

NOTICE OF DECISION UNDER SECTION 38(1)

TO: Secretary for Internal Affairs

Titles of publications: Norml News Winter 2009
Norml News Spring 2009
Norml News Summer 2010

Other known title(s): Norml News Vol 13.1: Winter 2009
Norml News Vol 13.2: Spring 2009
Norml News Issue 45: Summer 2010

OFLC ref: 1000756.000
1000757.000
1000758.000

Classification:	Objectionable except if the availability of the publication is restricted to persons who have attained the age of 18 years.
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Descriptive Note: None

Display conditions: When the magazine is on public display, the classification given to the magazine must be shown by way of a label issued in accordance with a direction under section 36(A)(2) and affixed to the front cover.

A direction has been given to the Film and Video Labelling Body Inc. to issue labels for these publications.

REASONS FOR THE DECISION

The Office of Film and Literature Classification (Classification Office) examined the publications and recorded the contents in an examination transcript. A written consideration of the legal criteria was undertaken. This document provides the reasons for the decision.

The publications have been examined and considered separately, however for convenience they are discussed together in this decision.

Submission procedure:

The three magazines were submitted for classification on behalf of the Secretary for Internal Affairs under s13(1)(b) of the Films, Videos, and Publication Classification Act 1993 (FVPC Act). They were received on 3 May 2010.

The publisher of the magazines, Norml NZ Inc, was notified of the application for classification and informed of the right to make a written submission on their classification.

Under s23(1) of the FVPC Act the Classification Office is required to examine and classify the publications.

Under s23(2) of the FVPC Act the Classification Office must determine whether the publications are to be classified as unrestricted, objectionable, or objectionable except in particular circumstances.

Section 23(3) permits the Classification Office to restrict publications that would otherwise be classified as objectionable so that they can be made available to particular persons or classes of persons for educational, professional, scientific, literary, artistic, or technical purposes.

Synopsis of written submission(s):

A letter accompanying the application for classification on behalf of the Secretary for Internal Affairs states: "The magazine has been brought to our attention as it has an overt focus on the cultivation and use of cannabis, which I believe could be in breach of section 3(3)(d) of the Films, Videos, and Publications Classification Act 1993".

A submission regarding classification of the magazines was received from the editor of *Norml News* on 27 May 2010. The points made in the submission refer to all three magazines.

NORML (National Organisation for the Reform of Marijuana Laws) "oppose the classification" of the three magazines. The submission makes a series of numbered points. Statements with relevance to classification in the opening section are as follows:

- Norml News magazine is all about furthering NORML's aim in changing the law. It advocates a particular lifestyle, but does not encourage crime and is not injurious to the public good. Rather, the publication plays an important role in the ongoing debate about our future cannabis laws.
- There have been no complaints from the public about the issues in question, or any other issues of the magazine, and the three issues were not submitted for classification by a member of the public.
- Classification it is not clear what the writer understands by this term but he presumably means a restricted classification would represent a gross intrusion into the rights guaranteed by the Bill of Rights Act and the social norms enjoyed by the New Zealanders today.

The next section of the submission sets out the aims of NORML New Zealand Inc. with regard to ending marijuana prohibition and gives details of public support for law changes. *Norml News* is said to be "NORML's official newsletter and primary campaign tool".

The submission then turns to the FVPC Act and considers the magazines against the criteria of the relevant sections of the Act. The writer acknowledges that "cannabis is currently against the law" and that "crime would seem to be the feature of the publications that could be considered grounds for classification" [s3(1)]. However, it is submitted that *Norml News's* treatment of matters of crime does not bring it within this subject matter gateway.

On this point, the submission refers to NORML's commitment to drug education and harm minimisation and to the fact that "the grow section is a very minor part of the magazine". The submission states that the magazine does not contain "anything that could be considered

commercial advice" and is "clearly aimed at existing home growers. The aim is to encourage them to read the magazine and get involved with changing the law". The writer further asserts that "none of the grow info is particularly explicit or hard to find elsewhere".

The submission then argues that *Norml News* magazine "does not to any great extent or degree promote or encourage criminal acts" [s3(3)(d)]. The writer considers that "previous rulings have confirmed that the advocacy of a lifestyle and cannabis law reform does not equate with advocacy of a crime itself". Previous decisions of the Office and the Film and Literature Board of Review in relation to the magazines *High Times* and *Cannabis Culture* are examined, *Cannabis Culture Oct/Nov 2003* is said to have been classified as objectionable because youthful readers "would not be able to tell the difference between advocating law change and advocating use" [*Cannabis Culture Oct/Nov 2003* was classified R18]. On this point the submission states: "We believe decisions about what New Zealanders can read are based on how they may be misconstrued by the immature". The submission then makes assertions regarding "grow" information that are similar to those made in reference to s3(1), and claims that "both in legislation and social attitudes, home growing is not considered a serious crime any more".

