

W. M. WILLIS, District Court Judge, Chairman.

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Decision No. 1050.
Reference No. Ind 30/82.

Before the Indecent Publications Tribunal

In the matter of the Indecent Publications Act 1963, and in the matter of an applicant by the Comptroller of Customs for a decision in respect of the following publications:

Escort Vol. 2, No. 7; *The Best of Escort*, published by Paul Raymond Publications Ltd., London.

Judge W. M. Willis (Chairman); Mesdames H. B. Dick, L. P. Nikera; Messrs J. V. B. McLinden, I. W. Malcolm.

Hearing: 16 December 1982.

Decision: 14 January 1983.

Appearances: Mr McNeice for Comptroller of Customs. Written submissions from importer, M. J. Thomas.

DECISION

THE above magazines were imported privately and seized at Rotorua parcels post in August 1982. The importer disputes forfeiture so that they have been referred to this Tribunal for classification prior to commencement of condemnation proceedings.

In Decision No. 1034, we considered *Escort*, Volume 1, No. 12; Volume 2, Nos 1 and 2. In Decision No. 1042, we considered *Escort*, Volume 2, No. 5. *Escort*, Volume 2, No. 7 is no different from its predecessors and as its name implies, the *Best of Escort* consists of excerpts from previous publications. As the Comptroller submitted, the articles are sexually orientated and there is no non-sexual material to offset its impact. In lengthy submissions, Mr Thomas suggested that these volumes should not be considered as indecent. He suggested that as certain films have been passed by the Film Censor and as a video cassette had been passed by the District Court this Tribunal should likewise pass this volume. We find no reason to change our view and for reasons set out in the decisions already quoted these two publications are both considered to be indecent. They are classified accordingly.

W. M. WILLIS, District Court Judge, Chairman.

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Decision No. 31/82.
Com. 28/82.

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by Anthony Jon Simpson of Wellington:

WARRANT HOLDER—Broadcasting Corporation of New Zealand, Television New Zealand (TV One):

B. H. Slane, Chairman; Lionel R. Sceats, and Anne E. Wilson, Members; Gordon C. Ell, and Brian W. Stephenson, Co-opted Members.

Hearing: 16 December 1982.

Counsel: P. J. Bartlett for complainant.

ORAL DECISION

The 16th day of December 1982

THE matter we had to consider was the complaint contained in paragraph (b) on page 2 of Mr Simpson's letter, dated 5 July 1982. There is provision under Rule 4 for sponsorship and we believe that many of the programme items transmitted are sponsored items in the sense that those taking part are making payment to Northern Television or to their producers, Kevin Moore and Associates, to appear at all, i.e. they are promoting themselves. Conversely those purveying the products either featured or mentioned in the items are paying for this. We presume you would be aware of this in terms of Rule 4.1 which requires direct control by yourselves. If our information is correct then either these items are advertisements, in which case they breach both Rule 1.1. and the Tribunal stricture on total advertising content, or they are straight sponsored programmes and this must be acknowledged in the programme credits as required by Rule 4.1.

The Tribunal has concluded that there has been no decision by the Corporation on that point. Instead the Corporation requested identification of particular programmes and the elements considered to infringe the rule. It is not then possible for the Tribunal to determine the complaint which can only be referred to us if the complainant is dissatisfied with the decision of the Corporation. There has such no such decision.

The Tribunal considers that Mr Simpson, if he wishes to pursue his complaint, should do so by reference to one or more days of broadcasting of the programme and the programme elements in

them if he considers they infringe the rules. Particulars were given of such matters in the same letter in relation to the Good Morning programme broadcast on 2 July.

The Tribunal does not consider that a wide-ranging inquiry can be invoked by simply making a general allegation in relation to a series of programmes.

As we normally state, the co-opted members took part in this hearing and the deliberations of the Tribunal, but the decisions are those of the permanent members.

B. H. SLANE, Chairman.

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Decision No. 30/82.
Com. 27/82.

Before the Broadcasting Tribunal

In the matter of the Broadcasting Act 1976, and in the matter of a complaint by Leo David Leitch of Lower Hutt:

WARRANT HOLDER—Broadcasting Corporation of New Zealand, Radio New Zealand (2ZB):

B. H. Slane, Chairman; Lionel R. Sceats, and Anne E. Wilson, Members; Gordon C. Ell, and Robert Boyd-Bell, Co-opted Members.

DECISION

Mr Leitch complained of obscene language used on 2ZB on Wednesday, 7 July at approximately 7.37 a.m. The offence, he said, occurred in the context of a joke.

He claimed that in the punch line of the joke the word "fuckin'" had been used. The Corporation did not uphold the complaint saying that the line was "I don't wanta your Fokker Friendship". Mr Leitch was dissatisfied with the outcome of his complaint and referred it to the Tribunal but accepted that the word he complained of may not actually have been used. He claimed however that it sounded similar.

He said that the humour of the joke depended on the Italian's misunderstanding of what he was offered by a rescue service and this was at least directly implied obscenity. He supplied another joke which used a foreigner's accent and a misunderstanding without any obscene words being explicitly pronounced, saying that there were many such jokes and ditties.

The Tribunal has listened to a tape of the programme and is satisfied that the word was clearly pronounced as Fokker and was not slurred or spoken in a way that could reasonably be misheard. However, as stated by Mr Leitch, that was the point of the story.

It was told in a series broadcast as a contest. None of the other jokes were complained about.

The question the Tribunal had to consider was whether or not the broadcast of this transgressed the standards.

The Tribunal had regard to the time and context in which the joke was told. Considering the time placement and the medium the "joke" was inappropriate. It falls below the standards which should apply to a breakfast programme directed to a family audience. The breach is not a serious one since the word relied upon for the humour was not spoken.

The complaint is upheld.

Co-opted members—Messrs Boyd-Bell and Ell were co-opted as members of the Tribunal for the purposes of this complaint. The decision is that of the permanent members.

Dated the 13th day of December 1982.

Signed for the Tribunal:

B. H. SLANE, Chairman.

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Decision No. 28/82.
Com. 26/82.

Before the Broadcasting Tribunal

IN the matter of the Broadcasting Act 1976, and in the matter of complaint by Clifford Reginald Turner:

WARRANT HOLDER—Broadcasting Corporation of New Zealand (1ZH):

B. H. Slane, Chairman; Lionel R. Sceats, Member; Susan Boyd-Bell, and Gordon C. Ell, co-opted Members.

DECISION

Mr Turner complained to the Corporation about a commercial broadcast on 1ZH Hamilton on 5 June 1982, the text of which was: "The Winter Show's always interesting, always informative, and this year, one of the most intriguing stands is that of Villa