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**‘Cuts are not a viable option’: the British Board of Film Classification, *Hate Crime* and
Censorship for Adults in the Digital Age**

Alexandra Kapka

Abstract:

In March 2015 the British Board of Film Classification (BBFC) refused to classify James Cullen Bressack’s independent film, *Hate Crime* (2012). This was the Board’s first explicit rejection of a film since 2011, and undermines their attempts to portray themselves as increasingly lenient, in favour of free choice for adults, and open about their processes. This case is of particular interest as the film was to be distributed solely via an online video-on-demand platform. *Hate Crime* has the dubious honour of being the first film to be refused an eighteen certificate under revised regulations pertaining to the streamed internet distribution of feature films in the UK. Furthermore, this case raises questions about genre boundaries, and about the definition and prioritisation of art cinema within UK institutions. This article engages with the BBFC’s refusal to classify *Hate Crime* in the light of this particular distribution context. Focusing on media industry, genre and gender studies, the article explores whether or not the BBFC’s decision can be justified, and further, what the consequences of this certification refusal might be in the current media landscape. It suggests that the BBFC’s approach might be out of kilter with the digital world, and in this case, demonstrates a misunderstanding of genre conventions and an unequivocal bias in favour of art-house cinema.

Keywords: Streamed internet distribution; censorship; Video-on-demand; BBFC; extreme cinema.

In December 2012, the British Board of Film Classification (BBFC) published an updated policy response with regard to the depiction of sexual and sadistic violence (SSV) in film (BBFC 2012). Informed by conclusions drawn from research carried out by Ipsos MORI earlier the same year, this publication, later integrated into the BBFC's revised guidelines (BBFC 2014a), cemented the arrival of what would turn out to be an increasingly censorial approach to SSV on screen. Despite this clearly evident tightening of the regulations, the BBFC claims to have spent much of Director David Cooke's tenure softening the interpretation and application of their guidelines (Pett 2014), citing zero outright rejections since 2011, when *The Bunny Game* (2011) was declined a certificate for DVD distribution, as evidence of increasing leniency.

However, in March 2015 the BBFC quietly refused to classify James Cullen Bressack's *Hate Crime* (2012). This contemporary, found footage, home invasion-style film tells the story of a Jewish family who are sitting down for dinner in celebration of the youngest child's birthday, when their home is invaded by three neo-Nazi thugs (named One, Two and Three) high on methamphetamine, and hell-bent on causing chaos and trauma. The film is a 74 minute imagining of an extreme hate crime filmed in point-of-view (POV) shots using a handheld DSLR, and written, directed and scripted by American independent filmmaker Bressack. Throughout the film, the Jewish family are variously subjected to verbal abuse, physical harassment, beating, eyeball gouging, rape, murder and forced incest.

Hate Crime is a particularly interesting case for a number of reasons. Firstly, the film represents the BBFC's only outright rejection of a film in four years. This calls into question the BBFC's projected image of themselves as increasingly lenient, in favour of free choice for adults, and open about their processes (despite a twenty year embargo on their

paperwork). Secondly, the film was to be distributed solely via online streaming. *Hate Crime* is the first refusal of a certificate for a fictional film under revised regulations pertaining to the world of streamed internet distribution, as will be elaborated below. Thirdly, the film raises questions about genre boundaries and about the definition and prioritisation of art cinema in UK institutions. This article engages with the BBFC's refusal to classify *Hate Crime* in the light of its particular distribution circumstances. Focusing on media industry and genre studies, I will explore whether or not the BBFC made a justifiable decision with regard to *Hate Crime*, and further, the effect that this certificate refusal had on the digital media landscape. The article suggests that the BBFC is not only out of step with the digital world, but also fundamentally misunderstands certain genre conventions.

Hate Crime was voluntarily submitted to the BBFC for certification by *TheHorrorShow.TV* prior to its scheduled release on the platform as part of a season of films co-hosted with *Nerdly.co.uk*. *TheHorrorShow.TV* is a video-on-demand (VOD) platform and blog dedicated to horror cinema. The site was established in October 2014, and is registered to an address in London, entailing that it is bound by UK law. *TheHorrorShow.TV* use their blog to review films and report genre-related news. The site originally included a sparsely populated forum and standard hyperlinks to various social media, but these were removed in early 2016. The objective of *TheHorrorShow.TV* is to create an online community where horror fans are able to gather and to access easily both their favourite classics and newer, underground horror films, as well as to keep up to date with the latest horror film news. At the time of the 'Nerdly Presents' season, the VOD space offered around 250 titles. Modes of consumption offered by the site are multifaceted and complicated. All films are available for streaming on a pay-as-you-go basis, certain are available as download-to-own for a one-off payment, and many (but not all) are available for unlimited streaming through a monthly subscription service, which cost £2.99 per month at the time of 'Nerdly Presents'. The site

also offers a number of films free via either download-to-own or one-off streaming (*Night of the Living Dead* (1968) being one such title). The service is still in its infancy and is specialised in terms of its potential audience composition. Films are listed in loose sub-genre categories including: Asian, Bargain, British, Cult and Classic, New, Psychological, Sexy and Erotic, Slasher and Gory, and Zombie. Additionally the site also offers collections such as ‘Starburst’s Top 10’, ‘Grimmfest Recommended’ and, of particular relevance to this article, ‘Nerdly presents’.