The submission then refers to s3(4) considerations:

The dominant effect of *Norml News* magazine is reporting the latest health, cultural, social and political news regarding marijuana and hemp in New Zealand and around the world.

It is primarily concerned with informing readers about cannabis laws, health research, law reform news, medical applications, safer use, historical and cultural contexts, and interviews with people in the law reform community.

The Classification Office's previous decision on *Cannabis Culture Oct/Nov 2003* is quoted. The dominant effect of that magazine includes the statement: "A small proportion goes further in providing cultivation and extraction instruction, but these cannot be reasonably said to provide the magazine's dominant effect." The submission regards this reasoning as "even more applicable regarding the content of *Norml News*" and lists "comprehensive and important" content on topics such as drug policy analysis, local activism and election campaigns, research that includes harm reduction, health effects and medical applications, international law reform, legal issues and historical and cultural aspects of cannabis.

Considering the impact of the medium, the submission supplies information on the magazine's availability, noting that it is "currently available in over 150 outlets nationwide, with an average print run of 30,000 copies".

Regarding the character of the magazine, including its merit, value or importance, the submission states that *Norml News* plays an important role in the debate over cannabis law reform, presenting "an alternative viewpoint that is not often expressed in other media", allowing New Zealanders to "learn about developments in New Zealand and around the world". The magazine apparently always includes "peer-reviewed scientific research" and other content includes "reports on the social and cultural aspects of cannabis and hemp". The submission then states:

We promote Safer Cannabis Use and NORML's Principles of Responsible Marijuana Use in every issue... We are a trusted source for our community, and harm reduction messages from us are more likely to be believed and acted upon than if they had come from a government agency.

The submission states that the magazine "is aimed at adults who have an interest in cannabis laws...[It] is most often sold in adult-oriented stores and is not aimed at a youthful audience".

The writer then goes on to list concerns about the consequences for purchasers of the issues in question if any of these are classified as objectionable. Submissions made about the purpose of the magazine reiterate points made under other headings and assert that "the style of writing and the language used are clearly aimed at adults".

The final section of the submission invokes the freedoms, especially freedom of expression, enshrined in the New Zealand Bill of Rights Act 1990, the Human Rights Act and the Universal Declaration on Human Rights, which are regarded as "directly applicable" to *Norml News* magazine. The submission notes that "many people in our society hold differing viewpoints than the current government", and that there is an "increased interest in cannabis law reform", including a review of current legislation.

The submission ends with these points:

It is crucial that public access to information representing all viewpoints including those advocated by *Norml News* magazine is maintained.

This includes not putting an age restriction on the magazine. Young people have just as much right – and need – as adults to learn about cannabis and the law. We oppose recalling or bagging and tagging these issues because it doesn't warrant it, and given they have already been distributed it would be completely impractical, as well as prohibitively expensive.

Description of the publications:

The decision concerns the Winter 2009, Spring 2009 and Summer 2010 issues of *Norml News*, a magazine published in New Zealand by NORML since 1990. The publishers state that the magazine is distributed nationwide to outlets that include mainstream book and magazine stores. The magazine has 52 pages, printed in colour.

Norml News is intended for cannabis growers and users and those who oppose laws prohibiting cannabis use. By far the greater part of the editorial content of all three issues has is about the law reform debate in some form.

Most of the magazine's pages have some editorial content. Feature articles include a four-page extract from the book *Marijuana is Safer: So why are we driving people to drink?*¹ in the Spring 2009 issue. In the same issue an in-depth four-page article on drug policy research "Nonsense Upon Stilts", critically examines a BERL report on the costs of harmful drug use. Analyses of government drug policy, "A Tale of three Scientists, and the government" and "Driving High" appear in the Summer 2010 issue. There are other in-depth articles on drug policy options in each issue, with titles such as "Cost-benefit Analysis of Drug Laws" (Winter 2009 issue). A four-page feature, "Hidden Voices", reports a medical anthropologist's study of users' attitudes to cannabis in the Summer 2010 issue. An editorial and several pages of reports cover New Zealand and international news. Several further pages contain news reports on research and developments regarding the medicinal use of cannabis, including "Parliament rejects Med Pot Bill" in the Spring 2009 issue. Regular items include brief "Know Your Rights" advice and lists of lawyers with experience defending cannabis charges. An article examining the outcomes of not guilty pleas appears in the Winter 2009 issue. One page in all three magazines sets out advice on "Safer Cannabis Use", with a panel devoted to NORML's "Principles of Responsible Marijuana Use". One page carries a subscription form for NORML – "Join NORML" – and an advertisement for NORML shop products.

