

Trading Bank Reserve Asset Ratio

PURSUANT to section 33 of the Reserve Bank of New Zealand Act 1964, the Reserve Bank, acting with the approval of the Minister of Finance, hereby gives notice that as from and including the 1st day of January 1983 and until further notice each trading bank shall maintain during each calendar month balances at the Reserve Bank plus holdings of Reserve Bank notes, of New Zealand coin, and of New Zealand Government securities, such that the aggregate of the averages of those balances and holdings during that calendar month (determined in accordance with clauses 1, 2, 3, and 4 of this notice) equals or exceeds the aggregate of:

21 per cent of that trading bank's average demand and time deposit liabilities in New Zealand in the immediately preceding calendar month (determined in accordance with the provisions of Clause 5 of this notice);

Provided that a trading bank may make up its balances and holdings as aforesaid for a calendar month to the amount hereinbefore required for that calendar month by way of borrowings from the Reserve Bank made during the next following calendar month and on terms and conditions to be determined by the Reserve Bank and the proceeds of all such borrowings shall be credited to the account of that trading bank with the Reserve Bank termed "Contra Deposit Account" and on terms and conditions to be determined by the Reserve Bank.

For the purposes of this notice:

- (1) Balances held by a trading bank at the Reserve Bank shall (subject to clause 6 of this notice) include both demand deposit balances and time deposit balances of that trading bank.
- (2) The average of a trading bank's holdings of Reserve Bank notes and of New Zealand coin for a calendar month shall be the average of the figures shown in all weekly returns of Banking Statistics by that trading bank under the Statistics Act 1975 received during that calendar month.
- (3) The average of a trading bank's balances at the Reserve Bank and holdings of New Zealand Government securities for a calendar month shall in each case be the average of the figures for balances and such securities held by that trading bank on each day during that calendar month.
- (4) Government securities held by a trading bank shall consist of Government stock and Treasury bills (all at nominal value) held by that trading bank.
- (5) The average demand and time deposit liabilities of a trading bank in a calendar month shall be the average of the figures for days within that calendar month, as shown in that trading bank's weekly returns of Banking Statistics under the Statistics Act 1975.
- (6) The proceeds of any borrowings made by a trading bank pursuant to the proviso to this notice shall be deemed to be a part of and be included in the balances held by that trading bank at the Reserve Bank on the last day of the preceding calendar month;

and the proceeds of any such borrowing shall not be included in the balances held by that trading bank at the Reserve Bank during any other calendar month.

D. L. WILKS, Governor.

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Decision No. 1008.
Reference No. Ind. 38/80.

Before 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 publications: *Frauleins*, Vol. 2, No. 1, published by Publisher's Surplus Inc., California. *Cupcakes*, Vol. 1, No. 1, published by Red Lion Publishing Co., California.

Chairman: Judge W. M. Willis.

Members: Mesdames H. B. Dick, L. P. Nikera; Messrs J. V. B. McLinden, I. M. Malcolm.

Hearing: 2 December 1980.

Decision: 5 January 1982.

Appearances: Written submissions on behalf of Shop Six, the importer. Mr P. E. F. M. Leloir for Comptroller of Customs.

DECISION

WE were informed that these publications were sample copies imported by Shop Six and seized at Auckland in September 1980. As the importer has disputed forfeiture the Customs Department has referred these publications to the Tribunal for classification prior to commencement of condemnation proceedings pursuant to the Customs Act 1966.

Frauleins, Vol. 2, No. 1—This is a picture magazine measuring 210 mm × 275 mm. It is 34 pages long. The publication contains different colour photographs of 6 or 7 female models in various positions of undress. There are many instances of photographs of full frontal nudity, and some photographs are directed at the genital area. There is also a set of 4 photographs depicting 2 young female nudes in scenes that have homosexual connotations.

At the start of the portfolio of photographs of each model is a short and presumably introductory passage in German text. This is unusual (unless the publications were intended to be marketed in the Federal Republic of Germany) because the magazine is published and printed in the United States of America.

Mr Shirley, on behalf of the importer Shop Six, submitted that although *Frauleins* had full frontal nudity, that nudity was presented in a restrained and tasteful manner. Mr Shirley referred the Tribunal to the recent High Court decision in *Waverley Publishing Co. v Customs* [1980] 1 NZLR 631, and submitted both the magazines. The subject of this decision fell within the High Court guidelines for an age restriction classification because the publications did not present sex and nudity in lewd, prurient or patently offensive manner. The classification Mr Shirley submitted as appropriate was that the publication should be indecent in the hands of any person under the age of 18.

For the Comptroller of Customs, Mr Leloir accepted that the manner of presentation of the models in this publication was not patently offensive and there was little emphasis on the female genitalia, and that an age restriction would be appropriate.

We have had difficulty with a decision in respect of this publication.

With respect we endorse the dicta of Jeffries J. in the *Waverley* case concerning the problems of classifying pictorial magazines of this type:

"I recognise that representational photography, for those entrusted with the perplexing task of deciding between the acceptable and non-acceptable, is one of the nicest problems of line drawing which must be faced." (p. 646 11.16-19)

Our original assessment has also been complicated by our attempt, in fairness to the importer, (who relied heavily on the High Court guidelines in the 1980 *Waverley* decision) to identify real differences in the two classifications of the magazines which were the subject of the *Waverley* decision. This was not the easiest of tasks, but was attempted by the Tribunal in order to maintain a degree of uniformity in the current classification of magazines of this kind.

Bearing in mind the provision of s. 11 and the criteria set out by Jeffries J. in *Waverley* at 646 L24-33 we find:

1. *Frauleins* has no literary or artistic merit and the dominant effect of the publication is to expose the female form in a prurient and salacious manner. We refer here specifically to the photographs which may be found on pages 2, 3, 4, 8 to 10, 24 to 30.
2. There is no attempt by the publisher to camouflage or dilute the dominant theme of the magazine by articles or material of a non sexual nature.
3. Although some of the models are not photographed in patently offensive poses (which does not automatically mean that the publication is not indecent) many of the photographs we have referred to, we feel, are contrived (within the meaning of that expression as held by Jeffries J. in *Waverley* at p. 647, L3) to achieve a prurient purpose.
4. Persons are unlikely to benefit from reading the magazine although as a corollary the possibility of corruption is not really serious as this magazine is not as committed to the publication of deviant or offensive sexual material as many we have seen.

Having regard to the above matters we feel that whichever test of indecency is adopted this publication falls marginally beyond that for which we could apply an age restriction. For that reason, notwithstanding the submissions to the contrary, we classify *Frauleins*, Vol. 2, No. 1 as indecent.

Cupcakes, Vol. 1, No. 1—This is a magazine 63 pages long, measuring 215 mm × 280 mm. Its content contains colour and black and white photographs of female models although there are a couple of inconsequential short stories with sexual themes and some non-fiction articles. Only one such article, on Janice Joplin, has any degree of merit.