Nerdly.co.uk is also a UK-registered website, run by Phil Wheat, who previously owned, and wrote content for, *Blogomatic3000.com* (now redirecting to *Nerdly.co.uk*). The site has a wider focus than *TheHorrorShow.TV* and specialises in news, reviews and interviews orientated around content that might be broadly classified as ‘nerdy’ or ‘cult’. The site straddles the boundary between fanblog/fanzine and legitimate industry news resource. It focuses on a variety of platforms including TV, cinema, comics, games, books, graphic novels and wrestling. *Nerdly.co.uk* has been registered since November 2012, but content dates back to October 2010 on account of the transfer of material from *Blogomatic3000.com*. *Nerdly.co.uk* launched a new initiative, ‘Nerdly Presents’, in May 2015. This collaboration between *Nerdly.co.uk* and *TheHorrorShow.TV* saw *Nerdly.co.uk* take on the role of pseudo-marketer/distributor in an attempt to bring underground, low-budget or independently produced horror to the UK market. *Hate Crime* was the film chosen by *Nerdly.co.uk* to launch the venture.

This case is so remarkable precisely because *TheHorrorShow.TV* is an exclusively online and UK-based VOD platform. Under UK legislation amended in December 2014, all on-demand programme services (ODPS) which are operated from within the UK and which stream ‘television-like’ programming (not user-generated content such as that commonly found on *YouTube*) are regulated by the Authority for Television on Demand (ATVOD) and

are required to adhere to BBFC classification standards.¹ That is to say, they are not permitted to stream content which has already been refused certification by the ‘video works authority’ designated by the 1984 Video Recordings Act (VRA), namely the BBFC, or, crucially, any

material whose nature is such that it is reasonable to expect that, if the material were contained in a video work submitted to the video works authority for a classification certificate, the video works authority would determine for those purposes that the video work was not suitable for a classification certificate to be issued in respect of it. (ATVOD, BBFC et al. 2014)

However, this is in itself problematic given that the BBFC Guidelines governing the various classification certificates can be interpreted in many subjective ways.

It is important to note there is no stipulation here that all content hosted by VOD platforms operated from within the UK must legally be certified by the BBFC, only that any content previously refused certification may not be made available, along with any material that might be refused certification were it to be submitted. Thus content not certified by the BBFC may be provided legally, but ~~that~~ the editorial decision concerning what may or may not be streamed has to be informed by due consideration of the BBFC guidelines, and thus of the VRA. *TheHorrorShow.TV* and *Nerdly.co.uk* were ~~therefore~~ not legally required to submit *Hate Crime* for classification.

The BBFC released the following press statement regarding their rejection of the film:

Hate Crime focuses on the terrorisation, mutilation, physical and sexual abuse and murder of the members of a Jewish family by the Neo Nazi thugs who invade their home. The physical and sexual abuse and violence are accompanied by constant strong verbal racist abuse. Little context is provided for the violence

beyond an on screen statement at the end of the film that the two attackers who escaped were subsequently apprehended and that the one surviving family member was released from captivity. We have considered the attempt at the end to position the film as against hate-crime, but find it so unconvincing that it only makes matters worse.

The BBFC's Guidelines on violence state that 'Any depiction of sadistic or sexual violence which is likely to pose a harm risk will be subject to intervention through classification, cuts or even, as a last resort, refusal to classify. We may refuse to classify content which makes sexual or sadistic violence look appealing or acceptable ... or invites viewer complicity in sexual violence or other harmful violent activities. We are also unlikely to classify content which is so demeaning or degrading to human dignity (for example, it consists of strong abuse, torture or death without any significant mitigating factors) that it may pose a harm risk.'

It is the Board's carefully considered conclusion that the unremitting manner in which *Hate Crime* focuses on physical and sexual abuse, aggravated by racist invective, means that to issue a classification to this work, even if confined to adults, would be inconsistent with the Board's Guidelines, would risk potential harm, and would be unacceptable to broad public opinion.

Of course, the Board will always seek to deal with such concerns by means of cuts or other modifications when this is a feasible option. However, under the heading of 'Refusal to classify' our Guidelines state that 'As a last resort, the BBFC may refuse to classify a work, in line with the objective of preventing non-trivial harm risks to potential viewers and, through their behaviour, to society. We may do so, for example, where a central concept of the work is unacceptable, such as a sustained focus on sexual or sadistic violence. Before refusing classification we

will consider whether the problems could be adequately addressed through intervention such as cuts.’ The Board considered whether its concerns could be dealt with through cuts. However, given the fact that unacceptable content runs throughout the work, cuts are not a viable option in this case and the work is therefore refused a classification. (BBFC, quoted in Wheat 2015)

In order to unpack the statement quoted above and explore the BBFC’s reasons for rejecting this film, I will address four specific areas. These are genre and context; viewer complicity and identification; art cinema versus popular cinema, and the BBFC’s inconsistent approach in this area; and *Hate Crime*’s narrowcast distribution strategy. The article will elaborate the ways in which the BBFC’s approach is out of kilter with the digital world, and demonstrate their misunderstanding of genre conventions and their bias towards art-house cinema.

