



27 May 2010

Office of Film and Literature Classification
4th Floor, BP House
20 Customhouse Quay
Wellington

Attn: Nic McCully,
Deputy Chief Censor of Film and Literature.

Submission regarding the application by the Secretary of Internal Affairs for classification of *Norml News* Winter 2009, Spring 2009 and Summer 2010.

1. **We oppose the classification of *Norml News* Winter 2009, Spring 2009, Summer 2010.**
2. *Norml News* magazine does not meet any of the definitions of "objectionable" as set out in sections 3(1) to 3(4) of the Film, Videos and Publications Classification Act.
3. *Norml News* magazine is all about furthering NORML's aims 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.
4. *Norml News* has been published since 1990, with more than one million copies distributed nationwide in over 100 outlets. In recent years these have included many mainstream book and magazine stores.
5. There have been no complaints from the public about these issues, nor any other issue of *Norml News* magazine, nor about any other marijuana-related publication.
6. We are concerned that these issues of *Norml News* were submitted for classification not by a concerned member of the public, but by the head of your department.
7. Classification would represent a gross intrusion into the rights guaranteed by the Bill of Rights Act and the social norms enjoyed by New Zealanders today.

About NORML New Zealand Inc.

8. NORML New Zealand was founded in 1979 as a non-profit incorporated society that campaigns for an end to marijuana prohibition. We support the right of all adults to use, possess and grow their own cannabis. We recognise that some commercial market for marijuana will always exist, and we therefore promote ways to best to control that market.
9. *Norml News* is our official newsletter and primary campaign tool.
10. Our aims are to:
 - Reform New Zealand's marijuana laws.
 - Provide neutral, unbiased information about cannabis and its effects.
 - Engage in political action appropriate to our aims.
 - Inform people of their rights.
 - Give advice and support to victims of prohibition.
11. We represent a lot of people. The government's official drug statistics show:

"Nearly one in two adults (49.0%) aged 16–64 years had ever used 'any drugs' for recreational purposes in their lifetime, equating to about 1,292,700 people. The majority of these people had used cannabis, with 46.4% of all people aged 16–64 years having used cannabis in their lifetime, representing 1,224,600 people."
12. NORML believes drug policy should:
 - Have realistic goals.
 - Be regularly evaluated, be shown to be effective or be changed.
 - Take account of the different patterns and types of harms caused by specific drugs.
 - Separate arguments about the consequences of drug use from arguments about morals.
 - Be developed in the light of the costs of control as well as the benefits.
 - Ensure that the harms caused by the control regimes themselves do not outweigh the harms prevented by them.
 - Provide the greatest level of harm reduction for drug users, their families and their communities.
 - Minimise the number of users who experience problems resulting from their drug use.
 - Be evidence based, as well as having the support of the community.
13. We believe the current legislation does not achieve any of these aims, so we campaign to change the law. Our aims are shared by many New Zealanders.
 - A TV3/TNZ poll from November 2006 found 63 per cent of respondents support legalising marijuana for pain relief.
 - A UMR Insight poll published in *The Dominion* in August 2000 found 61 per cent of New Zealanders support cannabis decriminalisation or legalisation.
 - A One News/Colmar Brunton poll in April 2000 also found support for law reform had grown since their last poll. 55% approved law changes, while 40% were opposed.

The meaning of "objectionable"

14. Publications must meet the definition of "objectionable" as set out in the Film, Videos and Publications Classification Act 1993 (FVPC) in order to be classified.

Section 3(1) of the FVPC

15. This sets out the meaning of the word "objectionable" and 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."
16. The Court of Appeal's interpretation of the words "matters such as" in *Living Word Distributors v Human Rights Action Group* points to "activity rather than to the expression of opinion or attitude."
17. *Norml News* does not fall within this "subject gateway", other than cannabis itself being currently against the law.
18. "Crime" would seem to be the feature of the publications that could be considered grounds for classification.
19. However, previous rulings have confirmed that the advocacy of a lifestyle and of cannabis law reform does not equate with advocacy of a crime itself.
20. Our commitment to drug education includes a regular column on Safer Cannabis Use as well as NORML's Principles of Responsible Marijuana Use in every issue. This is in line with the government's National Drug Policy of harm minimisation in much the same manner as needle exchanges or provision of condoms.
21. Similarly, the grow section is a very minor part of the magazine, 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. None of the issues have anything that could be considered "commercial" advice, and none of the grow info is particularly explicit or hard to find elsewhere.
22. *Norml News*'s treatment of "matters of crime" is not in a manner that brings it within this subject gateway and it does not, therefore, meet the definition of "objectionable".

