



## NOTICE OF DECISION UNDER SECTION 38(1)

TO: Commissioner of Police

**Titles of publications:** Wicked Camper JLT886  
Wicked Camper GCT799  
Wicked Camper JKC408.

**Other known title(s):** Not stated

**OFLC ref:** 1600221.000  
1600222.000  
1600223.000

<b>Classification:</b>	Objectionable.
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**Descriptive Note:** None

**Display conditions:** None

### 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.

#### The Nature of the Publications:

The material for consideration consists of images and text that appear on the front, the back and on both sides of three campervans, designated as *Wicked Camper JLT886*, *Wicked Camper GCT799* and *Wicked Camper JKC408*. The campervans are offered for hire by a business known as Wicked Campers, owned by The Wicked Cult Limited.

The Classification Office received copies of the publications for classification in the form of photographs of all four sides of each campervan. They were submitted for classification on behalf of the Commissioner of Police under s13(1)(ab) of the Films, Videos, and Publications Classification Act 1993 (FVPC Act). The application was received on 15 March 2016.

While the medium - a campervan - is not one previously examined by the Classification Office it clearly fits the definition of 'publication' under s2(c) of the FVPC Act; "a paper or other thing

that has printed or impressed upon it, or otherwise shown on it, one or more (or a combination of 1 or more) images, representations, signs, statements or words ...” The breadth of the definition indicates Parliament’s intention that the scope of the FVPC Act not be limited to films, DVDs, books and magazines. While a campervan’s status as a publication may not be immediately apparent, it meets the s2(c) definition, as do other unusual mediums previously classified under the FVPC Act. For instance:

- Apparel: OFLC 800513 – *Vestal Masturbation (Cradle Of Filth T-Shirt)*
- Drink Can - OFLC1101242 - *Miss Svenson's Classroom Detention*
- Playing Cards: OFLC 9501108 - *Hershe Highway*
- Billboard: OFLC 702680 - *Erotica Lifestyles Expo Billboard*
- Card/Jigsaw Puzzle: OFLC 9601115 – *Colt Puzzle Cards*
- Calendar: OFLC 301472 - *Massive FHM Wall Calendar 2003*
- Street Sign: OFLC 9600069 - *"The New Venus Shop" Sign on Karangahape Rd*
- Packing Box: OFLC 9902226 - *'Just' 17 Love Doll*
- Sticker: OFLC 1400015 – *Panty Dropper*

### **Submission procedure:**

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.

On 24 March 2016 the Classification Office advised the owner of the campervans of their right to make a written submission on their classification. The Secretary for Internal Affairs, who has an automatic right to make a written submission, was also advised of that right in respect of the campervans. When the owner advised that they did not have access to the vans under consideration, the Classification Office provided them with copies of the submitted images on 7 April 2016. The closing date for submissions was 21 April 2016.

### **Synopsis of written submission(s):**

Lengthy written submissions were received from both the New Zealand Police, and Ford Sumner Lawyers, the legal representatives for the owner. These submissions have been thoroughly considered and are discussed below.

The written submission dated 15 April 2016 from the New Zealand Police states, in relation to the text and images on the left side of *Wicked Camper GCI799*:

The Police note that the phrase “Snow White” is commonly known as drug slang for cocaine and users of cocaine inhale the drug using a straw or similar such object. The drug is generally obtained in powder form

and split into lines on a flat surface using a credit card (or similar item) before being inhaled or “snorted” up the nose.

The image on the left hand side of Wicked Camper GCT799 clearly depicts a woman identifiable as the cartoon character Snow White in possession of (and preparing to use) a class A controlled drug by preparing to “snort” two lines of cocaine using a straw. The written words on the publication “Snow White” contain double meaning by referring to the Disney cartoon character and also the consumption of cocaine.

Cocaine is a class A controlled drug in New Zealand in New Zealand, possession or consumption of cocaine is a criminal offence under s7 of the Misuse of Drugs Act 1975 and is punishable by a term of imprisonment of up to six months. Possession of utensils for consumption of drugs, such as a straw in these circumstances, is an offence under s13 of the Misuse of Drugs Act 1975 and is punishable by a term of imprisonment of up to one year.