Genre and context

The BBFC asserts that ‘little context is provided for the violence’ in *Hate Crime*, except an ‘on screen statement at the end of the film that the two attackers who escaped were subsequently apprehended’. This statement reflects a failure to understand found-footage horror films, a core characteristic of which is their status as ‘stumbled-upon’. In this context, David Bordwell (2012) prefers the term ‘discovered footage’, highlighting the fact that found-footage actually derives from the avant-garde tradition of re-purposing existing footage in order to create new artwork. Instead ‘the “found” of the contemporary found footage subgenre pertains to plot (footage is discovered)’ (Heller-Nicholas 2014: 14). Whilst the term ‘discovered footage’ might work more clearly to define films such as *Hate Crime* or, for example, *The Blair Witch Project* (1999), the enduring and regular usage of the term ‘found-

footage' in mainstream discourse has arguably redefined its meaning and allowed it to function as a shorthand which shapes viewer expectations. In order for found-footage horror to work effectively, it must intrinsically lack context beyond that which may be elucidated by an external narrative structure, or by the inclusion of introductory and/or concluding expositional text. A lack of explanation for the existence of the footage is often used as a device to create suspense. Films feature either minimal editing (as in *The Blair Witch Project*), are presented as edited by those now in possession of the footage, or are otherwise linked by an overarching external storyline (as in *V/H/S* (2012), where on-screen characters literally find the footage that constitutes the individual horror stories told within the main narrative). Stories are typically relayed via a recording device controlled by one or more of the characters within the film, or else via webcam or CCTV footage. Found-footage horror is characterised by either shaky camerawork or by fixed camerawork with a limited view, naturalistic acting, and a lack of non-diegetic sound, all of which lend a sense of verisimilitude. The sub-genre lends itself well to low-budget production as it requires very little film-making equipment.

Alexandra Heller-Nicholas' work considers the origins of found-footage cinema and traces its genealogy as a horror sub-genre as far back as 1980 and the release of *Cannibal Holocaust*. Heller-Nicholas argues that the modern day surge in popularity of found-footage horror is broadly defined as having begun with *The Blair Witch Project* in 1999 before being temporarily sidelined by the emergence of torture porn (2014: 4). Found-footage horror continued to be explored and refined in the interim through less successful productions such as *Book of Shadows: Blair Witch 2* (2000) and *The Collingswood Story* (2002). Heller-Nicholas credits the rise of *YouTube* and the amateur media aesthetic for the appearance of *[Rec]* (2007) and *Cloverfield* (2008), which paved the way for the phenomenally successful release of *Paranormal Activity* (2007) in 2009 (ibid.). This resulted in a flood of widely

released found-footage horror films. Mainstreaming of the sub-genre saw ‘the threat that a found footage horror film may present actual events that occurred in the real world ... eroded through the increasing ubiquity and subsequent familiarity of its codes and conventions’ (Heller-Nicholas *ibid.*: 14).

The codes and conventions of modern found-footage horror, then, have a well-developed foundation, and as a film regulatory body it is not unreasonable to expect the BBFC to be familiar with these. In fact, the very nature of horror, with its tendency to retell the same ‘age old and already worldwide’ stories in marginally differing formats (Clover 1992: 212) means that it is heavily convention-bound and loaded with anticipation. The narrowcast distribution strategy for *Hate Crime* suggests that this film’s target audience would have a specialist knowledge of horror. Audiences rarely arrive at a horror film without a set of expectations derived from the conventions of the genre and their interaction with horror begins long before a film starts: ‘Horror’s system of sympathies transcends and preexists any given example. Patrons of a slasher film or a rape-revenge film know more or less what to expect well before the film rolls’ (*ibid.*: 9). This is also true of found-footage horror, which combines recognised genre tropes with established sub-generic codes and conventions familiar to the audience before they view the film.

Hate Crime works with these codes and conventions to set a context for the film that reflects that of actual hate crime. Motivation for hate crime is usually societal or individual bigotry, and an intolerance of difference. Hate crimes tend to be emotionally driven and ‘manifest evidence of prejudice based on race, religion, sexual orientation or ethnicity’ (McDevitt et al. 2002: 303). In incidences of hate crime, ‘there appear to be no gains for the assailant: there is no attempt to take money or other personal items, and there is [often] no prior relationship between the victim and offender’ (*ibid.*: 304). Hate crime is understood as

symbolic violence, an attack on a small number of people that functions as a threat to a much larger group.