¹ Authors listed on cover as Steve Fox, Paul Armentano, and Mason Tvert

Culture and lifestyle are represented by items such as a one-page report on J-Day celebrations and three pages on the Auckland Cannabis Cup event (Winter 2009 issue), a four-page article on "Amsterdam's T.H.Seeds" and products from Hemp Works (Spring 2009 issue). Historical aspects are discussed in a four-page feature, "The Holy Oil and the Holy Ghost", which "looks at how Christianity is rooted in the spiritual use of cannabis", and by a half-page item on musicians Sweet & Irie (Summer 2010 issue).

Content that provides specific advice on the cultivation of cannabis plants is limited to a few pages in each magazine. Topics include growing in hydroponic systems, presented with a high degree of technical detail, and a step-by-step guide to cloning for beginners. The only short and simple "Q & A" section is one page in the Summer 2010 issue. Three pages of the Winter 2009 issue are devoted to an illustrated interview with "Bubbleman", a promoter of the ice water extraction method for producing hashish from cannabis plant material. Numerous full-colour photographs of cannabis plants and buds illustrate articles and fill otherwise unused space throughout the magazines. Photographs of cannabis plants sent in by readers make up a "Show your grow" page in each issue. A few photographs show people using cannabis.

Scattered throughout each magazine are advertisements for a seed bank, smokers' supplies, drug testing solutions, vaporisers, hydroponic kits and other equipment for growing plants and extracting resin, and various other cannabis-related paraphernalia. Retailers specialising in growing equipment and products are major advertisers, with up to a dozen full-page advertisements in each issue (including a double-page centrefold). There are also advertisements for products such as herbal tobacco, incense and party pills. The customary subscription form, NORML Shop product advertising and suggestions for helping to legalise cannabis are included on two pages in each issue.

The front covers show cannabis buds spilling from ornate metal trophy cups (Winter 2009), a cannabis plant with buds (Spring 2009) and a smiling young woman draped with cannabis buds in honour of NORML's 30th birthday (Summer 2010). The images are overprinted with text previewing the magazine's contents. The back cover of each issue has a full-page advertisement for hydroponic nutrients.

The meaning of "objectionable":

Section 3(1) of the FVPC Act sets out the meaning of the word "objectionable". The section states that a publication is objectionable if it:

describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good.

The Court of Appeal's interpretation of the words "matters such as sex, horror, crime, cruelty or violence" in s3(1), as set out in *Living Word Distributors v Human Rights Action Group (Wellington)*, must also be taken into account in the classification of any publication:

[27] The words "matters such as" in context are both expanding and limiting. They expand the qualifying content beyond a bare focus on one of the five categories specified. But the expression "such as" is narrower than "includes", which was the term used in defining "indecent" in the repealed Indecent Publications Act 1963. Given the similarity of the content description in the successive statutes, "such as" was a deliberate departure from the unrestricting "includes".

[28] The words used in s3 limit the qualifying publications to those that can fairly be described as dealing with matters of the kinds listed. In that regard, too, the collocation of words "sex, horror, crime, cruelty or violence", as the matters dealt with, tends to point to activity rather than to the expression of opinion or attitude.

[29] That, in our view, is the scope of the subject matter gateway.²

The content of the publications must bring them within the "subject matter gateway". In classifying the publications therefore, the main question is whether or not they deal with the following matters in such a manner that the availability of the publications is likely to be injurious to the public good:

Matters such as crime

To some extent the magazine concerns the cultivation and use of cannabis. These activities are illegal in New Zealand under the Misuse of Drugs Act 1975. The extent and degree to which, and the manner in which, the magazine promotes or encourages these activities, is discussed under s3(3) and s3(4) below.

Certain publications are "deemed to be objectionable":

Under s3(2) of the FVPC Act, a publication is deemed to be objectionable if it promotes or supports, or tends to promote or support, certain activities listed in that subsection.