The submission goes on to discuss the campervan, taking into account the various criteria under s3(4) of the FVPC Act (the dominant effect, impact of the medium, intended audience and any merit, value or importance the publication may have):

The publication is presented on a large vehicle that is available for rent and is predominantly hired by overseas tourists who intend to travel around New Zealand on a limited budget, commonly referred to as “backpackers”. As such the publication is generally seen on roads, highways, public parks, beaches, tourist attractions, and other such public places; as those who use these types of vehicles tend to travel long distances all throughout New Zealand.

The Police submit that there is very little (if any) merit, value or importance to the publication in terms of literacy [sic], artistic, social, cultural, educational, scientific, or other matters. The publication is shock value advertising that is designed to generate publicity (positive or negative) and freedom of expression arguments under s14 of the New Zealand Bill of Rights Act (the “NZBORA”) are lessened by s5 of the New Zealand when the expression is purely for commercial purposes. [sic]

It appears that Wicked Campers are designed and priced to attract those wishing to travel New Zealand on a low budget. The slogans and artwork attempt to be witty and often contain sexual undertones and messages that are likely to be popular with men aged between 18 and 30 years old. However, Wicked Camper GCT799 has been seen all throughout the southern parts of New Zealand and the photographs taken by a member of the Police were taken at a public car park near Te Anau in Fiordland. Wicked Camper GCT799 depicts images of Snow White and one of the seven dwarves (on the right hand side of the vehicle) and, as such, will naturally attract the attention of children and young people.

The submission discusses how the campervan promotes criminal acts:

It is the submission of the Police that Wicked Camper GCT799 tends to promote and support the use of illegal drugs in children and young persons through the depiction of the drug use by a popular and easily identifiable cartoon character on the side of the vehicle. The purpose or intent of the Wicked Cult Limited may not necessarily be to promote the use of such drugs, but the manner in which the images have been created, the locations in which the image will be seen, the depiction of popular cartoon characters involved in drug use, and the bright colouring of the images all lead to the conclusion that criminal acts are promoted or encouraged (particularly in children and young persons) by the publication.

The Police made a separate submission, dated 21 April 2016, relating to three campervans, two of which are included in this decision. *Wicked Camper EHJ635* (OFLC Ref: 1600220.000) is dealt with in a separate decision.

With regard to *Wicked Camper JKC408* the submission states:

In a very similar fashion to Wicked Camper EHJ635, [See OFLC Ref: 1600220.000] Wicked Camper JKC408 depicts images of popular children and young persons’ television show and film characters, Shaggy and Scooby Do [sic] engaging in criminal activity by possessing, consuming, and supplying class C controlled drugs. The slogan at the rear of the vehicle “Someone pass Shaggy the baggie [sic] so he can roll

"Scooby a doobie" indicates that the character Shaggy intends to roll a cannabis cigarette (commonly referred to as a "doobie" and supply that cigarette to Shaggy to consume. The right hand side of the vehicle depicts an image of Shaggy under the influence of cannabis whilst possessing a cannabis cigarette or "joint". Shaggy's eyes are droopy and blood shot which are well known side effects of cannabis consumption and influence. The left side of the vehicle depicts an image of Scooby Do with a large grin on his face, which is another side effect of cannabis consumption commonly referred to as "the grins".

The Police submit that publication *Wicked Camper JKC408* promotes criminal acts by promoting the use and consumption of a class C drug which is a criminal offence under s7 of the Misuse of Drugs Act 1975. The publication also involves cannabis supply which is an offence under s6 of the Misuse of Drugs Act 1975. Like the other publications contained within these submissions, *Wicked Camper JKC408* contains images of popular cartoon characters that will naturally attract the attention of children and young persons.