The context of Bressack's film, a home invasion motivated by hatred, is made clear by both the film's title and the early dialogue. The opening scene establishes that it is set in a family home. Within the first 30 seconds we know that the family is Jewish - through reference to Hanukkah and Passover – and that the camera is being operated by the father of the family: 'Dad come on', 'Dad stop it', 'Why are you filming this, you're annoying me'. The fact that the family is Jewish is later effectively contrasted with the extreme anti-Semitic language used by the home invaders. The script quite crudely signifies that this is an intrusion motivated by anti-Semitism, and sets the scene for the ensuing cat and mouse game.

The BBFC argues that *Hate Crime* lacks contextual justification for the 'relentless' sexual and sadistic violence (SSV) portrayed on screen. This claim hinges on their misunderstanding of found-footage horror, and on a barely concealed belief that the narrative is a tenuous foundational premise constructed to facilitate an indulgent foray into SSV-led shock cinema. By contrast, I would argue that the script -makes clearly evident the attackers' motive and the reason for the existence of the footage. Hate crime is horrific, unexpected, symbolic violence, which is in fact the precise context in which Bressack, himself a Jew and a victim of hate crime (Hunter 2012), sets his film. Furthermore, the impact of found-footage lies within its tendency to play with contextualisation. By doing so, 'found-footage horror seeks ... to create a space where spectators can enjoy having their boundaries pushed, where our confidence that we know where the lines between fact and fiction lie, are directly challenged' (Heller-Nicholas 2014: 4). In the same way that a hate crime is sudden and unexpected, so the attack within the film happens to the characters with no forewarning, and the film 'happens' to the audience in the same fashion. The codes and conventions adopted by *Hate Crime* allow the viewer to engage safely with the action, to participate in the ordeal

alongside the characters, and to investigate the logical extremes of such a horrific act, testing and reaffirming boundaries and beliefs within an ultimately safe space.

Despite the inclusion of end titles, the BBFC maintain that *Hate Crime* still does not provide enough context to mitigate the on-screen violence and sexual violence. They state that whilst examining the film, they had considered Bressack's 'attempt at the end to position the film as against hate-crime', but they then add that they 'find it so unconvincing that it only makes matters worse'. However, this judgement surely demands elaboration in order to clarify the motivation behind this rejection, otherwise it is little more than a personal opinion. The context of the film could have been made even more immediately obvious had the Board insisted that the film be re-edited so as to include a selection of the end titles at the beginning. Their apparent failure to consider this as a viable option suggests there may have been more at stake for the organisation than just a problem with context.

Viewer complicity and audience identification

Within the first paragraph of the BBFC statement lies the suggestion that the audience may be confused about which character(s) they are meant to identify or sympathise with, and ~~that~~ thus they may conclude that the film is pro-hate crime. Further to this, threaded carefully throughout the wording about SSV and risk of harm is the suggestion that the film might invite 'viewer complicity in sexual violence or other harmful violent activities'.

For the BBFC, 'the underlying rationale [of ex-BBFC Director, James Ferman's policy on sexual and sadistic violence] – that "irresponsible" depictions of rape and sexual assault could cause harm by adversely affecting viewers' attitudes – remains a fundamental concern today' (Cooke 2015: 405). That is to say, the BBFC continues to believe that 'irresponsibly' to show sexual assault is directly equivalent to encouraging it. BBFC

guidelines are constituted on the basis that if a film portrays rape as an enjoyable enough experience for the rapist, it may encourage a ‘vulnerable’ young male viewer to replicate the scene. Similarly, the BBFC harbours concerns that if the female being sexually assaulted appears to enjoy, or begins to enjoy, the experience, this may perpetuate the rape myth: that rape is not always unwanted.

Whilst *Hate Crime* does include three different sexual assaults, there is no positive endorsement of rape, and the representations of rape are substantially less graphic than in films such as *I Spit on Your Grave* (1978, 2010), *The Last House on the Left* (1972, 2009), *Srpski Film/A Serbian Film* (2010) and *Irréversible* (2002), all previously certified by this organisation, albeit in cut form in certain cases. However, the argument about endorsement has two aspects to it. As mentioned above, the BBFC was concerned that the film may pose a harm risk if it resulted in a change in viewer attitude – the anxiety being that portraying rape as desirable or fun for the victim and/or the perpetrator will instil such beliefs in ‘vulnerable’ young males. The Board also suggests that this may happen due to the way in which a viewer is ‘invited to participate’ in this film through the extensive use of POV camerawork. There are two scenes which the BBFC may have considered particularly problematic in this respect. The first sees the character Three pick up the camera whilst raping the mother of the family and point it at the back of her head. The detail of the penetration in this scene is not shown but is implied through screams, and the rape is confirmed through this movement of the camera into his POV. The camera then moves unsteadily in and out of POV for around 80 seconds. The majority of the footage is of the top of the back of the mother’s head (the rape takes place from behind, over a pool table) and is largely too jerky to enable clear focus for longer than a few seconds at a time. The prolonged nature and intense volume of the scene make it physically uncomfortable to watch, though largely not on account of the actual content. The second scene is a lengthy one featuring One and the [Daughter](#) locked in the

