

CITY OF BURNABY

COMMUNITY ISSUES AND SOCIAL PLANNING COMMITTEE

HIS WORSHIP, THE MAYOR
AND COUNCILLORS

Re: Regulation of Video and Other Games
Depicting Violence, Hatred, or Sexual Exploitation

RECOMMENDATIONS:

1. **THAT** the Federal government be requested to amend the definition of "obscene" in the Criminal Code (and thus in the Tariff Code) to include acts of violence or hatred outside of a sexual context and that this definition be applied to video and other games targeted to young people.
2. **THAT** the Provincial government be requested to:
 - under provisions of the Motion Picture Act require video games to be submitted for classification based on their level of violence, hatred or sexual exploitation, whether or not they qualify as "adult" material.
 - request the Director of Film Classification to regulate arcades and other venues offering video games as if they were theatres.
 - amend the Trade Practice Act to include consumer transactions involving minors and video and other types of games depicting violence, hatred or sexual exploitation in the list of "unconscionable acts or practices" restricted by the Act.
3. **THAT** copies of this report be forwarded to Burnaby MLAs and MPs along with a request for their assistance in supporting the recommendations.
4. **THAT** the above recommendations be submitted as a resolution to the 1994 Convention of the Union of B.C. Municipalities.
5. **THAT** a copy of this report be forwarded to the Family Court and Youth Justice Committee.

<p>:- COPY - CITY Manager - DIRECTOR ADMIN & COMM. SERV. - O.I.C., R.C.M.P.</p>

R E P O R T

1.0 INTRODUCTION

At a joint meeting on 1994 February 23, the Community Issues & Social Planning and the Family Court and Youth Justice Committees requested that staff prepare a report on methods of regulating video or electronic games. The aim was to curb the violence, hatred and sexual exploitation that young people are subjected to when exposed to such games. To date, no level of government has taken steps to address this issue. Specifically, the committees were interested in two initiatives:

- 1) approaching the Provincial government to change the Classification Act to include guidelines and ratings for video or electronic games and requesting the Union of British Columbia Municipalities to support that action; and
- 2) approaching the Federal government to apply Customs and Excise Act regulations to video or electronic games.

This report responds to that request by the Committees. Because the proposed initiatives are not dissimilar to ones taken by Burnaby during 1992 and 1993 in relation to the Serial Killer Board Game, a brief report on that process is also included. This report was considered by the Community Issues and Social Planning Committee and the recommendations adopted at the committee's meeting of 1994 March 23.

2.0 ATTEMPTS TO REGULATE "SERIAL KILLER BOARD GAME"

In 1992 September, Burnaby Council passed a notice of motion to request the Provincial government to use its authority to stop the distribution and sale of the Serial Killer Board Game. The motion also suggested that all other British Columbia municipalities be asked to support the request. The motion was presented and passed as an emergency resolution at the 1992 September convention of the Union of British Columbia Municipalities.

In its response, the Province noted that existing Provincial legislation pertaining to consumer services would not likely be capable of prohibiting the sale of such products as the Serial Killer Board Game without amendment. The Attorney General for B.C. also noted that the most effective way to deal with the problem would be to have the Federal government amend the Criminal Code upon which the Federal Customs Tariff is based. At present, the definition of "obscene" in the Criminal Code (and thus in the Customs Tariff) does not deal with violence in a non-sexual context. Accordingly, the Province forwarded Burnaby's request to the Federal government.

A series of letters between the City of Burnaby and various Federal Ministries were then exchanged between January and August, 1993, in which Burnaby requested that the Criminal Code provisions dealing with obscenity be amended to prevent the sale and distribution of materials such as the Serial Killer Board Game in Canada. Burnaby also requested that Canada Customs Guidelines be amended to prevent such activities. The last item of correspondence, dated August 24, 1993, from the Minister of Justice/Attorney General for Canada, noted that Justice Department staff had been directed to examine a number of options to address materials such as the Serial Killer Board Game. The letter noted that any solution must address the freedom of expression guarantee found in the Canadian Charter of Rights and Freedoms. With the change of government in 1993 October, the new Liberal Minister of Justice has announced that his government will address the issue of the Serial Killer Board Game.

3.0 REGULATING VIOLENCE, HATRED AND SEXUAL EXPLOITATION IN VIDEO AND OTHER GAMES

With the experience with the Serial Killer Board Game as context, Burnaby staff explored the following possible options for regulating violence, hatred and sexual exploitation in video and other games.

3.1 Potential Federal Initiatives

3.1.1 Amendments to the Criminal Code

As with the Serial Killer Board Game, violent video or electronic games are not currently governed by the Federal Customs Tariff unless the violence takes place in a sexual context. In order to have games and other material containing violence in a non-sexual context screened upon entry into Canada, amendments would need to be made to the definition of "obscene" in the Criminal Code and the new definition would have to be applied to video and other games targeted to young people. As noted above, Burnaby has already made such a request of the Federal Minister of Justice/Attorney General for Canada with regard to the Serial Killer Board Game, but the status of the request is unknown at this time.