The submission then considers *Wicked Camper JLT886*:

This publication also depicts images of popular children's book and film characters from the Doctor Seuss collections involved in criminal activity in a manner that is likely to promote or encourage illicit drug use. The writing on the right side of the vehicle "I did a bong I did, I did a bong! A bong I did" appears to be a play on words of the popular story [sic] *Green eggs and ham* with the characters Sam I am. The image next to the phrase "I did a bong..." appears to be the character Sam I am and he can be seen smoking from a cannabis bong. The image and writing on the left side of the vehicle relate to a "bad trip" which is common drug slang [sic] for negative hallucinations that can be associated with the use of LSD, a Class A controlled drug. The character visible on the left side of the vehicle appears to be undergoing the effects of the negative hallucinations associated with LSD use. Like the other publications, *Wicked Camper JLT886* contains images of popular children book characters engaged in criminal activity that promotes or encourages the criminal acts of illicit drug use in a manner that is likely to be injurious to the public good. *Wicked Camper JLT886* contains images of popular children book and film characters that will naturally attract the attention of children and young persons.

The submission goes on to discuss how *Wicked Camper JCK408* and *Wicked Camper JLT886* promote and encourage criminal acts:

So regardless of the intentions of The Wicked Cult Limited or Wicked Campers, the Police submit that it is the effect of the three publications that needs to be considered for classification, not the intention of the publications. In these three cases, each publication depicts the criminal activity of illicit drug use in cartoon characters that are popular and easily recognisable by children and young persons. The images are; large, brightly coloured, and contain (generally) happy facial expressions. The images appear to be comedic, the characters are depicted as happy, and in no way is there any indication that the characters using the illicit drugs should not be doing so. The Police respectfully submit that all of these factors lead to the conclusion that the images and wording of each of these three publication have the effect of promoting or supporting the criminal activity [sic] of consuming and/or possessing illegal drugs. It is this promotion and encouragement of illicit drug use that is injurious to the public good, particularly when publications will naturally attract the attention of children and young persons.

The Police submissions conclude that *Wicked Camper GCT799*, *Wicked Camper JCK408* and *JLT886* should be classified as objectionable or at the very least be age restricted to protect children and young persons.

### **Synopsis of Submission from Ford Sumner Lawyers**

The points most relevant to the consideration of the three campervans which are the subject of this decision are the use of humour and the references to drugs. With regard to publications that deal with drug use, in paragraph 52.3 the submission refers to other decisions of the Classification Office that "display and promote frequent drug use" where the publications were given an unrestricted classification.

The submission considers that only a few items of the vans may be interpreted as relating to drug use, such as the depictions of and text reference to a “bong” and a “doobie”. The submission states that the small amount of content relating to drug use means “the overall dominant effect as a whole is certainly not promoting drug use”.

The use of humour is dealt with in paragraphs 53 to 57 of the submission. It is stated that “humour through social commentary and satire is the commanding influence, objective intent and prevailing characteristic” of each van. The content is intended to attract attention through the use of “light hearted quotes, provocative sayings and colourful artistic imagery...” The imagery and text are said to be a satirical commentary using references to popular culture and that this humour and satirical intent is:

...clearly demonstrated within the context of the text and images, both individually and collectively, which is also an effective method of marketing, as it attracts and reflects Wicked’s young customer base through its extensive use of popular culture touchstones.

At paragraphs 58 to 63 the submission considers the right to freedom of expression contained in the New Zealand Bill of Rights Act 1990 (NZBORA) and whether any limitation on the availability of the campervans would be a reasonable restriction on that right. The submission states “...painting a vehicle with artistic imagery and provocative phrases is no different from an individual displaying artwork in a gallery...” and that “there is no content on Wicked’s campervans which would be injurious to the public good in any way or form and no objectionable activity is “*promoted or supported*” by the content”. A restriction would be an unreasonable limitation on the right to freedom of expression.