In *Moonen v Film and Literature Board of Review (Moonen I)*, the Court of Appeal stated that the words "promotes or supports" must be given "such available meaning as impinges as little as possible on the freedom of expression"³ in order to be consistent with the Bill of Rights. The Court then set out how a publication may come within a definition of "promotes or supports" in s3(2) that impinges as little as possible on the freedom of expression:

Description and depiction ... of a prohibited activity do not of themselves necessarily amount to promotion of or support for that activity. There must be something about the way the prohibited activity is described, depicted or otherwise dealt with, which can fairly be said to have the effect of promoting or supporting that activity.⁴

Mere depiction or description of any of the s3(2) matters will generally not be enough to deem a publication to be objectionable under s3(2). When used in conjunction with an activity, the Classification Office defines "promote" to mean the advancement or encouragement of that activity. The Classification Office interprets the word "support" to mean the upholding and strengthening of something so that it is more likely to endure. A publication must therefore advance, encourage, uphold or strengthen, rather than merely depict, describe or deal with, one of the matters listed in s3(2) for it to be deemed to be objectionable under that provision.

The Classification Office has considered all of the matters in s3(2), but none are relevant to these publications.

² *Living Word Distributors v Human Rights Action Group (Wellington)* [2000] 3 NZLR 570 at paras 27-29.

³ *Moonen v Film and Literature Board of Review* [2000] 2 NZLR 9 at para 27.

⁴ Above n2 at para 29.

Matters to be given particular weight:

Section 3(3) of the FVPC Act deals with the matters which the Classification Office must give particular weight to in determining whether or not any publication (other than a publication to which subsection (2) of this section applies) is objectionable or should in accordance with section 23(2) be given a classification other than objectionable.

The Classification Office has considered all the matters in s3(3). The relevant matter is:

s3(3)(d) *The extent and degree to which, and the manner in which, the publication promotes or encourages criminal acts or acts of terrorism.*

The central issue is whether the magazines promote or encourage criminal acts to such an extent and degree, and in such a manner, that their unrestricted availability is likely to injure the public good.

By far the greater proportion of the editorial content of the three issues consists of critical commentary, news and features with implications for the current debate on the legalisation of cannabis. The magazine is, as the importer's submission states, "primarily concerned with informing readers about cannabis laws, health research, law reform news, medical applications, safer use, historical and cultural contexts, and interviews with people in the law reform community". A considerable proportion of each magazine is devoted to analysis of drug policies in New Zealand and overseas, and to reports of research into the medical applications of cannabis.

Previous classifications of the similar Canadian publication *Cannabis Culture* magazine as "R18"⁵ relied on the reasoning contained in the Film and Literature Board of Review's Decision 1/98 regarding three issues of the magazine *High Times*. In that decision, the Board came to the view that the dominant effect of the magazines under review was not to promote or encourage criminal activity. The Board wrote:

[W]hile some content of these magazines could be read as promoting or encouraging criminal activity within s. 3(3)(d), this alone is insufficient to ban them because the dominant effect of the magazines is to advocate law reform and to publicise the lifestyle and culture surrounding the use of marijuana.⁶

As is the case with *High Times*, aspects of *Norml News* can be read as encouraging criminal activities. The magazines contain cultivation advice and instruction. However, the material is generally quite technical (although the instructions on cloning purport to be aimed at beginners) and its impact on the majority of readers is likely to be low. It does not therefore have a major influence on the magazine's dominant effect. It is also worth noting that the majority of the cultivation advice is sufficiently general to have wider applications than cannabis cultivation. Somewhat more problematic is an interview in the Winter 2009 issue with the manufacturer of equipment for the preparation of hashish, "Bubbleman: Talking Heads". The interview and associated material deal with a product that is a Class B controlled substance under the Misuse of Drugs Act 1975. However, although the article contains instructions, its primary purpose appears to be promotion of particular methods and equipment. It is not sufficiently detailed to adequately instruct anyone in the extraction process without recourse to further instructions.

⁵ OFLC Nos 302052 and 601596.

⁶ *High Times* Nos 250, 251 and 252, Film and Literature Board of Review Decision 1/98, 2 April 1998, p4.