Section 3(2) of the FVPC

23. *Norml News* does not meet any of the criteria listed in this section.

Section 3(3)(d) of the FVPC

24. This says:

- 24.1.1. *"particular weight shall be given to the extent and degree to which, and the manner in which, the publication promotes or encourages criminal acts or acts of terrorism."*
25. *Norml News* does not to any great extent or degree promote or encourage criminal acts, as was affirmed by previous rulings about similar publications.
26. A 1998 decision by the Film and Literature Review Board regarding a similar publication, *High Times* magazine, concluded:
- 26.1.1. *"The dominant effect of High Times is the promotion of a point of view with respect to the law and culture surrounding marijuana use. High Times advocates the reform of marijuana laws and presents a favourable impression of the culture and lifestyle of those who use marijuana. Advocation of a lifestyle and the reform of laws does not promote criminal activity."*
27. The Office, in a previous ruling on *Cannabis Culture Oct/Nov 2003*, dated 23 March 2004, stated:
- 27.1.1. *"The same point can be made about Cannabis Culture. As is the case with High Times, aspects of this magazine can be read as encouraging criminal activities. The dominant effect of Cannabis Culture, however, is the promotion of cannabis law reform, lifestyle and culture."*
28. Despite that, the Office then classified *Cannabis Culture Oct/Nov 2003* as objectionable, based upon "the publication's treatment of matters of crime".
29. The ruling said advocacy of a lifestyle does not promote criminal activity as far as adults are concerned, but it does for youth, whom it claimed would not be able to tell the difference between advocating law change and advocating use.
30. The same ruling also said "there is nothing in the magazine directed at the interests of a youthful readership".
31. We believe decisions about what New Zealanders can read are based on how they may be misconstrued by the immature.
32. In addition, it should be noted that the grow section of *Norml News* is a much smaller part than it is for other marijuana-related publications, and is clearly aimed at the personal home grower. The gardening information contained in *Norml News* is insubstantial, generalised, and apart from the photographs it hardly mentions cannabis.
33. In addition both in legislation and social attitudes, home growing is not considered a serious crime any more.

Section 3(4) of the FVPC

34. This section says the Classification Office shall also give consideration to the dominant effect of the publication as a whole; the impact of the medium in which the publication is

presented; 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; 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 the purpose for which the publication is intended to be used.

The dominant effect of the publication as a whole

35. 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.

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

37. The Office in a previous ruling for *Cannabis Culture Oct/Nov 2003* concluded that:

37.1.1. "The dominant effect of the publication as a whole is 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."

38. This reasoning is even more applicable regarding the content of *Norml News*.

39. Gardening was a minor part of *Cannabis Culture*, and it is an even smaller part in *Norml News*.

40. These issues of *Norml News* contain far more comprehensive and important articles about:

- **Drug policy analysis** (Winter 2009 – pages 20-25, 28-31; Spring 2009 – pages 28-31; Summer 2010 – pages 20-21, 24,)
- **Local activism, election campaigns and parliament** (Winter 2009 – pages 6-8, 10-11; Spring 2009 – pages 4-9, 14-15; Summer 2010 – pages 6, 8-10)
- **Research about cannabis, including harm reduction, health effects and medical applications** (Winter 2009 – pages 4, 12-14, 45; Spring 2009 – pages 16-19, 20-23, 46; Summer 2010 – pages 4, 16-19, 46)
- **Cannabis law reform around the world** (Winter 2009 – pages 16-19; Spring 2009 – pages 10-13; Summer 2010 – pages 12-15)
- **Legal coverage and support** (Winter 2009 – pages 46-47, Spring 2009 – pages 6-7, 47; Summer 2010 – pages 22-23, 47)
- **Cultural aspects of cannabis - history, culture, music etc** (Winter 2009 – pages 5, 32-35; Spring 2009 – pages 24-25, 38-41; Summer 2010 – pages 7, 28-31, 32-35)

The impact of the medium in which the publication is presented

41. *Norml News* is a 52-page quarterfold glossy full colour magazine. It is currently available in over 150 outlets nationwide, with an average print run of 30,000 copies.

