

publication as indecent in the hands of persons under the age of 18 years. The Tribunal draws attention to the fact that in a decision issued simultaneously with this decision, in respect of a number of *Colt Studio Presents* publications, a serial restriction order of indecent in the hands of persons under the age of 18 years has been made.

Dated at Wellington this 18th day of October 1988.

R. R. KEARNEY, Chairman.

Indecent Publications Tribunal.

go12322

Decision No. 33/88

Reference No.: 13/88, 14/88, 22/88, 26/88

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 a decision in respect of the following publications: *Penthouse Collection* (Aust-Edition) 1987; *Penthouse Collection* (Aust-Edition) January, February, March, April 1988; *Penthouse* (Aust-Edition) May 1988; *Penthouse* (Aust-Edition) July 1988; *Genesis* March, April, May 1988; *Gallery* March, May 1988; *Park Lane* No. 17; *Parade* Issues 72, 73, 74, 75 and 76 1988; *Glamour Girls* Issues 11, 12 and 13; *Mayfair* Vol. 22, No. 8, Vol. 22, No. 11; *The Best of Mayfair* No. 7:

Chairman: Judge R. R. Kearney.

Members: R. E. Barrington, A. J. Graham, and S. C. Middleton.

Hearing at Wellington on the 28th day of July 1988.

Appearances: M. J. Wotherspoon for Comptroller of Customs. G. F. Ellis on behalf of publishers and on behalf of Gordon & Gotch (NZ) Ltd., the New Zealand importer and distributor.

Decision

All of these publications, with the exception of *Australian Penthouse*, July '88, Volume 9, No. 7, have previously been considered by the Tribunal and have been the subject of interim orders by me as Chairman of the Tribunal to which I will refer during the course of this decision.

The books under review are in fact the subject of 4 separate applications to the Tribunal, but for practical reasons we have incorporated all of them within this one decision.

All of these publications were commercially imported into New Zealand by Gordon & Gotch (NZ) Ltd. and have been referred to the Tribunal through the Comptroller of Customs for consideration and classification in terms of the Indecent Publications Act.

Mr G. F. Ellis, counsel on behalf of the publisher, importer and distributor, made detailed written submissions to the Tribunal, and these were further supported by oral submissions made by him to the Tribunal at the hearing. Both Mr Ellis and Mr Wotherspoon in their submissions invited the Tribunal to consider both the imposition of an age classification and the granting of a serial restriction order in respect of these publications were appropriate. Most, if not all, of these publications have previously been freely available in New Zealand subject, in most cases, to an age restriction and the Tribunal, after considering the submissions by Mr Wotherspoon and Mr Ellis, and after consideration of the various publications, has determined as follows.

That all of the *Penthouse* publications contain material which would clearly be injurious to younger readers, and that each is classified as indecent in the hands of persons under the age of 18 years. Further, that the Tribunal is satisfied that the material presented in the *Penthouse* publications is uniform and consistent, and that in respect of each of these publications it is appropriate that a serial restriction order should be made. Accordingly, the Tribunal orders the issue of

a serial order in terms of section 15A of the Indecent Publications Act 1963 in respect of all *Penthouse* publications, the subject of these various applications before the Tribunal. That serial order will classify such publications as indecent in the hands of persons under the age of 18 years.

In so far as the *Genesis* publications are concerned, the Tribunal repeats its concern that there are elements contained in these publications which bring the publications very close to earning an unconditional indecent classification. The Tribunal is accordingly not prepared to make a serial restriction order in respect of this particular magazine, but has reached a unanimous conclusion that all that is required is an age restriction, and it accordingly classifies each as indecent in the hands of persons under the age of 18 years. The Tribunal wishes to bring to the attention of the publishers, importers and distributors that it would be prepared to consider making a serial order provided the publishers, importers and distributors were prepared to agree to conditions that the publication not be on public display and that it be shrink-wrapped and labelled with the age restriction classification.

In respect of the *Gallery* publications, the Tribunal is satisfied that these contain material which would be injurious to younger readers and classifies each as indecent in the hands of persons under the age of 18 years. The Tribunal is likewise satisfied that this publication is entitled to a serial restriction order and accordingly makes an order that these publications are subject to the issue of a serial restriction order in terms of section 15A of the Indecent Publications Act 1964, classifying each as indecent in the hands of persons under the age of 18 years.

The publication *Park Lane*, No. 17 contains material which would be injurious to younger readers, and that publication is classified as indecent in the hands of persons under the age of 18 years.

The publication *Parade* contains material which the Tribunal is satisfied would be injurious to younger readers, and it too is classified as indecent in the hands of persons under the age of 18 years. In the case of this publication, the Tribunal is satisfied that it is justified in issuing a serial restriction order, and accordingly such order is issued in terms of section 15A of the Indecent Publications Act 1963 classifying the publication *Parade* as indecent in the hands of persons under the age of 18 years.

In respect of the publication *Glamour Girls*, the Tribunal is satisfied that these magazines contain material which would be injurious to younger readers and classifies each as indecent in the hands of persons under the age of 18 years. The Tribunal is also satisfied that a serial restriction order is justified and makes such an order in terms of section 15A of the Indecent Publications Act 1963 classifying the publication *Glamour Girls* as indecent in the hands of persons under the age of 18 years.

In respect of the *Mayfair* publications, the Tribunal is satisfied that this publication contains material which is injurious to younger readers and classifies each as indecent in the hands of persons under the age of 18 years. In this publication there is a content which concerns the Tribunal, and it is not at this stage prepared to make a serial restriction order but would be so prepared if the publishers, importers and distributors agreed to a condition that the publication be shrink-wrapped.

As earlier mentioned, some of these publications have already been the subject of interim restriction orders, and these publications are as follows:

Penthouse Collection (Australian Edition 1987).

Penthouse, January, February, March and April 1988, Decision No. 11/88.

Penthouse Forum, Issues January, April, May 1988.

Genesis, Issues March, April, May 1988.

Gallery, Issues March, May 1988.