

subsequently disputed forfeiture of the publications they were referred to the Tribunal for classification prior to the commencement of condemnation proceedings pursuant to the Customs Act 1966.

Although there was no appearance by or on behalf of the importer a detailed written submission was received from Brian Cheeseman on behalf of the importer and intended distributor, Waverley International 1988 Limited of Auckland. In his submission, while conceding that the magazines in these 2 applications primarily contain single and multiple model scenes, with what he described as "a suggestion of sexual intimacy", Mr Cheeseman argued nevertheless that they should all be given an R18 classification. Mr Cheeseman pointed to the non-violent nature of these publications and that in the great majority of them, that there was no actual explicit sexual connection, whether genital or oral. In the very few magazines where it was obvious that manual, oral or genital connection was occurring, Mr Cheeseman submitted that the offending areas had been blanked out. In addition to seeking an R18 classification for all the magazines in these 2 applications Mr Cheeseman requested, where there were sufficient issues, that a serial restriction order under section 15A of the Act be made.

The publications before the Tribunal in these 2 applications are many and varied with the principal common link being that they are all to a greater or lesser degree sexually explicit and focused at the heterosexual market. In the Tribunal's finding 3 magazines justified an age restriction of 16 years, another 3 justified an age restriction of 18 years with the remainder, the greater majority, justifying an unconditionally indecent classification. Accordingly the magazines are sublisted below in respect of those particular classifications.

Category A

The Tribunal finds that the following publications 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:

Title	Publisher
<i>Playbirds</i> , No. 141	Sheptonhurst Limited
<i>Big 'Uns</i> , No. 24	Big 'Uns Distribution
<i>Sunday Sport Sex File Letters</i> , Issue 8	Sunday Sport

Category B

The Tribunal classifies the following publications as indecent in the hands of persons under the age of 16 years:

Title	Publisher
<i>Sunday Sport Girls</i> , No. 1	Sunday Sport
<i>Sunday Sport Girls</i> , No. 2	Sunday Sport
<i>Sunday Sport Girls</i> , No. 3	Sunday Sport

Category C

The Tribunal classifies the following publications as unconditionally indecent. A significant number of the magazines justify an unconditionally indecent classification because of the totality of their indecent content, others because they contain a significant number of photographs which clearly justify the classification, others because they contain a mixture of various types of material, all of which are clearly in the view of the Tribunal injurious to the public good, while others are so classified because of perhaps only 1 or 2 sequences.

Although references are made but infrequently by the Tribunal to the "matters to be taken into consideration by a Tribunal or Court" being the matters referred to under section 11 of the Indecent Publications Act 1963, the provisions of that section are nevertheless constantly before the Tribunal during its consideration of all the material which comes before it. In so far as the category C magazines are concerned the Tribunal has certainly looked at:

A The dominant effect of the book.

B The literary or artistic merit or other special characteristics of the book.

C The classes of persons or age groups to or amongst whom the book is intended or is likely to be published, etc.

D The price of the publication.

E Whether any person is likely to be corrupted by reading the book.

F Whether there is an honest purpose and an honest thread of thought in the publication.

The publications under category C do not measure well when it comes to applying those matters of consideration to them. We do not propose setting out detail by detail the reasons why each of these publications is in the Tribunal's findings injurious to the public good.

Suffice to say that all the magazines in category C, to a greater or lesser extent, contain one or more of the following elements:

- multiple model scenes showing acts of sexual intimacy between the model involved
- nude or mainly nude females with an overly explicit display of the open vagina of the models; an almost total concentration in the pictorial sequences on the genitalia
- explicit photographs of female models engaging in explicit sexual activities
- genital manipulation and masturbation
- oral sex and lesbian activity.

In past decisions of the Tribunal, too numerous to require mention, the inclusion of any one alone (to a significant degree) of the above elements resulted in a classification of unconditional indecency.

Title	Publisher
<i>Big 'Uns</i> , No. 23	Big 'Uns Distribution Limited
<i>Big 'Uns</i> , No. 25	Gold Star Publications Limited
<i>Blue Book</i> , No. 33	Sheptonhurst Limited
<i>Blue Book</i> , No. 34	Sheptonhurst Limited
<i>Exclusive</i> , No. 103	Gold Star Publications Limited
<i>Exclusive</i> , No. 105	Gold Star Publications Limited
<i>Lovebirds</i> , No. 114	Sheptonhurst Limited
<i>Lovebirds</i> , No. 123	Sheptonhurst Limited
<i>Lovebirds</i> , No. 124	Sheptonhurst Limited
<i>Miss Sadie Stern's Monthly</i> , No. 118	Gold Star Publications Limited
<i>Miss Sadie Stern's Monthly</i> , No. 119	Gold Star Publications Limited
<i>New Direction</i> , No. 203	Gold Star Publications Limited
<i>New Direction</i> , No. 212	Gold Star Publications Limited
<i>New Direction</i> , No. 213	Gold Star Publications Limited
<i>Playbirds</i> , No. 140	Sheptonhurst Limited
<i>Playbirds All Colour XXX Rated Quarterly</i> , No. 53	Sheptonhurst Limited
<i>Playbirds All Colour XXX Rated Quarterly</i> , No. 55	Sheptonhurst Limited
<i>Playbirds Continental</i> , No. 80	Sheptonhurst Limited
<i>Playbirds Continental</i> , No. 81	Sheptonhurst Limited
<i>Play Dames</i> , No. 89	Gold Star Publications Limited
<i>Play Dames</i> , No. 91	Gold Star Publications Limited
<i>Play Dames</i> , No. 97	Gold Star Publications Limited
<i>Play Dames</i> , No. 98	Gold Star Publications Limited
<i>Play Dames</i> , No. 99	Gold Star Publications Limited
<i>Private</i> , No. 128	Sheptonhurst Limited
<i>Private</i> , No. 132	Sheptonhurst Limited
<i>Private</i> , No. 134	Sheptonhurst Limited
<i>Private</i> , No. 135	Sheptonhurst Limited
<i>Raider</i> , No. 82	Gold Star Publications Limited
<i>Raider</i> , No. 84	Gold Star Publications Limited
<i>Rustler</i> , No. 158	Gold Star Publications Limited
<i>Rustler</i> , No. 160	Gold Star Publications Limited