It is to some extent inevitable that publications which are critical of certain laws and which advocate law reform will be supportive of the behaviour that those laws criminalise. However, the extent and degree to which the magazines promote and encourage criminal activity is limited when their likely audience of adult readers is considered. In the hands of adults who are presumed to know the law and who must accept the possible consequences of their actions, the capacity of the magazines to promote criminal activity is negligible. In the hands of adults, the political, legal, historical and cultural aspects of the magazines form their dominant effect. In the hands of children and young persons who are less likely to read the content of these magazines in its intended context of political discussion and advocacy of law reform, however, the magazines are much more likely to take on a promotional character. Children and young persons may well have less knowledge of current law and of the effects of cannabis and are therefore more likely to misinterpret the magazines' content as an invitation to break the law.

Publication may be age-restricted if it contains highly offensive language likely to cause serious harm:

Section 3A provides that a publication may be classified as a restricted publication under section 23(2)(c)(i) if it

contains highly offensive language to such an extent or degree that the availability of the publication would be likely, if not restricted to persons who have attained a specified age, to cause serious harm to persons under that age.

"Highly offensive language" is defined in s3A(3) to mean language that is highly offensive to the public in general.

Only one example of the use of offensive language has been noted. On page 37 of the Winter 2009 issue, an interviewee describes a process and goes on to say "Even if you fuck it up..." This example is unlikely to be considered highly offensive according to the definition above.

Publication may be age-restricted if likely to be injurious to public good for specified reasons:

Section 3B provides that a publication may be classified as a restricted publication under section 23(2)(c)(i) if it

contains material specified in subsection (3) to such an extent or degree that the availability of the publication would, if not restricted to persons who have attained a specified age, be likely to be injurious to the public good for any or all of the reasons specified in subsection (4).

The Classification Office has considered all the matters in s3B(3). The relevant matter is:

s3B(3)(a)(ii) material that describes, depicts, expresses, or otherwise deals with conduct that, if imitated, would pose a real risk of serious harm to self or others or both;

Unless restricted to persons 18 years of age and over, the magazines are likely to be injurious to the public good because the general levels of emotional and intellectual development and maturity of persons under that age mean that the availability of these publications to those persons would increase significantly the risk of them killing, or causing serious harm to,

themselves, others, or both. The potential for harm to young people includes the consequences of breaking the law, dealt with under s3(1) and s3(3)(d). The serious harm referred to in s3B is the physical harm that derives from ill-considered and ill-prepared experimentation with cannabis. All three issues of the magazine contain a guide to safe and responsible cannabis use, including harm reduction and health advice. That there are some risks is acknowledged. Overall, however, the magazines "normalise" cannabis use and may make what is currently forbidden attractive to young people.

Additional matters to be considered:

Under s3(4), the Classification Office must also consider the following matters:

s3(4)(a) The dominant effect of the publication as a whole.

Previous decisions on similar material have stated the dominant effect as "one of law reform advocacy and reporting of lifestyle and cultural news. A small proportion goes further in providing cultivation and extraction instruction, but these cannot be reasonably said to provide the magazine's dominant effect." This statement is even more applicable to the three issues of *Norml News* considered in this decision.

s3(4)(b) The impact of the medium in which the publication is presented.

Magazines are relatively easy to produce and distribute, and also to reproduce by photocopying. These characteristics of the format mean that the potential exists for the material to be made widely available. The format facilitates private use. Magazines are not generally read from front to back. They are often perused at point of sale and read more thoroughly after purchase. Different content will appeal to different readers. Some content will be read once, other content referred to frequently, still other content completely ignored. The quality of a magazine's paper, ink and binding will determine how much handling it can endure before it becomes unreadable and thrown away.

s3(4)(c) The character of the publication, including any merit, value or importance it has in relation to literary, artistic, social, cultural, educational, scientific or other matters.

and

s3(4)(d) The persons, classes of persons, or age groups of the persons to whom the publication is intended or is likely to be made available.

and

s3(4)(e) The purpose for which the publication is intended to be used.

Norml News is intended for mature readers with a specific interest in the reform of laws related to cannabis cultivation and use. All three issues have social and political merit as a source of information and as a forum for the expression of opinion on cannabis culture and law reform issues. *Norml News* acts as a rallying point for a community of the like-minded and, as the publisher's submission states, it is "NORML's official newsletter and primary campaign tool". Issues of the magazine therefore have "an important role in the ongoing debate about our future cannabis laws".

s3(4)(f) *Any other relevant circumstances relating to the intended or likely use of the publication.*

Copies of the three issues have already been sold and may have been retained by many purchasers.