bathroom. In this scene One forces the daughter to strip, and then uses the hand-held camera to track over the girl's body in a leering fashion. The camera shows his POV and the commentary provocatively includes references to her status as a high school student. This scene is protracted, relatively realistic, and plays with notions of voyeurism. Bressack successfully renders the girl's distress and fear, and concludes the scene with an implied, off-screen, sexual assault. But the use of such techniques does not set *Hate Crime* apart from other films in the genre. There are plenty of examples of voyeuristic cameras in rape-revenge and other types of horror films. In the 2009 remake of *The Last House on the Left* – a film which was notably passed uncut by the Board (BBFC 2009), Claire Henry points out that in the lead up to the victim's rape, 'the camera work and editing fragment her body, thus objectifying her, and the camera 'voyeuristically roves up and down her body, lingering on her naked flesh' (2014: 34). It is important to note the camerawork here does not employ POV shots.

As do many film critics, the BBFC operates under the misconception that POV camerawork always directly implicates the audience in the onscreen crime, perhaps giving them the idea that they might enjoy the crime portrayed. In reality, however, viewer identification is far more complex and fluid than this simple assumption allows, especially in relation to horror. POV is often used to 'heighten spectatorial anxiety and discomfort' (Projansky 2001: 216). Texts that 'provide the spectator with an attacker's point of view do not necessarily *equate* the spectator with the villain' (ibid., emphasis in original), instead they often force them to focus more clearly on the victim. The concept of identification in cinema has produced a voluminous amount of theorisation. Clover suggests that most theorists distinguish between a 'primary identification (with the camera, wherever it may be and whatever it may be up to) and secondary identification (with the character of empathetic choice)' (1992: 8), both of which are in flux. Characters compete within the narrative to

connect with the viewer, and the camera is able to move through and embody different positions. Though POV is widely considered the most personal camera position, it does not always effectively situate the viewer within the mind of a character. The formulaic nature of horror means that 'it is important to remember that in a large, or gross, or deep-structural sense, the "identifications" of horror are already in place' (ibid.: 10). The camera may play with the terms, but it does not set them. The camerawork in *Hate Crime* may force the audience to see through the eyes of a rapist, but it does not (and arguably cannot) force them to identify favourably with him. Instead, throughout the film, this technique places the audience in a variety of uncomfortable positions in order to initiate reflection. Ultimately though, found-footage convention dictates that this family are victims and that the three attackers are villains. The Daughter also embodies a hybrid of the rape-revenge victim-hero (when she kills her rapist), and the slasher's final girl (when she survives against the odds), as is confirmed by the closing titles.

The BBFC also labours under the assumption that audience identification is binary and gender defined, a theory evolved from an outdated mode of film analysis which suggests that the camera's gaze is always male, and always sadistic (for example, Mulvey 1975). Underlying much research conducted for the BBFC, and implicit in its own policies, seems to be the idea that female audience members will only ever be horrified by (and probably choose not to watch) male-on-female sexual violence, and that male audience members will automatically identify with the male character on screen in such a situation. Thus if there is only the rapist and the victim on the screen, male audience members must identify with the rapist. This problem is magnified for the BBFC by the use of POV camera work. But they appear to fail to take into account Clover's point that 'male viewers are quite prepared to identify not just with screen females, but with screen females in the horror-film world, screen females in fear and pain' (1992: 5). Clover highlights empirical evidence that the majority of

horror film audiences are male, and yet the majority of horror victim-heroines are female. Under these circumstances it is nonsensical to assume that all male viewers identify with all male characters/aggressors at all times. Men are equally able to process the story and feel through the female victim-hero. Clover's theory is supported by Annette Hill's qualitative study, *Shocking Entertainment* (1997), which demonstrates that women refuse to identify with a rape victim where another positive character is available (male or female). Both male and female identification are shown to shift to different characters throughout a film, depending not just on narrative but also on personal experience. What such findings demand is a deeper, more nuanced understanding of the complexities presented by real audiences' use of, and identification with, SSV media, in a variety of situations. Martin Barker attempted to achieve this when commissioned by the BBFC to investigate the responses of 'naturally occurring' audiences to sexual and sadistic violence in the 2007 study, *Audiences and Receptions of Sexual Violence in Contemporary Cinema*. However, the BBFC failed to apply any of Barker's findings to their own policy, citing the limited demographic of research participants as a primary reason for not doing so. Their unwillingness to accept these findings as anything other than 'interesting' (in a press release available in Barker 2007) suggests that [the](#) organisation has difficulty with, and thus is disinclined to implement, research findings which run counter to their long-held normative assumptions about gender, violence and audience interaction.

Whilst I would argue against cutting either of these scenes in the light of a deeper understanding of both POV and the found-footage genre, both could have been disarmed with one or two well-timed edits and/or adjustments to the soundtrack. Neither one of these scenes, taken in isolation, warrants outright rejection of the film, especially given the BBFC's treatment of similar subjects depicted in other films. ~~Thus v~~viewer complicity was not an issue for the BBFC in either version of Michael Haneke's controversial art-house film, *Funny*

Games (1997, 2007), both of which were passed uncut. Whilst neither film is of the found-footage genre, during both of them the main characters speak to the camera, and wink at the viewer – as if the spectator might be in on, and/or enjoying, the ‘game’ at hand. Furthermore, the BBFC has also passed, albeit cut by 15 minutes, a more extreme example of SSV than *Hate Crime* in *Scrapbook* (2000).