With regard to each of the vans under consideration in this decision the submission states:

*Wicked Camper GCI799:*

(Paragraph 88) Again, the artistic display is a popular culture parody reference. The Snow White character is applying make-up with powder and a mirror. This is intended to be social commentary in relation to the shallow nature of surface beauty, and no accountability in direct satirical contrast to Snow White’s pure heart.

(Paragraph 90) On the back side of the vehicle, the common phrase “*There is no way I was just born to pay bills and die...*” is displayed.

(Paragraph 91) This is a slogan about liberating one’s self from self-doubt and self-censorship, which was often quoted in the 1960’s. The iconic Seven Dwarfs character’s [sic] have been parodied in order to personify this ideology.

The discussion concludes that there is no objectionable content on the campervan and that the phrases and imagery as a whole are unlikely to be offensive to anyone.

*Wicked Camper JKZ408:*

This campervan has images of popular children’s characters Shaggy and Scooby Doo, described in detail elsewhere in this decision. The submission again notes that this is intended as a popular culture parody. Paragraph 103 states:

It is not foreseeable that the phrases and imagery as a whole will be offensive to any groups in society. Scooby Doo is a children’s cartoon that is unrestricted. The phrase on the back of the vehicle clearly has humorous intent, and this is further reinforced by the rhyming of the phrase, which itself does not promote or display drug use – rather, it is a humorous play on words. In any event, displaying drug use is insufficient to justify any restriction on the content...

*Wicked Camper JLT886:*

Of this campervan (described in detail elsewhere in this decision) the submission describes the problematic content:

(Paragraph 112) On one long side of the vehicle, a Dr Seuss like character is displayed using a bong and the words "I did a bong, I did, I did! A bong! A bong! A bong I did".

(Paragraph 113) On the other long side of the vehicle A Dr Seuss like cartoon character is displayed alongside the words "Bad Trip".

The submission considers the images and phrases on the campervan are:

(Paragraph 114) ... popular culture parodies and an ironic play on the context – for example, the Dr Seuss character is displayed on a car, thereby insinuating that he is having a bad (road) trip.

Descriptions of other images and text on the van are provided. The submission concludes that when viewed objectively none of the content could be considered to be objectionable, nor is it likely that "the phrases and imagery as a whole will be offensive to any groups in society" (Paragraph 118).

With reference to the problematic content involving drug use Paragraph 119 states:

Again, any references to the word "bong" are unlikely to cause any significant offence or be injurious to the public good, given the key characteristic of the vehicle as a whole is humour, rather than the promotion or display of drug use.

**Description of the publications:**

The images and text in question on the front, the back and on both sides of the three campervans are superimposed on brightly coloured and patterned paintwork. All three campervans have a large "peace" symbol centred over the front number plate. Text on the back windows of the vans gives contact details.

The right side of *Wicked Camper JLT886* has a large image of the head, hand and part of the upper body of the Dr Seuss character, the Cat in the Hat. The character holds a bong to its nose, and its face shows pleasure. A speech bubble beneath the van's windows contains four lines of text in black capital letters, reading, "I did a bong / I did, I did! / A bong! A bong! / A bong I did!" The image on the left side focuses on the face of the same character, who looks extremely ill. Text in large red capitals, outlined in white, reads, "Bad trip." Beneath the van's back window text in white capitals reads, "It's easier to get forgiveness than permission!"

The right side of *Wicked Camper GCI799* has an image of the head and upper body of a smiling dwarf. He has a hand to his very orange nose. Text in large red letters beneath the windows reads "Do What You Feel". The left side has a large image of the head and shoulders of the fairy-tale character, Snow White, dressed in her traditional blue and red costume. She holds a thin white tube to one nostril and there are two lines of a white substance on a flat surface beneath the end of the tube. Her eyes are shut. Text in large white letters beneath the windows reads "Snow White". Text in white capitals beneath the van's back window reads, "There's no way I was just born to pay bills and die.." The description of the image of the character Snow White in the

submission from Ford Sumner lawyers is inconsistent with the image itself. Plainly Snow White appears to be about to inhale white powder rather than powder her nose.

