

X.S., Vol. 2, No. 4; X.S., Vol. 2, No. 5, Galaxy Publications; Fox, May 1987, Vol. 4, No. 1; Fox, September 1987, Vol. 4, No. 3; Fox, November 1987, Vol. 4, No. 4; Fox, March 1988, Vol. 4, No. 6; Fox, September 1988, Vol. 5, No. 3; Fox, January 1989, Vol. 5, No. 5, Montcalm Publishing Corp.; Cheri, March 1985, Vol. 9, No. 8; Cheri, July 1985, Vol. 9, No. 12; Cheri, April 1988, Vol. 12, No. 9, Cheri Magazine Inc.; Cheri, Vol. 1, No. 3, Lopian Pty Ltd. (Aul); Cheri, May 1988, Vol. 12, No. 10, Cheri Magazine Inc.; High Society, March 1988, Vol. 12, No. 11; High Society, February 1988, Vol. 12, No. 10; High Society, April 1988, Vol. 12, No. 12; High Society, May 1988, Vol. 13, No. 1; High Society, June 1988, Vol. 13, No. 2; High Society, July 1988, Vol. 13, No. 3; High Society, August 1988, Vol. 13, No. 4; High Society, October 1988, Vol. 13, No. 6, High Society Magazine; Hustler, April 1987, Vol. 13, No. 10; Hustler, June 1987, Vol. 13, No. 12; Hustler, November 1987, Vol. 14, No. 5; Hustler, September 1988, Vol. 15, No. 3; Hustler, October 1988, Vol. 15, No. 4; Hustler, November 1988, Vol. 15, No. 5; Hustler, January 1989, Vol. 15, No. 7, Hustler Magazine Inc.; Hooker, August 1986, Vol. 6, No. 5, Adam George Inc.; Hustler Letters, July 1988, Vol. 2, No. 2; Hustler Letters, March 1988, Vol. 1, No. 11, Hustler Magazines Inc.; Listen With Rustler, Vol. 4, No. 1; Listen With Rustler, Vol. 4, No. 4; Listen With Rustler, Vol. 4, No. 6, Goldstar Publications Ltd.; Penthouse (US Edition), January 1988, Vol. 19, No. 5; Penthouse (US Edition), May 1988, Vol. 19, No. 9; Penthouse (US Edition), June 1988, Vol. 19, No. 10; Penthouse (US Edition), July 1988, Vol. 19, No. 11; Penthouse (US Edition), August 1988, Vol. 19, No. 12; Penthouse (US Edition), September 1988, Vol. 20, No. 1; Penthouse (US Edition), October 1988, Vol. 20, No. 2; Penthouse (US Edition), November 1988, Vol. 20, No. 3; Penthouse (US Edition), December 1988, Vol. 20, No. 4; Penthouse (US Edition), January 1989, Vol. 20, No. 5; Penthouse (US Edition) February 1989, Vol. 20, No. 6; Penthouse International Ltd.; Raider, Vol. 2, No. 7; Raider, Vol. 3, No. 7; Raider, Vol. 3, No. 5, Goldstar Publications Ltd.:

Chairman: Judge R. R. Kearney.

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

Hearing at Wellington on the 4th day of October 1989.

Appearances: M. J. Wotherspoon for Comptroller of Customs. No appearance on behalf of importers. G. F. Ellis, counsel on behalf of the publishers of a number of the publications and on behalf of possible New Zealand importers and distributors.

Decision

These publications were privately imported through parcel post, Auckland in May 1989 although some additional publications have been imported at other times by private importers. The publications having been seized by the Collector of Customs the importers have subsequently disputed forfeiture and the publications have been referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

The Tribunal received a written submission from a private importer of *Playgirl (Australian)* and has given consideration to that written submission along with the written and oral submissions of the Comptroller of Customs and Mr Ellis.

Mr Ellis advised the Tribunal that he had spoken to the private importer and advised him of his client's interest in a number of the publications, and of his intention to apply to the Tribunal on behalf of the publishers of the publications X.S. and *Penthouse (US Edition)* to be joined in the proceedings before the Tribunal in respect of those publications, and to further apply for an adjournment of the hearing in respect of both of those publications until such time as the publishers could

submit evidence to the Tribunal and also be represented, possibly by Mr Jeffrey Robertson, Q.C., the English counsel for the publishers. There being no opposition to the application to join the publishers as parties to the proceedings the Tribunal makes an order joining them accordingly. Mr Ellis was asked what attitude he would take on behalf of the publishers of X.S. magazine and *Penthouse (US Edition)* in the event that the Tribunal was prepared to reach a determination that either, or both of these, could be the subject of an age restriction classification. Mr Ellis advised the Tribunal that in such an event his client would not object to the classification and that it would withdraw its application to adjourn in respect of any such publication.

The publications before the Tribunal in respect of this particular file are many and various with the principal common link that they are all to a greater or lesser degree sexually explicit. In the Tribunal's finding some justified an age restriction of 16, others an age restriction of 18 and yet others an unconditionally indecent classification. The decisions are accordingly sub-listed hereunder in respect of those particular classifications.

Playgirl (Australian), Vol. 1, No. 3.

Playgirl (Australian), Vol. 1, No. 5.

Playgirl (Australian), Vol. 1, No. 7.

Playgirl (Australian), Vol. 1, No. 12.

These publications are clearly aimed at the female market and in the main the articles are of a non sexual nature with the nude male models who are depicted in the centre pages presented in a discreet manner. Some of the issues contain a section entitled "Erotica" which details readers sexual encounters. In respect of these publications the Tribunal is satisfied that they would be injurious to younger readers and classifies each as indecent in the hands of persons under the age of 16 years.

Playgirl (Australian), No. 41.

Unlike the other *Playgirl* magazines this publication is aimed at the male market and consists of photographs of nude or semi-nude female models. The articles and cartoons contained in the magazine are almost entirely of a sexual nature and the Tribunal is satisfied that this publication would be injurious to younger readers and classifies it as indecent in the hands of persons under the age of 18 years.

Adult Fantasy, Issue 6.

Adult Fantasy, Vol. 1, No. 11.

The Best of Club International, No. 15.

Best of Fox, December/January, Vol. 1, No. 5.

Best of Fox, Winter 1987, Vol. 2, No. 4.

Best of Razzle, Summer Special, No. 3.

Escort, Vol. 4, No. 2.

Escort, Vol. 4, No. 4.

Escort, Vol. 4, No. 5.

Escort, Vol. 4, No. 8.

Escort, Vol. 5, No. 9.

Escort, Vol. 8, No. 9.

Escort, Vol. 8, No. 10.

Escort, Vol. 8, No. 11.

Escort, Vol. 8, No. 12.

Escort, Vol. 8, No. 13.

The Best of Escort, No. 5 and No. 13.

Paul Raymond's Model Directory, Vol. 6, No. 2.

Paul Raymond's Model Directory, Vol. 6, No. 3.

Paul Raymond's Model Directory, Vol. 6, No. 4.

Paul Raymond's Model Directory, Vol. 3, No. 3.

Paul Raymond's Model Directory, Vol. 3, No. 4.