Unacceptable content

Having gone into some detail in the early part of the press release, in order to justify the rejection of *Hate Crime*, the final paragraph makes a case for the rejection of any film. This rationale is founded upon a claim that ‘a central concept of the work is unacceptable, such as a sustained focus on sexual or sadistic violence’. But this raises the question: unacceptable to whom? Simply to the Board? Or to ‘broad public opinion’ as conceived by the Board? Or both?

The BBFC has attempted to assess public opinion on numerous occasions since 2000 (see for example: Goldstone Perl Research et al. 2010; Cumberbatch 2011; Goldstone Perl Research et al. 2009; BBFC 2014b). Such research, properly conducted, might begin to make linkages between representative audience samples and censorial decision-making. However, as both Emma Pett (2014) and Martin Barker (2016) have argued, the composition of the focus groups used by the BBFC has been problematic, relying disproportionately on the opinions of parents. The research methodologies deployed in order to gather evidence upon which to base classification policies and guidelines are also, in some cases, designed and guided by the BBFC, opening up the Board to the potential criticism that it has designed research in order to elicit the findings which it desires. One of the outcomes of this body of research has been the evolution of what Barker (2016: 123-4) calls a new, twenty-first century ‘figure of the audience’. These are ‘young men with little life experience’

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(IpsosMediaCT 2012, quoted in *ibid.*: 121) who, the BBFC claims, are most likely to be negatively influenced by sexually and/or sadistically violent media. Drawing attention to such groups 'powerfully gives the impression of explaining, while at the same time circumventing the need for evidence' of harm (*ibid.*: 123). Furthermore, the way in which much BBFC research is designed suggests that such a group has been configured in advance. Thus research comes to reinforce already existing practices of what Stanley Cohen calls 'common sense censorship' (2002: xvii) based on the taken-for-granted moral unacceptability of exploring sexual and / or sadistic violence in film. Creating an environment in which violence and/or sexual violence in the media is automatically viewed as always and definitely harmful, at least to certain 'vulnerable' people, and then, through their actions, to society at large, is a good example of how such censorship works.

Films such as *Hate Crime* and *The Bunny Game* seem to trouble the BBFC precisely because they refuse to follow 'accepted' templates for portraying SSV. Elements such as POV, found-footage, documentary aesthetics, and most problematically, a lack of punishment for the perpetrators of the violence, render the 'message' of a film oblique and hard to decipher. This kind of thing always worries censors, and the problem here is compounded by the Board's refusal, noted above, to consider young male viewers as active and adaptable participants in such a filmic experience and to recognise their [own](#) desire to protect women from such young men. Clover argues that 'assaultive gazing in horror is by and large the minority position and ... the real investment of the genre is in the reactive or introjective position, figured as both painful and feminine' (1992: 211). However, both the BBFC, and most film critics, continue to focus on the allegedly sadistic nature of the male spectator, highlighting the sadistic camera in film. Instead, Clover argues, we should appreciate the potential masochism of the male audience member.

Remarking on male sadism within a film is usually intended to align the speaker with feminism (for example, the BBFC insisting that through its actions it seeks to protect women), but it actually seeks to ‘naturalize sadistic violence as a fixture of masculinity’ (ibid.: 226). Always to align the male viewer with a sadistic gaze is not only to misinterpret the complex and nuanced ways in which male spectators engage with horror, but it is also part of a wider naturalisation that sees men as only and always patriarchal and abusive (Hooks 2004). It leaves no room for the admittance of alternative readings and acknowledgment of (the potential for) alternative masculinities which would be damaging to the patriarchal social order. As Clover argues, our society’s ‘cultural stake in male sadism in all its forms is such that we cannot afford to see otherwise, even when, as in horror, the “otherwise” is the main point’ (1992: 191), a remark which could well be applied to the manner in which the BBFC treats certain horror films.

Marketing and Hate Crime

The rejection of *Hate Crime* by the BBFC led to a certain amount of interesting commentary by both *Nerdly.co.uk* and *TheHorrorShow.TV*, as well as from further afield. Given that *TheHorrorShow.TV* had an inherent interest in both the success, and the legality, of its UK-hosted platform, it was forced to adhere to the BBFC’s ban on the film. This did not stop *Nerdly.co.uk* issuing a statement filled with overtly anti-censorship sentiments, and eventually using the extra press coverage generated to promote *To Jennifer* (2013), its replacement opening release for ‘Nerdly Presents’. The response from *Nerdly.co.uk* included a statement made by Bressack himself, justifying *Hate Crime* as follows: ‘As a Jewish man, and a victim of anti-Semitic hate, I made a horror film that depicts the very thing that haunts my dreams. As an artist I wanted to tell a story to remind us that we live in a dangerous world; a world where racial violence is on the rise (quoted in Wheat 2015).

