult version of the character her genitals are blurred and she is depicted shaking off her socks and cutting a fish in half to turn it into a magical sword. This emphasises the parodic nature of the show.

Both the previous OFLC decision and the Board of Review majority decision referred to one scene in particular that contributed strongly to the decision to classify the DVD as objectionable. In this scene three-year-old Hitomi and 10-year-old Futaba are present while the older sisters, who present as women, are bound and gagged by aliens. They are being either whipped or sexually assaulted in some way but this is implied rather than presented in any detail but it is clear that it is painful and distressing for the victims. The bound and gagged Futaba, depicted with a well-developed body, here presents as a young adult rather than a child and is referred to by the alien leader as a woman.

Hitomi is in a cage, wearing a metal collar, and cries but is not obviously assaulted nor is she sexualised. The depiction of the older sisters, who have the well-developed bodies of women, is gratuitous and overtly sexual, but this does not extend to Hitomi.

Poemy is menaced by the alien leader who makes sexual comments about her but soon after she turns into her adult superhero form and releases the captives. Both the Classification Office and the Board's historical majority opinion included aspects of the audio commentary as contributing to the way the DVD promoted and supported the exploitation of children and young persons for sexual purposes by humorously reinforcing that the characters are children.

The Aasu sisters bathe together, along with Poemy. Limbs are strategically placed to hide nipples and genitals. Bathing is not inherently sexual and is a common feature of Japanese life. In one scene the characters talk directly to the camera, jokingly identifying this activity as 'fan service'<sup>6</sup>. Including the viewer in on the joke significantly diminishes any exploitative effect.

---

<sup>6</sup> Fan service in anime or manga is racy, sexual or erotic content, such as nudity and other forms of eye candy

There is a degree of self-awareness to the productions which includes the adult voice actress playing Poemi being depicted in live action sequences, making it clear that Poemy is a character played by an adult and limiting the likelihood of a viewer engaging with the character as a child. This self-referential quality is also present when the evil alien leader rebuffs Poemy's offer to be his "slave", saying he doesn't like voice actors.

The Classification Office has re-evaluated the problematic content identified in both previous decisions taking into account New Zealanders' increased familiarity and understanding of this type of material due to its now wider availability.

Generally the content has an obviously satirical effect, parodying the kinds of show that sexualise young characters and in this way calls out the sexualisation as wrong. This content is inexplicit and lacks any detail and therefore does not meet the high threshold of even tending to promote or support the exploitation of children or young persons for sexual purposes.

The elements relating to sexual violence or extreme violence or cruelty are also implied and unlikely to be taken seriously. Where these elements are present they are not depicted in a promotional or supportive manner but rather as unpleasant for the victims and undertaken by evil characters. Content that satirises BDSM activities includes an adult sister dressed in revealing bondage gear whipping another naked sister in annoyance. Chastisement by an adult sister presents the behaviour as an extreme satire of siblings hitting each other. The effect is over-the-top and more comical than sexual. Therefore this content also does not promote or support, or tend to promote or support ss3(2)(b) or 3(2)(f) criteria.

These elements are more appropriately discussed under s3(3) below.

### **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)(a)(ii) The extent and degree to which, and the manner in which, the publication describes, depicts, or otherwise deals with sexual violence or sexual coercion, or violence or coercion in association with sexual conduct.*

and

*s3(3)(a)(iv) The extent and degree to which, and the manner in which, the publication describes, depicts, or otherwise deals with sexual conduct with or by children, or young persons, or both.*

The episodes deal with sexual coercion to a low extent but a moderate degree. The main scene of concern is the final showdown between the alien leader – a boy with a tentacle body – and Poemy. The alien leader rants about wanting to "ravish" the women of Earth. As already mentioned, he has the older Aasu sisters bound and chained against their will as aliens with strange hanging testicles converge on them menacingly.

The sequence that follows implies that the sisters are being sexually assaulted or whipped by showing their faces wincing as they say "no". This is set against unlikely real-world

photographs including body builders, roses and crab sticks. The nature of the assault is ambiguous as the female characters are shown apparently completely untouched immediately afterwards. The juxtaposition of these images diminishes the impact of the assault but also trivialises it to some degree. The live action stills remind the viewer that this is fiction, breaking the fourth wall. The effect of the entire scene is mildly disturbing but the overall effect is comical.

Immediately after her sisters are assaulted, the chained and gagged Futaba is focused on. She is presented as a curvaceous young adult in a leather bondage style outfit rather than the young girl she presents as in other scenes. The alien leader says "don't you love the look of women who have been broken?" This seems to imply some sort of sexual assault has taken place, however this is not supported by any depiction. At one point during the climactic scene, the alien leader announces that he has killed the script writer so that he can take over the plot. The characters then roll around fighting over the script. Again this self-referential and absurd tone reduces impact on the viewer.