The right side of *Wicked Camper JKC408* has a large image of the head and part of the upper body of a well-known "stoner" character, Shaggy, from the children's television programme *Scooby-Doo*. The character holds what appears to be a cannabis cigarette and his facial expression suggests that he is drug-affected. The name "Shaggy", in large green lower-case letters, appears under the van's windows. The left side shows the head of the dog Scooby-Doo, mouth open and eyes gleaming with characteristic doggy excitement. The name "Scooby-Doo", in purple capitals outlined in yellow, appears under the van's windows. Text in white capitals beneath the back window of the van reads, "Someone pass Shaggy the baggy so he can roll Scooby a doobie..."

### **New Zealand Bill of Rights Act 1990:**

Section 14 of the New Zealand Bill of Rights Act 1990 (NZBORA) 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 NZBORA, 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 NZBORA 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". The role of the Classification Office is to determine whether the likelihood of injury to the public good (if any) arising from the availability of a publication outweighs the right to freedom of expression and therefore constitutes a reasonable limitation of this right.

### **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.<sup>1</sup>

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<sup>1</sup> *Living Word Distributors v Human Rights Action Group (Wellington)* [2000] 3 NZLR 570 at paras 27-29.

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 any s3(1) matters in such a manner that the availability of the publications is likely to be injurious to the public good.

#### *Matters such as crime*

The three campervans all display images and text that show or refer to the use of drugs that are illegal in New Zealand.

*Wicked Camper JLT886* and *Wicked Camper JKC408* both display characters using cannabis. Text on the back of *Wicked Camper JKC408* refers to rolling a "doobie", a cannabis cigarette. One side of *Wicked Camper JLT886* refers to a "bad trip", a term generally linked to psychedelic drugs or hallucinogenic substances.

An image on the left side of the campervan *Wicked Camper GCT799* shows the Snow White character apparently in the act of "snorting" cocaine. The words "Snow White" beside the figure refer not only to the character but also to a nickname for cocaine. The schedule to the Misuse of Drugs Act 1975 lists cocaine as a Class A drug.

The Classification Office has considered both the submission from the New Zealand Police and the submission from Wicked on *Wicked Camper JLT886* and does not find the characterisation of the images by Wicked to be credible. Clearly the words "Bad Trip" refer to the adverse effects of drug use, not to a road trip. The Office's interpretation is consistent with the use of drug images and references on the other side of the campervan and with bleary-eyed image of the Cat in the Hat character. Equally as incredible is the statement in Wicked's submission regarding *Wicked Camper GCT799* that Snow White is applying make-up. The image clearly shows the character performing actions consistent with the use of a substance that is likely to be a Class A drug.

The Classification Office acknowledges the point made in the submission from Ford Sumner Lawyers that other publications depicting drug use have been given unrestricted classifications. Both of the examples cited in the submission (Episode 7 of the *UnREAL* television series and disc 2 of *American Gangster*) are in mediums over which substantial control of access can be exercised by parents or the individual. People who do not wish to be exposed to drug use are warned upfront by the descriptive note attached to a publication and can choose not to be exposed to the content, or that they do not want their children to be exposed to the content. The drug use in both of the examples cited is relatively fleeting in the context of both publications.

The question of whether any or all of the three publications promote or encourage criminal acts is considered under s3(3)(d).

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



### **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.*

*Wicked Camper JLT886, Wicked Camper GCT799 and Wicked Camper JKC408* promote and encourage criminal acts. The campervans are specifically intended to be displayed to a wide public audience. When in use where the images and text they carry can be seen, they have the effect of promoting the use of illegal drugs, most obviously cannabis and cocaine, as normal and acceptable. They also encourage the use of these drugs and other illegal substances, particularly by young people vulnerable to the messages conveyed.