A parallel can be drawn here between the ways in which the imagery in both *Hate Crime* and *A Serbian Film* plays with the boundaries of acceptability in horror cinema (for a discussion of the latter film see Kimber 2014). The directors of both films claim to take a moral and political stance through their films, using extreme concepts to illustrate their respective experiences. In a similar way to Bressack's explanation of his film, Srđjan Spasojević claimed that *A Serbian Film* reflected the tumultuous political history of Serbia, and depicted 'the monolithic power of leaders who hypnotise you to do things you don't want to do'. To mitigate the extensive SSV in the film, Spasojević suggested, 'you have to feel the violence to know what it's about' (FilmBiz 2010). So why did the BBFC certify a film like *A Serbian Film* (albeit with significant cuts) and not *Hate Crime*?

The difference seems to be that BBFC did not consider *Hate Crime* to be convincingly politically motivated, as they did with *A Serbian Film* (BBFC nd). However, I would suggest that their primary problem with *Hate Crime* is the film's 'quality' (and therefore its target audience), and only secondarily its content. Under the directorship of David Cooke, BBFC policy relating to SSV moved away from the previous 'eroticise and endorse' test that characterised the Ferman era. Instead, SSV is judged by a set of aggravating and mitigating factors, but the decision-making process remains problematic. The basic principle behind the application of the new SSV guidelines is that what is shown must be justified by the context of the film as whole. For example, violent sexual assault may be shown in more detail in order to portray the motivation behind a resultant revenge killing but perhaps in less detail in the case of an incidental rape that does not form an integral part of the narrative. Rejections by the BBFC since 2000 suggest that this is possible (at its most extreme) only in art cinema. *Hate Crime* is a low-budget and, arguably, low-quality film. The paucity of the budget (Seanofthedeath 2014; Roberts 2015) is clearly evident in the production values. The film was funded, produced and distributed worldwide by Psykik Junky Pictures, a production company

owned by James Cullen Bressack and his co-writer/business partner, Jarret Cohen. Bressack is known for his 'underground' horror (Extreme Horror Cinema 2013): for example *To Jennifer* was filmed, edited and distributed on an iPhone 5. His work is pigeonholed with other 'trash' horror/exploitation/cult films (for example *August Underground* (2001)). On the other hand, the subject matter of *A Serbian Film* seems to have elevated it, for the BBFC, from such a lowly generic categorisation and into the art cinema/'new extremism' canon. Thus, for example, the Board explained that: 'Recognising that the film was intended as a political allegory which intended - and needed - to shock as part of its overall thesis, the BBFC attempted to construct the cuts carefully so that the message of the film, as well as the meaning of each individual scene, would be preserved' (BBFC nd). This meant that they felt able to classify the film at '18', albeit with cuts, despite the contentious subject matter.

A certain pattern can be seen across the rejections made since 2004. *Murder-Set-Pieces* (2004), *NF713* (2009), *Gurotesku/Grotesque* (2009), *The Human Centipede II: Full Sequence* (2011)² and *The Bunny Game* all emanate from either the USA, the UK or Japan, and were refused certification for any form of UK distribution. Many other controversial films with a focus on sexual or sadistic violence that were classified and released in the same time period (such as *Irréversible*, *Funny Games*, *Martyrs* (2008) and *À Ma Soeur/Fat Girl* (2001)) are all European. *Hate Crime* is both low-budget and American. What thus appears to be an art cinema bias within BBFC practice reflects the wider art-house vs popular cinema disparity within film distribution, film criticism and film studies. Beyond Europe itself, European cinema is most commonly characterised as art cinema (Liehm and Liehm 1980; Jäckel 2003; De Valck 2007; Iordanova et al. 2010; Imre 2012). Such cinema benefits from an elevated status and preferential distribution, and has been repeatedly allowed to test, transgress, and at times reaffirm, the boundaries of what UK audiences find acceptable, in a way that popular and niche genre cinema has not. This is largely due to the way in which the

BBFC conceive of the audiences for different kinds of cinema. Art cinema is perceived to be less accessible, and therefore less attractive, to those ‘young males with little life experience’ than popular or underground horror might be. Despite, as Clover notes, the traffic between low and high horror films being such that it is unnatural to separate them (see also Betz 2013), lower cinematic forms are assumed to ‘play by definition to male sadistic tastes’ (Clover 1992: 225-6).

Regardless of institutional restrictions, a notable result of BBFC decisions to cut or reject a film is the publicity thereby generated. *Hate Crime* certainly fits this pattern. Admittedly, the film did not attract the attention of the same number of mainstream outlets as did *A Serbian Film* or *The Human Centipede II*, probably due to the fact that the intended distribution platform was a VOD website and not a cinema or DVD release. Similarly, the subject matter of *Hate Crime* is not perceived to be as controversial as that of *A Serbian Film* which proved particularly problematic by including [children](#) in a context of rape and sexual violence. However, the ban on *Hate Crime* did feature in *The Huffington Post* (Thompson 2015) and *Screen Daily* (Sandwell 2015). Alongside this, the rejection was picked up by a large number of online outlets, including numerous specialist film blogs and e-zines that direct traffic to *TheHorrorShow.TV* (for example, Day (2015); Melon Farmers (2015); Rüdiger (2015); and Williams (2015)).

