

*Members:* W. K. Hastings and S. C. Middleton.

Hearing at Wellington on the 11th day of September 1990.

*Appearances:* No appearance by or on behalf of the importer.  
M. J. Wotherspoon on behalf of the Comptroller of Customs.

### **Decision**

When this publication was commercially imported through parcels post, Auckland on or about 17 May 1990 it was seized by the Collector of Customs. The importer subsequently disputed forfeiture and the publication was referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

The publication, in magazine form, has a theme of sado-masochism and bondage within a male homosexual context. It contains numerous photographs depicting bondage and a considerable amount of written material describing sado-masochism and brutality. It would appear that the content of *Mach 20* is very much along the same lines as *Mach*, No. 19 which, because its whole format was of a kind which in the view of the Tribunal was clearly injurious to the public good, was classified as unconditionally indecent in decision 8/90. With considerable distaste (no pun intended) the Tribunal notes an episode of urolagnia in an article titled "The Woods". For reasons similar to those given in decision 8/90 the Tribunal classifies this publication as unconditionally indecent.

Dated at Wellington this 24th day of October 1990.

P. J. CARTWRIGHT, Chairperson.

Indecent Publications Tribunal.  
go13935

Decision No. 56/90

Reference No.: IND 52/90

### **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 publication:  
*Australian Penthouse, Black Label Edition*, Vol. 11, No. 6.  
Publisher: P H Editorial Services:

*Chairperson:* P. J. Cartwright.

*Members:* W. K. Hastings and S. C. Middleton.

Hearing at Wellington on the 11th day of September 1990.

*Appearances:* No appearance by or on behalf of the importer.  
M. J. Wotherspoon on behalf of the Comptroller of Customs.

### **Decision**

This publication was privately imported through parcels post, Auckland on or about 23 May 1990 and was seized by the Collector of Customs. The importer having subsequently disputed forfeiture the publication has been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Mr Wotherspoon reminded the Tribunal that 9 previous issues of this magazine have been considered by the Tribunal and classified as unconditionally indecent in decision No. 67/89, 6/90 and 45/90.

In decision 45/90 the Tribunal, being satisfied that there was a consistency of presentation in this publication, granted a serial restriction order of unconditionally indecent.

This issue of the magazine, *Australian Penthouse, Black Label Edition*, Vol. 11, No. 6, because of its date of issue, is not covered by the serial restriction order made in decision 45/90. The Tribunal agrees with Mr Wotherspoon that this issue of the magazine appears to be similar in format to those considered in decision No. 67/89, 6/90 and 45/90 in that it features a multiple model sequence depicting sexual activity.

The Tribunal classifies this issue of *Australian Penthouse, Black Label Edition*, as unconditionally indecent.

Dated at Wellington this 24th day of October 1990.

P. J. CARTWRIGHT, Chairperson.

Indecent Publications Tribunal.  
go13936

Decision No. 57/90

Reference No.: IND 54/90

### **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:  
*Electric Blue*, Vol. 1, No. 3, 4 and 5. Publisher: Power Radio Ltd.

*Chairperson:* P. J. Cartwright.

*Members:* W. K. Hastings and S. C. Middleton.

Hearing at Wellington on the 11th day of September 1990.

*Appearances:* No appearance by or on behalf of the importer.  
M. J. Wotherspoon on behalf of the Comptroller of Customs.

### **Decision**

These publications were submitted to the Customs Department by G. F. Ellis, solicitor for the importer, Gordon and Gotch Ltd., by way of an invitation to the department to submit them to the Tribunal for the issue of a serial restriction order under section 15A of the Indecent Publications Act 1963.

In his submission Mr Wotherspoon explained that these magazines are mainly comprised of photographs of single female models and letters from readers. The photographs place undue emphasis on the female genitalia, with many models posed in contrived positions to accentuate that part of the female anatomy. Mr Wotherspoon considered that this publication could be likened to the publication *Escort* which in decision 55/89 received a serial restriction order of indecent in the hands of persons under the age of 18 years. In concluding his submission Mr Wotherspoon said that his department would support the Tribunal issuing a serial restriction order making this publication indecent in the hands of persons under the age of 18 years.

In a brief written submission received after the sitting of the Tribunal Mr Ellis indicated his support for Mr Wotherspoon's submission.

There are some aspects of this particular magazine which concern the Tribunal. It is conceded that the photographs do not show models in the act of masturbation. Nevertheless some of the photographs, excessively concentrated as they are on the genitalia of multiple nude female models, are such that they sicken the members of the Tribunal who consider that these photographs are both exploitative and degrading. A further aspect of concern to the Tribunal is the generally misogynistic attitude which these magazines display towards women. For example, in *Electric Blue*, Vol. 1, No. 4, there is a tasteless and offensive cartoon called "A Dozen Other Uses For Your Wife". Among other poses this cartoon shows a naked woman being used as a coffee table, another naked woman being used as a snooker bridge and yet other naked women being used as a statue to stand in a pond and as a draught excluder by lying on the floor across the bottom of a door.

It is the precedential approach only, based as it is on past decisions of the Tribunal and of the Court of Appeal and the High Court, that saves this magazine from a classification of unconditionally indecent. The Tribunal has always recognised the desirability for consistency in decision making. Such consistency must, of course, be balanced with the need to recognise changes in the community at large. Changing