

The two other publications were privately imported and likewise come before us on a disputed seizure. The encyclopaedia is put forward as a collection of articles on many matters relating to the history, cultivation, manufacture, identification, and use of all kinds of drugs. *Stone Age* is a magazine similar in form and content to *High Times* which was previously considered in Decision 922.

All three of these publications have for present purposes the dominant effect when considered as a whole of approval and encouragement of the cultivation and use of drugs including cannabis, heroin, and other controlled drugs referred to in the Schedules to the Misuse of Drugs Act 1975. As a result the effect is to approve and encourage conduct which involves what is properly considered and defined in that Act as serious crime.

The Tribunal has previously considered that other publications of similar content and effect are or may be indecent because they offend against current community standards of propriety as they are expressed in legislation whether or not they may also describe or otherwise deal with matters of crime in a manner that is injurious to the public good. The same view has been expressed by the Tribunal about other matters in the sexual field which may encourage or approve activity treated as criminal by the community because of legislation on the subject. These matters include sodomy, homosexuality, and advice or information to those under 16 on contraception.

When we consider these three publications each as a whole with reference to the matters set out in section 11 we conclude that there is no, or no sufficient medical, legal, social, or scientific importance in any of them, and that on the other hand there must be some doubt as to the honesty or purpose displayed in each of them having regard to the underlying assumptions that the activities referred to are for the most part unlawful and the implicit but passing references to means of avoiding detection. There can be little doubt that among those who are likely to read these publications or any of them some may be led to engage in the purchase, supply or use of controlled drugs.

Overall the Tribunal considers that the public interest requires that these publications overall and having regard to all the matters which we have to consider, be characterised as indecent.

The Tribunal classifies each publication as indecent.

Dated at Wellington this 21st day of December 1979.

LAURENCE M. GREIG.

Decision No. 936  
Reference No. Ind. 39/79

*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 in respect of the publications:

*Penthouse* (U.S.), Vol. 10, No. 8, 9, and 10 (April, May, and June 1979), published by Penthouse International Ltd.

BEFORE THE INDECENT PUBLICATIONS TRIBUNAL

Messrs L. M. Greig (Chairman), Mrs L. Edmond, and Mrs H. B. Dick.

Hearing: 4 September 1979.

Appearances: Mr P. E. LeLoir for Comptroller of Customs.

*Decision*

The Comptroller of Customs submits these three issues of *Penthouse* to the Tribunal under section 14 (1) of the Act. The magazine was last considered in June 1977 (Decision 883) when those particular issues were classified as indecent in the hands of persons under 18 years of age. At the same time a restriction order was made pursuant to section 15A and that expired in June this year.

The Comptroller in his submissions sought a similar classification and restriction order for these issues. The publishers and New Zealand distributors in effect agreed with the comptroller.

Notwithstanding that common approach the Tribunal is not prepared to make any classification, in effect, by consent and has therefore considered these issues anew in accordance with the provisions of the Act.

It is apparent that there has been some change in the last 2 years in the photographic material and there is now a greater emphasis on the vaginal area than before. To some extent there is a greater explicitness in parts of the sexual text than before. There remains as before a quantity of non-sexual and indeed serious textual matter in each of these magazines.

There are two questions which merge into one which the Tribunal must decide. That is whether in light of any change in community standards the indecent material is balanced sufficiently. In other words do these issues now remain acceptable albeit in a restricted way.

Over the longer term there can be no doubt that community standards have changed. What was thought unacceptable by the Tribunal in its earlier years in a number of cases would not be unacceptable today especially in respect of magazines of similar general format. On television, in the cinema, and in the newspapers the nude figure in particular contexts is no longer generally offensive. We believe that even over the last 2 years there has been some change and while there may be some indication that the publishers of *Penthouse* are in some respects in advance of the threshold of offence against current community attitudes they have retained, without increasing the amount of it, a balance of non-sexual material.

The magazine is not one which is widely read or distributed. Although it has a large circulation its appeal is to the adult rather than to the younger teenager. An age classification provides the basis for a limited distribution.

We have concluded that while this magazine remains on the borderline it is not unacceptable and considering each issue as a whole ought not to be treated as indecent simpliciter whether in the ordinary meaning of that word or in its special meaning under the Act.

The Tribunal classifies each issue of this magazine before it as indecent in the hands of persons under the age of 18 years and makes a restriction order under section 15A for a period of 2 years.

Dated at Wellington this 21st day of December 1979.

LAURENCE M. GREIG.

Decision No. Ind. 932  
Reference No. Ind. 17/79

*Decision of the Indecent Publications Tribunal*

IN the matter of the Indecent Publications Act 1963, and in the matter of an application by the Secretary for Justice in respect of the publications:

*Playboy*, Vol. 26, No. 3 (March 1979);

*Playboy*, Vol. 26, No. 4 (April 1979);

*Playboy*, Vol. 26, No. 5 (May 1979).

BEFORE THE INDECENT PUBLICATIONS TRIBUNAL

Messrs L. M. Greig (Chairman), Mrs L. Edmond, and Mrs H. B. Dick, and Mrs L. P. Nickera.

Hearing: 10 December 1979.

Appearances: Mr P. Carroll for Secretary for Justice, Mr R. A. Heron for *Playboy* (U.S.A.).

*Decision*

These three issues are submitted to the Tribunal by the Secretary for Justice. The issues are for the months of March, April, and May 1979. They are copies of the U.S.A. editions imported direct by the New Zealand publishers. They retail at \$2.40 each.

This magazine has been before the Tribunal on a number of occasions, the last being in March 1972. Except for one occasion in 1967 the magazine has been classified as not indecent.

At the hearing we received submissions from the applicant, the publishers, and the New Zealand distributor. We have also received a written submission from the Society for Promotion of Community Standards Inc.

The Secretary made no specific submissions in respect of these issues but having noted that during the last 2 or 3 years some complaints have been made to the Minister for Justice it was felt desirable that the Tribunal should reassess this publication.

Each of these issues contains photographs of nude or semi-nude women and a substantial amount of serious and semi-serious text of a more general nature. The magazine does not contain, to any extent, explicit sexual text by way of letters or advice to readers. The photographs do place emphasis on female genitalia.

In the past 7 years there has clearly been a change in community standards. Considered as a whole these issues do not offend against current community standards. Those parts which might be indecent in isolation are acceptable in the context of the magazine as a whole.