

*Protection of Industry*

NOTICE is hereby given, in compliance with the requirements of the Tariff and Development Board Act 1961 and its amendments, that the Minister of Customs has received the final report of the Tariff and Development Board on the following goods:

Goods	Date of Receipt
Wines and certain other fermented and spirituous beverages of Tariff Chapter 22	10 October 1974

Dated at Wellington this 17th day of October 1974.

J. A. KEAN, Comptroller of Customs.

No. 830

*Decision of the Indecent Publications Tribunal*

IN the matter of the Indecent Publications Act 1963, and in the matter of an application by the Comptroller of Customs for decisions in respect of the following magazines: *Penthouse International Magazine*, Vol. 5, No. 8, Vol. 8, No. 9, 10, 11, and 12, and Vol. 9, No. 1, published by Penthouse International Ltd., New York, and Penthouse Publications Ltd., London.

Mr Murray appeared on behalf of the Comptroller of Customs and made submissions. Mr Heron appeared on behalf of the distributors and made submissions.

## DECISIONS OF THE TRIBUNAL

IN its decisions No. 745-747 the Tribunal considered three issues of a new magazine for men, *Oui*. It noted that comparison with *Playboy* and *Penthouse* was an obvious approach in assessing them. The present application in respect of six issues of *Penthouse* again requires the Tribunal to assess the acceptability within New Zealand of certain individual issues of a magazine from a part of the publishing world which is marked by aggressive competitiveness and constant adjustment of its products to popular demand. Comparison with earlier issues of *Penthouse* classified by the Tribunal, and with issues of *Oui* and other magazines, has played a prominent part in the Tribunal's consideration of the present application.

When the Tribunal last considered this magazine, in decisions No. 560-563, *New Zealand Gazette*, 31 October 1972, it said that the balance of material was not weighted so heavily on the serious and non-sexual side as the Tribunal had thought in classifying earlier issues. That tendency has accelerated in the period of less than 2 years between those four issues and the present six. The amount of material not concerned with sex varies among the six, but it nowhere threatens to contest the dominance, in text and illustration, of the varied sexual fare. In its nature and in the tone of its treatment some of this sexual material is more objectionable than the features of earlier issues on which the Tribunal commented. In particular the content of, and prominence given to, personal accounts of extreme and perverted sexual practices and experiments in the letters, inquiries for advice and case histories show a deterioration in the magazine. The indiscriminating hospitality which the magazine gives to such material is most blatantly apparent in the "Call Me Madam" column run by Xaviera Hollander, in which the sex instruction genre may be thought to have reached its nadir, the professional standing of the columnist being as bizarrely indisputable as the zestful grossness of her advice. In some of the issues there are interviews with celebrities which likewise have a marked emphasis on providing sensational sexual material for the gratification of readers. One of the letters praises the "juicy stories" which *Penthouse* offers, and such a phrase captures well the basic prurience of the magazine beneath its sophistication of style and glossiness of texture.

The Tribunal has carefully considered each of the issues as a whole, seeking to weigh the effect of individual elements within that whole, and has arrived at its decisions only after repeated reading of the magazines and considerable discussion. The explicitness and tone of the material make all six issues indecent for younger readers. In its most recent *Penthouse* decision the Tribunal regarded the four issues then before it as not harmful to mature readers. In allowing some of the present issues to have restricted circulation the Tribunal wishes to indicate that they are judged as tolerable for adult readers, but by a narrow margin. In those which are classified as indecent that margin disappears, their treatment of sex being seen by the Tribunal as clearly injurious to the public good without qualification.

The Comptroller of Customs has represented to the Tribunal that there is a case for the Tribunal to issue an order under section 15A of the Act in respect of future issues. Mr Heron conceded that such an order could legally be made. In view of the differences between individual issues illustrated in the present decisions, the Tribunal is not prepared to order that all future issues of *Penthouse* should be treated as indecent documents. An order that it be treated for the next 2 years as a publication restricted to those over 18 years of age is thought appropriate by the Tribunal.

The Tribunal classifies Vol. 5, No. 8 (U.S. edition) and Vol. 8, No. 9 (English edition) of *Penthouse* as indecent in the hands of persons under 18 years of age.

The Tribunal classifies Vol. 8, No. 10, 11, 12, and Vol. 9, No. 1 (all in the English edition) of *Penthouse* as indecent.

The Tribunal determines that no less than three issues of *Penthouse* being a serial publication which has been published within the period of 12 months are indecent or are restricted publications, and accordingly the Tribunal makes an order under section 15A of the Indecent Publications Act that issues of *Penthouse* are to be treated as restricted publications, classified as indecent in the hands of persons under 18 years of age, for a period of 2 years from the date of notification of this order in the *New Zealand Gazette*.

R. S. V. SIMPSON, Chairman.

15 October 1974.

No. 831

*Decision of the Indecent Publications Tribunal*

IN the matter of the Indecent Publications Act 1963, and in the matter of an application by the Commissioner of Police for a decision in respect of the following magazine: *Itch* 49, published by Itch Publications, Wellington.

Sergeant McLennon appeared on behalf of the Commissioner of Police and made submissions, and Detective Morley appeared as a witness and gave evidence. Although no appearance was made, written submissions were received from the publishers.

## DECISION OF THE TRIBUNAL

This publication, numbered 49, was said by the Police to be the only issue known to them since *Itch*, No. 2. It had been circulating since February 1974 by sale or gift to school children at or in the vicinity of various schools in the North Island. It appeared that further distribution was to take place.

In submissions by the Police, emphasis was placed on a number of items which raised the question of indecency because of the attitude to sex and sexual experience.

The Tribunal, as it did in considering *Itch*, No. 2, has looked at the issue as a whole and taken into consideration all the matters set out in section 11 of the Act.

In its decision 766 on *Itch*, No. 2, the Tribunal said:

When other matters are considered—particularly the age group amongst whom the magazine is intended to be sold and the method of distribution—the offensiveness of the publication and its capacity to harm clearly go beyond the mere affronting of propriety and good taste. This publication diminishes human sexuality to an impulse to be followed wherever it leads and pushes that view upon children. The public good requires that such blatant irresponsibility be restrained.

That statement applies equally to *Itch*, No. 49. There is nothing in this issue which leads the Tribunal to take a different view.

The Tribunal classifies this issue of this magazine as indecent.

L. M. GREIG, Chairman.

18 October 1974.

*The Standards Act 1965—Draft New Zealand Standard Specification Available for Comment*

PURSUANT to subsection (3) of section 23 of the Standards Act 1965, notice is hereby given that the following draft New Zealand standard specification is being circulated:

Number and Title of Specification

DZ 6503/72 Metric units for specialized fields—  
Section 72 Chemistry.