The images and text on these campervans use well-known characters from children's storybooks and television programmes to present drug use in a subversive manner that is oriented towards young adult consumers. The Classification Office acknowledges that the material on the campervans has a somewhat humorous intent. However, the size and colourful nature of the imagery on the vans will inevitably draw the attention of children and young teenagers who are likely to focus on familiar characters and accept the humorous presentation of drug use uncritically. The association of drug use with favourite childhood characters is likely to encourage impressionable younger members of the public to see drug use as funny and "cool". Seeing drug use openly displayed in public is likely to play a role in the formation of attitudes to illegal substances that would tend to negatively influence the behaviour of young people as they grow older.

Older teenagers and young adults (who are presumably the target audience) are less likely to be influenced by seeing characters from cartoons and fairytales engaged in using drugs. People in this age group are more likely to appreciate the socially transgressive nature of the material than older adults. However, by the age of 16 years, teenagers will be well aware that to use drugs such as cannabis and cocaine breaks the law and entails consequences that are likely to negatively impact on their futures.

### **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.

The campervans do not contain any highly offensive language.

**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 16 years of age and over, this material on the campervans is 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 the material to those persons would increase significantly the risk of them causing serious harm to themselves, others, or both.

Drug use of the sort promoted by the vans would have serious short and long term harmful impacts on the psychological and physical health of children. The harm from these vans would be attitudinal more than in direct imitation of the behaviour, but the use of children's characters does increase the likelihood of uptake of the depicted attitudes and behaviours by children and young people. The messages on the vans normalise and celebrate drugs and drug paraphernalia and associate them with pleasure, fun and the freedom to live without constraint. This is likely to result in serious harm to children and young teenagers in particular, because their emotional and intellectual development makes them more impressionable and less able to understand risk and consequences. Messages that legitimise and encourage drug use increase the risk of the young causing serious harm to themselves and those around them, particularly in the long term.

**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.*

The images and designs on the three campervans are large, brightly-coloured and eye-catching – a magnet for the attention of young viewers in particular. First impressions may pick up on the somewhat ingenuous humour produced by the use of characters from children's stories or television cartoons. However, images of characters "snorting" cocaine or using cannabis, along with references to drug use in text, are unlikely to be overlooked. These are large images that occupy a high proportion of the surface area of the campervans. On two campervans, *Wicked Camper JLT886* and *Wicked Camper JKC408*, multiple images and text reinforce each other to produce an overall drug use theme for each campervan. *Wicked Camper GCT799* has no particular

message or obviously humorous element that would reduce the impact of the large and arresting image of Snow White snorting an illegal drug.

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

The medium used to display the material removes agency and control over access from the viewer. The imagery on the campervans is a form of commercial promotion for Wicked Campers and, as such, is designed to be large and to have impact. The campervans are specifically intended to be displayed to a wide public audience. By its very nature the medium has the potential to be inadvertently viewed in motion on the road, as well as in car-parks and a variety of off-road situations, including tourist spots, camping grounds and public places where children are likely to view the images. Unlike other portable media (such as DVDs or t-shirts) the problematic parts of the campervans cannot easily be covered, for instance with clothing, or displayed only in restricted areas or to select persons.

*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.*

The images and text on the campervans subvert well-known children's story or cartoon characters for a commercial purpose by associating something childish, popular and innocent with adult behaviour involving drugs and hedonism, and mild word-play or rhymes involving drugs. The images and text have the characteristics of graffiti art, but there is no real attempt at producing material with merit in this respect. They are a commercial appropriation of a graffiti "look" that would alienate many actual graffiti artists, and they are not executed with any real skill or attempt at expression in art terms. The campervans have no particular merit, value or importance in any of the above terms.

*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.*

The humour is aimed at young adults but is presented to all ages indiscriminately. It is noted that the campervans are not hired to people under the age of 18 years. However, the age of the user(s) has no relevance to the campervans' accessibility to others.

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

Images and text on the campervans are a form of commercial promotion designed to create public awareness of Wicked Campers and their brand.

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

No other relevant circumstances are apparent.

### **Conclusion:**

The public availability of *Wicked Camper JLT886*, *Wicked Camper GCT799* and *Wicked Camper JKC408* in their current form is likely to be injurious to the public good and they are therefore classified as Objectionable.