Regarding sexual conduct involving children or young people, this is dealt with to a low extent and moderate degree, and in an implied manner. Futaba has a crush on Poemi. Both are said to be 10-years-old. Poemi and Futaba are shown under a blanket together. Poemi is briefly depicted naked with her genital region blurred out or pixelated, which gives the scene a comic dimension. Their movement under the covers could be construed as sexual but it could just as easily be interpreted as playful childish behaviour. The second episode includes a fantasy sequence that depicts Futaba and Poemi rolling back and forth together while naked. They hold each other in a hug and roll across a mat. However, it isn't overtly sexual and while Futaba's burgeoning sexuality is intense, the scene presents as a parody of the kind of over-the-top inappropriate interest young characters often have for one-another in anime.

#### **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 episodes contain occasional use of the words "fuck" and "shit", used as intensifiers such as "What the fuck?" and "Screw the fucking film permit". This language is not likely to seriously harm younger viewers due to the low extent.

#### **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). The relevant matter is:

*s3B(3)(a)(i) material that describes, depicts, expresses, or otherwise deals with harm to a person's body whether it involves infliction of pain or not (for example, self-mutilation or similarly harmful body modification) or self-inflicted death;*

Poemy stabs pencils into her legs during class with blood spurting out. While Poemy's actions are likely to briefly shock younger viewers, the frenetic energy of the show quickly moves the action on and the scene is unlikely to have any lasting impact on younger viewers as it is so clearly fantastical.

#### **Additional matters to be considered:**

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

The dominant effect of the DVD is of a wacky, absurdist, over-the-top satire of Japanese anime with additional components that provide context and background.

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

The episodes were viewed on DVD but are available online. Both formats allow the show to be paused and replayed at will.

*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 episodes have some merit as satire of a popular anime form.

*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

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

The episodes are likely to appeal to fans of the anime, *Excel Saga*, which *Puni Puni Poemy* is a spin-off from. The show is intended for adults.

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

The Classification Office notes *Puni Puni Poemy* is classified MA15+ in Australia with a note for sexual references, and 18 in the UK with a note for strong language, and moderate sex and violence.

#### **Conclusion:**

The DVD *Puni Puni Poemy* is an absurdist anime, satirising the 'magical girl' genre of anime. It is highly self-referential, breaking the 'fourth wall' to comment on its fictional status throughout.

Having reconsidered the content, the Classification Office is of the opinion that a restriction to older teenagers and adults is sufficient to prevent the likelihood of injury to the public

good. The Classification Office is mindful of the points raised in the Board's First Minority Decision:

[118] The presentation of the characters in this Japanese anime DVD is complicated and far from straightforward. There is a complex mix of frenetic parody, self-reflexivity and irony in its story of the youthful heroine Puni Puni Poemy. We accept [the applicant's] contention that it is an "ironic, multi-leveled parody of clichés in Japanese animation" and that the content should not necessarily be taken at face value. Of course, the claims of parody cannot be used to exculpate a truly objectionable and injurious publication, but in our view "Puni Puni Poemy" does not fall into that category.

[119] In terms of its most contentious specific scene, we do not believe the publication promotes or supports the rapes of Puni and the sisters. Rather we believe that this particular scene definitely does not show rape positively, instead it stresses the distress and pain of the victims who clearly do not enjoy the treatment to which they are subjected. Furthermore, in the scenes depicting (a) the girls together in the bath and (b) Puni and Futaba rolling around in a mildly sexual manner, we do not find this material to be clearly objectionable in terms of the provisions of the legislation.

Since the DVD was last classified in 2005, anime and manga in all their forms have become extensively available in New Zealand. They are popular and well understood by a cross section of society. The tropes and conventions of the genre are therefore more widely understood which allays the concerns expressed by the Classification Office and the Board of Review majority opinion that most New Zealanders would be likely to consider the DVD promotional and supportive of the sexual exploitation of children or young people, sexual coercion or violence or acts of extreme violence or cruelty. It is now more likely that they would recognise it as salaciously risqué parody.

Further supporting an age restriction is the fact that the DVD is age restricted and not banned in either the UK or Australia, both of which reflect the same values and concerns and New Zealand around child exploitation material.

However, a restriction is still required in order to prevent injury to the public good. The bondage imagery and the ambiguous sexual assault of some of the characters means the DVD is not suitable for children and young teenagers. The trivialisation of assault is likely to harm younger viewers' developing attitudes to consent and sexuality. Adults and older teenagers are likely to have the media literacy to contextualise this content in the anime genre and are therefore less likely to be harmed by viewing it.

Balancing these harms against the right to freedom of expression, *Puni Puni Poemy* classified R16. This is the lowest reasonable limit on that right that can be applied in order to prevent injury to the public good.

**Date:** 8 June 2021

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.

Copyright Office of Film and Literature Classification. This document may not be reproduced in whole or in part by any means in any form without written permission except for brief quotations embodied in articles, reports or reviews.