New Zealand Bill of Rights Act 1990:

Section 14 of the New Zealand Bill of Rights Act 1990 (NZBR Act) states that everyone has "the right to freedom of expression, including the freedom to seek, receive, and impart information and opinions of any kind in any form". Under s5 of the NZBR Act, this freedom is subject "only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society". Section 6 of the NZBR Act states that "Wherever an enactment can be given a meaning that is consistent with the rights and freedoms contained in this Bill of Rights, that meaning shall be preferred to any other meaning".

Conclusion:

The Winter 2009, Spring 2009 and Summer 2010 issues of the magazine *Normal News* are classified as objectionable except if the availability of the publications is restricted to persons who have attained the age of 18 years.

Normal News is produced for mature readers with a specific interest in cannabis culture and cannabis law reform issues and is well-known for consistently advocating the legalisation of cannabis in New Zealand. It has social and political merit as a forum for these views and as a source of information about local and international developments. The issues under review contain some material designed to assist growers and users, and the Winter 2009 issue has a feature interview that contains some instruction (albeit limited) on how to produce the Class B drug hashish. However, the most significant influence on the dominant effect that the magazines will have on their intended adult audience is their editorial content, made up largely of reports and articles that inform readers about the political, legal, historical and cultural contexts of the current cannabis law reform debate. As vehicles for the expression of political views in favour of cannabis law reform, the magazines have a legitimate purpose. These three issues cannot fairly be said to promote or encourage criminal activity to an extent that their availability to New Zealand adults is likely to be injurious.

The magazines do not deliberately pitch their appeal to a young readership. They are obviously intended for mature readers who are already familiar with cannabis: they "speak to the converted". Nevertheless, magazines dealing with this subject matter are capable of attracting the interest of young persons. Adults must be presumed to know which behaviours the law criminalises and must take responsibility for the consequences of their actions. Not only does this presumption generally not apply to persons under the age of 18 years, but such persons may not have the maturity of judgement to appreciate that the magazines' support for currently criminal behaviour is in the context of law reform advocacy. The magazines are therefore likely to injure the public good if they are made available to people under the age of 18 years, who may read them as encouraging experimentation with criminal behaviour. This decision is consistent with the classification of publications advocating cannabis law reform since the Film and Literature Board of Review's 1998 *High Times* decision.⁷

⁷ Film and Literature Board of Review Decision 1/98 and OFLC No 9801331.

Section 14 of the NZBR Act requires that any classification should impinge on the freedom of expression no more than is necessary to make it unlikely that the publication's restricted availability would injure the public good. Given the considerations above, a ban is neither reasonable nor demonstrably justified. However, there is a likelihood of injury to the public good if the publication were to be made available to children and young persons. Restricting the availability of the three issues of *Norm! News* to adults limits the rights of some New Zealanders to access reading material of their choice, but the restriction allows adults access to information and opinion that contributes to the ongoing debate over the legalisation of cannabis. In this instance, the limitation represents the minimum interference with the freedom of expression that is consistent with preventing injury to the public good.

The Department of Internal Affairs has requested that consideration be given to issuing a serial publication order on *Norm! News* magazine. However, publications such as this magazine position themselves at the borderline of acceptable content with instructional or promotional articles such as the "Bubbleman" interview. Consequently, each issue requires separate consideration.

Display conditions:

Where the Classification Office classifies any publication as a restricted publication, it is required under s27(1) of the FVPC Act to consider whether or not conditions in respect of the public display of the particular publication should be imposed.

In considering the issue of public display, the Classification Office must have regard to the matters set out in s27(2) of the FVPC Act, namely:

- (a) The reasons for classifying the publication as a restricted publication;*
- (b) The terms of the classification given the publication;*
- (c) The likelihood that the public display of the publication, if not subject to conditions, or as the case may be, any particular condition, would cause offence to reasonable members of the public.*

The magazines are classified as restricted publications because of the risk of injury to the public good that could be caused by young people misinterpreting advocacy of law reform as encouragement to break the law. A reasonable person is likely to be opposed to these magazines being readily accessible to young people on retailers' shelves. The magazine must therefore be marketed with the classification given to the publication shown on the cover. This condition will alert retailers and adult readers to the need to prevent children or young people accessing the magazine.

When the magazine is on public display, the classification given to the magazine must be shown by way of a label issued in accordance with a direction under section 36(A)(2) and affixed to the front cover.

Date: 15 June 2010

For the Classification Office (signed):

Note:

You may apply to have these publications reviewed under s47 of the FVPC Act if you are dissatisfied with the Classification Office's decision.

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