In a framework set by the New Zealand Bill of Rights Act 1990, classification decisions must be reasonable and demonstrably justifiable. Freedom of expression entails a certain tolerance for the depiction of drug use in various media. Films or DVDs, for instance, allow a high level of control over the manner and circumstances of viewing, including access. This same agency and control is not available when the medium is a campervan designed specifically for public display as a business promotion.

The imagery and text on the campervans are expressions of a view but not political opinion or particularly meaningful satire: they are not making a greater point about social or cultural matters other than celebrating drug use. They exist solely to promote a business. Commercial expression is protected by the NZBORA. However it has been limited more readily than some other forms of expression, for example political discourse, in overseas jurisdictions and in New Zealand.<sup>2</sup>

In this instance the Classification Office must balance the rights of the owner against the likelihood of injury to the public good. The images and text on the campervans are used to attract the attention of potential customers and have a commercial purpose which is served by public display. As the vehicles are predominantly hired by tourists they are more likely to be in public view than private motor vehicles. Young viewers attracted by large and colourful images of favourite childhood characters using drugs do not have the maturity of judgment to recognise the transgressive nature of the material and are vulnerable to its normalising influence. The ongoing effect of impressionable young people's exposure to the material is likely to be the encouragement of attitudes that lead to experimentation with criminal behaviour.

Because of the problematic nature of the images and text on the campervans and the likelihood of harmful and potentially ongoing effects on young viewers, a classification of R16, which would prevent access by children and young teenagers, has been considered. However, such a restriction would have consequences beyond the intended effect: the medium makes it impossible to protect children and younger teenagers without preventing the campervans from being publicly available to anyone. The application of any of the available conditions in respect of public display is manifestly impracticable.

In classifying these campervans as Objectionable, the Classification Office has also taken into account that those who rent the vans may be unwittingly criminalised if the owner considered that restricting their rental to persons 18 years and over meets the conditions of an R16 classification. While the Office does not necessarily agree that the owner could contract out of their liability in this way, the classification of these campervans as Objectionable removes all doubt as to their unsuitability for their intended purpose.

Although the material has been weighed under s3B, which allows for an age restriction, greater weight has been given to considerations under s3(3)(d) and S3(4) in classifying the publications as Objectionable. Significant injury to the public good, in particular the promotion of criminal behaviour to children and young teenagers arising from the display of these vans is likely. The nature of the medium in this case means that this injury to the public good is not able to be adequately addressed by a restriction to those over a specified age.

The right to freedom of expression has been considered. The likelihood of injury to the public good arising from the availability of the campervans, specifically the harm caused to children and

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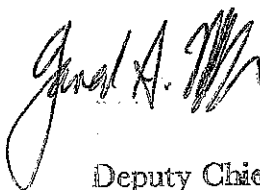
<sup>2</sup> Andrew Butler and Petra Butler *The New Zealand Bill of Rights Act: A Commentary* (2nd ed, LexisNexis, Wellington, 2015) at 537.

young teenagers who view the images and text dealing with criminal drug use, has been identified. The protection of children and young teenagers from harmful material is paramount in this instance. This is not an unusual or excessive limitation of commercial free speech. The promotion of other potentially harmful activities to children, such as the consumption of alcohol or tobacco is also prohibited.

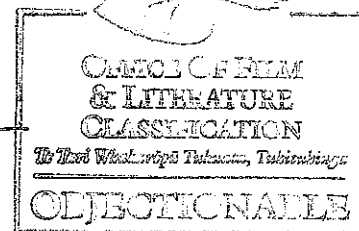
The business operations of the owner are not impeded to any great extent by the classification. Wicked Campers may wish to apply for a reconsideration of the Classification Office's decision under s42 of the FVPC Act if they can find a way to prevent people under the age of 16 being exposed to the problematic images and text on the campervans.

**Date:** 28 April 2016

For the Classification Office (signed):



Deputy Chief Censor  
of Film and Literature



**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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