

Order No. 1 (1965) of the Trade Practices and Prices Commission

In the matter of the Trade Practices Act 1958 and in the matter of an inquiry into the Pricing and Marketing Procedure Associated With the Sale of Hormone Weedkiller Preparations in New Zealand.

WHEREAS the Trade Practices and Prices Commission has, pursuant to section 18 of the Trade Practices Act 1958, conducted an inquiry into certain alleged agreements or arrangements in respect of the sale of hormone weedkiller preparations between members of the Weedkiller Manufacturers' Section within the New Zealand Agricultural Chemical Manufacturers' Federation (hereinafter referred to as "the Federation").

And whereas, prior to the said inquiry the Examiner of Trade Practices and Prices presented to the Commission a report, pursuant to section 17 of the Trade Practices Act 1958, and a reply thereto was filed by the Federation.

And whereas in the report of the Examiner it was alleged that the members of the Weedkiller Manufacturers' Section of the Federation were parties to certain agreements or arrangements under which the said members agreed (a) that uniform retail prices be charged for comparable hormone weedkiller preparations; (b) that agreed discounts be granted to specified classes of purchasers of such preparations; (c) that no discounts be granted to other specified classes of purchasers of such preparations; (d) that uniform prices for comparable products be charged or tendered in the case of sales to or tenders for the sale of such preparations to special classes of users.

And whereas in its reply the Federation denied the existence of the said agreements or arrangements and also denied that any such agreements or arrangements, if proved, were contrary to the public interest.

And whereas the Commission heard evidence adduced by the Examiner and the Federation and heard Mr Orr of Counsel for the Examiner, and Mr Dalgety and Mr Grieg of Counsel for the Federation, and Mr Freeman of Counsel for Shell Oil New Zealand Ltd.

And whereas the Commission has found:

- (a) That an agreement or arrangement that uniform retail prices be charged for comparable hormone weedkiller preparations exists and that it is a trade practice substantially in terms of section 19 (2) (b) and section 19 (2) (d) of the Trade Practices Act 1958 and;
- (b) That an agreement or arrangement exists in respect of sales of hormone weedkiller preparations:
 - (i) To grant to local bodies a discount of 15%;
 - (ii) To grant contractors and certain aerial operators a discount of 10%;
 - (iii) Not to grant any discount to Young Farmers' Clubs and (with the exception of sales by Boots the Chemists New Zealand Ltd.) to Farm Improvement Clubs; and
 - (iv) To tender for sales to local bodies only at prices and on terms agreed upon
 and that it is a trade practice substantially in terms of section 19 (2) (c) of the Trade Practices Act 1958.

And whereas the Commission has further found that the said agreements or arrangements are contrary to the public interest in terms of section 20 (d) of the Trade Practices Act 1958 and further that an Order should be made under the said Act in respect of the said trade practices.

Now, therefore, the Trade Practices and Prices Commission pursuant to sections 19 and 21 of the Trade Practices Act 1958:

A. Hereby orders and directs the members of the Weedkiller Manufacturers' Section within the New Zealand Agricultural Chemical Manufacturers' Federation:

- (i) To discontinue the said agreements or arrangements found by the Commission to exist as aforesaid;
- (ii) To refrain from reviving the said agreements or arrangements in any form whether as members of the Federation or any Section thereof or otherwise howsoever and to refrain from entering into any other agreement or arrangement which would have substantially the same effect;
- (iii) To pass a resolution within 28 days of the coming into effect of this Order rescinding all decisions reached at previous meetings of the said Section of the Federation with respect to the said agreements or arrangements.

B. Hereby further orders and directs the Federation:

- (i) Within 30 days of the coming into force of this Order to write to all members of the Federation engaged in the manufacture of hormone weedkiller preparations advising them of the terms of the resolution passed at the aforesaid meeting of the said Section of the Federation, and further, advising them that henceforth it will be the personal responsibility of each member, without consultation with any competitor or competitors, to fix the prices discounts to special classes of buyers and

conditions for the granting of those discounts at which such member sells or tenders for the sale of hormone weedkillers to distributors, resellers or users.

- (ii) To furnish the Examiner of Trade Practices and Prices with a copy of the said resolution and of the letter sent to members in terms of the preceding paragraphs A (iii) and B (i) respectively.

C. Hereby further orders and directs all members of the said Section of the Federation:

- (i) To communicate in writing to each distributor of their hormone weedkiller preparations the substance of the letter sent to them by the Federation in terms of the preceding paragraph B (i);
- (ii) To furnish to the said Examiner a copy of such letter sent to each distributor.

Dated at Wellington this 15th day of March 1965.

The seal of the Trade Practices and Prices Commission was affixed hereto in the presence of—

[L.S.] S. T. BARNETT, Chairman.
F. F. SIMMONS, Member.
J. R. DENCH, Member.

(I. and C.)

The Indecent Publications Act 1963

In the matter of the Indecent Publications Act 1963 and in the matter of an application by Hicks, Smith, and Son Ltd., of Wellington, in respect of a book *The Snake* by Micky Spillane.

DECISION OF THE TRIBUNAL

THE tribunal has considered the application of the firm Hicks, Smith, and Son Ltd., of Wellington—made with the consent of the Minister of Justice—for a decision in respect of the above-named book—whether it is indecent, or alternatively a decision as to its classification.

No submissions in support of the application were offered, nor any evidence tendered.

The book is a light weight thriller. It is full of action, some fighting and some sex. Many of the incidents are improbable and bizarre but the ordinary standards of decency are observed. We do not think it would deprave readers and therefore do not regard it as injurious to the public welfare. We are of the opinion that there is no warrant for holding it to be indecent.

We determine accordingly that the book is not indecent within the meaning of the Statute.

K. M. GRESSON, Chairman.

10 March 1965.

The Indecent Publications Act 1963

In the matter of the Indecent Publications Act 1963 and in the matter of a Reference from the Magistrate's Court at Wellington for a decision regarding certain magazines, namely: *Tomorrow's Man*, February 1964, Volume XII; *Physique Pictorial*, February 1963, Volume 13, No. 3; *Modern Adonis*, No. 25; *Male Classics*, No. 30; *Male Classics Annual*, 1964.

DECISION AND REPORT

THE tribunal has been called upon to classify the five above-named magazines. Some 20, 25, or 30 copies of each respectively had been imported by Modern Educational Publications Ltd., of Wellington, and had been detained by the Comptroller of Customs who claimed them to be forfeited under the provisions of the Customs Act 1913, as "Prohibited Imports" being—it was claimed—indecent articles. In accordance with the provisions of the Act, proceedings for condemnation had been instituted by the Comptroller before a Magistrate who had, as required by section 12 of the Indecent Publications Act 1963, referred to the tribunal for determination the question whether the magazines were indecent within the meaning of the Act, or indecent in the hands of persons under a specified age, or indecent unless circulation was restricted to specified persons or classes of persons.

As well as submissions from counsel for the parties respectively the tribunal heard some evidence. Mr J. G. Caughley, Chief Psychologist to the Justice Department was called to support the claim that the magazines were indecent. Mr Barnard who controls Modern Educational Publications Ltd., was called and testified that he had been conducting his shop for about 15 years, had sold a great number of such magazines, and had never had it alleged that they were indecent. His customers were in the main males between the ages of 25 and 55. The occupations of many were known to him and so far as his knowledge went none of them had ever been involved in any Court proceedings.

We have examined and considered the magazines and are of the opinion that they are, except for one, indecent. We think that there is evidence that they are of an indecent nature; the poses in which the males are depicted, the letter-