In *The Huffington Post*, Simon Thompson criticised Bressack’s film, in an article headed: ‘Hate Crime: Why the Censors are Right to Ban the Anti-Semitic Horror’, despite admitting to not having seen it. His main issue with the film was that such crimes ‘DO happen in the real world and they ARE horrifying so why enact them as if they were real events for entertainment?’ (2015 – emphasis in original). But having not viewed the film, Thompson failed to grasp the point that its sole purpose is not entertainment. He went on to

state that he does believe that ‘we [adults] can make our own choices’ about what we watch, and should not be told what we can and cannot view. But he then contradicts himself when he states that ‘there are, and have to be, exceptions to that rule’. He continues: ‘There are people that will watch this and enjoy this – they will watch it because they want to see a family being raped, branded, brutalized as entertainment, as fun. It might excite them. It might incite them. And that terrifies me more than any film ever could’. Such views do indeed seem to [statement](#) echo the sentiments of many of the interviewees who have taken part in BBFC research (Ipsos MediaCT 2012), particularly those who argued -that although a particular film might be safe for them to watch, it would not be so for others.

Whilst *TheHorrorShow.TV* stated in their press release that they were disappointed by the BBFC’s decision, they made it clear that they would adhere to the ban. However, they also highlighted the availability of the film on DVD on Amazon.com, and the film is also available to purchase and stream in the UK through Amazon’s ‘Instant Video’ service. Other publications chose to focus on the ban by promoting the widespread availability of the film online via both streaming and peer-to-peer file-sharing. This does rather suggest that if the film had not been rejected by the BBFC, it would not have gained as much publicity. Indeed, fieldwork carried out amongst horror film fans saw ten percent of respondents discuss *Hate Crime* voluntarily in their answers.³ During 31 email-mediated interviews, two respondents answered the question: ‘Have you ever discovered/watched a film because you heard through the media that it had been cut or banned?’ by reference to the film: participant 200 stated: ‘Yes. I watched *Hate Crime* because I heard it was cut for being anti-Semitic but that’s just the plot of the film it didn’t encourage anti-Semitism and it was a rather rubbish film on top of that’. Similarly, participant 90 said: ‘Yes. I’ve watched several video nasties and the most recent banned film which was *Hate Crime* for being anti-Semitic. It is not anti-Semitic as it does not promote [sic] the behaviour at all it shows it quite grotesque and horrible’. And

participant 24 argued that '*Hate Crime* wouldn't be half as well known as it is were it not for the BBFC banning it in recent years'. This is the crux of the issue with film classification in the digital age. As I have previously noted in relation to *A Serbian Film*, the notoriety of an adverse BBFC decision can actually benefit a film (Kapka 2014). Thanks to new forms of distribution, the BBFC cannot prevent those that want to see a film from doing so. Instead, a BBFC ban serves as a marketing tool: a badge of honour. Having a film banned is no longer the financial disaster that it was in the 1980s. The *Nerdly.co.uk* film website, in conjunction with *TheHorrorShow.TV*, streamed Bressack's films, and they used this ban to attract fans across the web. The attention drawn to Bressack by the *Hate Crime* ban thus served as bonus publicity for an otherwise niche film-maker. And without the BBFC, *Hate Crime* would probably, at best, [have](#) flown under the radar, and, at worst, flopped.

Furthermore, in this case, the BBFC arguably over-reached their jurisdiction. This is their first rejection, under new legislation intended to control pornography, of a film meant only for online distribution. But the film is not pornographic – at least in the accepted legal sense of the word. It can still be streamed legally into the UK as long as the content provider's website is not hosted within the borders of this country (although it would be surprising if the government does not seek to close this loophole in the future). But in this case, the decision goes beyond pushing a minority audience to niche torrenting opportunities: thanks to what could be seen as a shrewd marketing strategy by *Nerdly.co.uk* (in submitting the film for classification in the first place), and a ban by the BBFC which many consider ill-conceived, *Hate Crime* has become the focus of media debate and now academic discussion.

Notes

1. ATVOD began operations in 2010, but in January 2016 its responsibilities were absorbed by Ofcom.
2. This film has been variously classified as American or European depending on the context in which it is being discussed. The film was shot in the UK, directed by Tom Six, who is Dutch, and produced by Six Entertainment Company, although it is often referred to as American..
3. 201 participants were recruited via a short in-person or online survey at the horror film festivals *Frightfest*, *Abertoir*, and the *Leeds International Film Festival* 'Fanomenon' event, and through online horror film fan forums and Facebook groups. Of these, controlled for UK residency, 102 participants left email addresses signalling consent to participate in qualitative email-mediated interviews. Of the email interviews sought, 31 people responded and engaged in in-depth discussion regarding film censorship, 'extreme' horror films and the digital distribution of horror.

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