While the suggested changes to the Criminal Code would address the importation of material depicting violence, they would not address material generated in Canada.

3.2 Potential Provincial Initiatives

There are at least two ways the Province could attempt to address the issue of access by young people to games depicting violence, hatred and sexual exploitation: through the Motion Picture Act and Film Classification Branch and/or through consumer legislation. Film classification could help to deal with video games; consumer legislation with video and other types of games.

3.2.1 Changes to Film Classification System

Video or electronic games can be accessed by young people through sales/rental from commercial outlets and through machines in amusement arcades and other venues.

At present, video games, unlike videos, are not considered "motion pictures" under the Motion Picture Act. Video games are, therefore, not subject to classification. Even if they were, however, access to motion pictures available for sale or rental in commercial outlets is restricted only for those motion pictures classified as "adult". To restrict access to minors to video games depicting violence and hatred, the Province would have to, under the provisions of the Motion Picture Act, require video games to be submitted for classification based on their level of violence, hatred or sexual exploitation, whether or not they qualify as "adult" material.

Similarly, to restrict access to video games depicting violence, hatred or sexual exploitation in arcade machines, the Province would need to request the Director of Film Classification to regulate arcades and other venues offering video games as if they were theatres. The rationale would be that all venues offering video games, like theatres, engage in "exhibition". Such a direction would allow the Film Classification Branch to view, classify and apply age restrictions to video products depicting violence, hatred or sexual exploitation.

3.2.2 Amendments to Consumer Legislation

As with the Serial Killer Board Game, existing consumer legislation would not likely be capable of prohibiting the sale or rental of video or electronic games depicting violence, hatred or sexual exploitation. However, the City could request the Province to amend the Trade Practice Act to include consumer transactions involving minors and games of any type depicting violence, hatred or sexual exploitation in the list of "unconscionable acts or practices" restricted by the Act. Such a move would target those who sell or rent (including offering in arcade machines) such games to young people, and render the vendors liable to prosecution.

3.3 Potential Municipal Initiatives

3.3.1 Age Restrictions on Amusement Arcades

To restrict access by minors to video or electronic games depicting violence, hatred or sexual exploitation, the City could impose restrictions on amusement arcades, such that entry would be prohibited to persons under 18 years of age. The City of Vancouver has such a restriction. Such a move would, however, address only one source of access for youth to such games. Games found in establishments with arcade machines as accessory uses would not be covered by such a move, nor would the sale or rental of games from commercial outlets.

At present, City staff are engaged in a public consultation process on the regulation of amusement arcades and pool halls. One proposal on which public comment is being solicited is a regulation which would restrict entry into arcades and pool halls to persons aged 18 years and older during school hours, unless accompanied by a parent or guardian. If so directed, staff could also request public feedback on an outright age restriction. Staff expect to report back to Council on the matter of regulating pool halls and amusement arcades later this spring.

3.3.2 Retailer Discretion in Sales Policy

The Province has suggested that municipalities can play a role by encouraging retailers to exercise discretion in the marketing, sale and rental of video or other games depicting violence, hatred or sexual exploitation. However, unless such material is classified, a municipality has no way of imposing or enforcing such discretion.

Even were the material classified, License Office staff advise that the monitoring and enforcement of such regulations is a Provincial responsibility. The most appropriate role for the City would be to respond to public complaints regarding retailers' display/advertisement of violent games, and to inform the Province of infractions regarding the treatment of classified material.

4.0 CONCLUSION AND RECOMMENDATIONS

Staff's view is that Burnaby should press both senior levels of government to take steps to curb the availability of video and other types of games depicting violence, hatred and sexual exploitation. If the Federal government addressed the issue of importation and the Provincial government the issue of sales/distribution, access by young people to such games could be restricted significantly.

Specifically staff recommend that Burnaby:

- request the Federal government to amend the definition of "obscene" in the Criminal Code (and thus in the Tariff Code) to include acts of violence or hatred outside of a sexual context and that this definition be applied to video and other games targeted to young people.
- request the Provincial government to:
 - under the provisions of the Motion Picture Act require video games to be submitted for classification based on their level of violence, hatred or sexual exploitation, whether or not they qualify as "adult" material.

- request the Director of Film Classification to regulate arcades and other venues offering video games as if they were theatres.
- amend the Trade Practice Act to include consumer transactions involving minors and video and other types of games depicting violence, hatred or sexual exploitation in the list of "unconscionable acts or practices" restricted by the Act.
- forward copies of this report to Burnaby MLAs and MPs along with a request for their assistance in supporting the recommendations.
- submit the above recommendations as a resolution to the 1994 Convention of the Union of B.C. Municipalities.

Respectfully submitted,

Councillor C. Redman
Chair

Councillor D. Evans
Member

JS/gl