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

42. Recent years have seen a renewed interest in reforming our cannabis laws, and *Norml News* magazine has played an important role in informing that debate.

43. *Norml News* presents an alternative viewpoint that is not often expressed in other media. We speak for the 400,000 Kiwis who have chosen to make cannabis part of their lifestyle, as well as all the other people who do not use cannabis but see the need for revision of our drug laws.

44. *Norml News* allows New Zealanders to learn about developments in New Zealand and around the world that are unlikely to be reported in mainstream media here.

45. We always have at least four pages of peer-reviewed scientific research that never makes it to the mainstream media. The magazine also contains regular book reviews, interviews with musicians and artists, reports on the social and cultural aspects of cannabis and hemp.

46. We promote Safer Cannabis Use and NORML's Principles of Responsible Marijuana Use in every issue, as part of our commitment to harm minimisation. 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 persons, classes of persons, or age groups of the persons to whom the publication is intended or is likely to be made available

47. *Norml News* is aimed at adults who have an interest in cannabis laws. It is sold in some mainstream book and magazine shops but is most often sold in adult-oriented stores and is not aimed at a youthful audience.

48. It is also posted to all our members.

49. We printed 96,000 copies of the issues submitted for classification. Almost all have already been distributed, and will be in the homes of ordinary New Zealanders.

50. A recall is completely impractical.

51. Many readers will be unaware *Norml News* has been referred to the censors, and we believe many will never learn the outcome of this process.

52. We are seriously concerned that ordinary law abiding citizens could be later charged with possessing objectionable material, even though they purchased *Norml News* lawfully at the time.

53. We anticipate Police will use such a ruling to add another charge to people raided at home, or intimidate stores carrying our publication, or will add charges to those busted in the recent Operation Lime raids on gardening supply stores.
54. Some police officers may even decide to apply for search warrants to search the homes of our members, knowing they would all have been mailed copies of these magazines.
55. We printed over 100,000 copies of the three issues in question. Censors should consider the impact of criminalising tens of thousands of New Zealanders, should any of these issues be deemed objectionable.

The purpose for which the publication is intended to be used

56. The overall purpose of *Norml News* magazine is to inform readers about cannabis-related developments here and around the world, with particular emphasis on news and research.
57. There is a clear emphasis on law reform and responsible use by adults with no intention of promoting commercial production or manufacture. The style of writing and the language used are clearly aimed at adults.

New Zealand Bill of Rights Act, Human Rights Act, and the Universal Declaration on Human Rights

58. Section 14 of the New Zealand Bill of Rights Act 1990 states that everyone has right to:

freedom of expression, including the freedom to seek, receive and impart information and opinions of any kind in any form.

59. The Universal Declaration on Human Rights (<http://www.un.org/en/documents/udhr/>) says:

Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

60. These protections are directly applicable to *Norml News* magazine, which plays an important role in informing the debate about cannabis law reform and in expressing

alternative viewpoints about cannabis and cannabis policies that are not be available in mainstream media.

61. The applicant may believe the publication is objectionable simply because cannabis is illegal in New Zealand. If that were the case, it would mean publications discussing anything currently against the law, such as GE field trials, euthanasia or whaling should also be banned.
62. Many people in our society hold differing viewpoints than the current government, and many believe that the alternative policies reported and advocated in *Norml News* would reduce criminal activity and greatly improve public health and safety, and that it is the current prohibition on cannabis that is injurious to the public good.
63. The use of cannabis has become increasingly widespread and socially acceptable in New Zealand, with half of adults admitting in surveys to having used cannabis. Accompanying this is an increased interest in cannabis law reform. The Misuse of Drugs Act is currently being reviewed by the Law Commission, which has signalled that penalties for drug use should be reduced if not eliminated altogether.
64. It is crucial that public access to information representing all viewpoints including those advocated by *Norml News* magazine is maintained.
65. 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.
66. The application for classification should be declined.

Yours faithfully,



Chris Fowlie
EDITOR
Norml News

Official magazine of the National Organisation for the
Reform of Marijuana Laws, New Zealand Inc (1980).

PO Box 3307
Shortland Street
Auckland 1015