



“Indecent” publications in newsagents

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The display of “soft” pornographic and “men’s lifestyle” magazines in newsagents attracts concern, often on the grounds that such publications are displayed where they can be seen by children.

A National Federation of Retail Newsagents voluntary code of practice advises that adult material should be placed on the top shelf only. It also recommends that “men’s lifestyle” magazines should not be displayed next to children’s titles or at eye-level or below.

Reg Bailey’s review of the commercialisation and sexualisation of childhood (*Letting children be children*, June 2011) recommended that “retail associations in the news industry should do more to encourage observance of the voluntary code of practice” and that publishers and distributors should provide modesty sleeves or boards to all outlets they supply. A May 2013 progress report on the Bailey Review noted that industry bodies had made “some progress on this” but that “compliance with the industry display guidelines has been patchy so far”.

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1 “Top shelf” material

There are periodic concerns over the display of "soft" pornographic magazines and papers in newsagents (any publication which is truly pornographic would risk prosecution or forfeiture under the [Obscene Publications Act 1959](#)). For some time there has been a voluntary code operated by newsagents whereby such material is placed on the top shelves in newsagents' shops, out of the reach of children. Operated by the [National Federation of Retail Newsagents](#) (NFRN), it applies to titles that publishers themselves categorise as "top shelf" rather than to any title by name. The [guidelines](#) were last updated in December 2012 and state:

(...) The following code of practice has been published with the expressed permission of the publishers of Adult Top Shelf titles:

Adult Top-Shelf Titles:

- That Adult Titles should be displayed on the Top Shelf only and out of the reach of children
- That Adult Titles should not be sold to any person under the age of 18 years.
- That Adult Titles should only be acquired from bona fide trade channels (on the basis that these will have been vetted by the suppliers' lawyers for compliance with legislation)
- That care and sensitivity be exercised over the display of Adult Titles with explicit front covers

Members are also advised to be responsive to the views of their customers and, in particular they are advised that they are not obliged to stock these titles if they have objections on religious, moral or other grounds.¹

As far as the external appearance of such publications is concerned, the relevant legislation is the [Indecent Displays \(Control\) Act 1981](#). This makes it an offence to display indecent matter in, or so as to be visible in, a public place, so that the cover of a magazine rather than its contents is what matters for the purpose of the Act. “Indecency” is not statutorily defined, but the degree of offensiveness of indecent material is lower than that of material which risks being obscene under the 1959 Act, i.e. “having a tendency to deprave and corrupt”. It is possible, therefore, that a publisher who wants to put a particularly explicit cover on a magazine could wrap it in order to avoid prosecution under the 1981 Act. The enforcement of

¹ National Federation of Retail Newsagents, [Guidelines on displaying adult/top shelf titles](#), December 2012 [accessed 20 June 2013]

the *Indecent Displays (Control) Act 1981* is a matter for the police, to whom the public should complain if they are concerned that a magazine cover is indecent and on public display.²

Alternatively, the publisher could make it available only through a licensed sex shop to which only persons aged 18 or over have access under the *Local Government (Miscellaneous Provisions) Act 1982* and which is not therefore a public place. If a business engages “to a significant degree” in the selling, display or demonstration of “sex articles”, it will require to be licensed as a sex shop by the local authority. The definition of “sex article” in Schedule 3 of the 1982 Act is drawn quite widely, to include anything made for use in connection with or for the purposes of stimulating or encouraging sexual activity, and has been held to include books or magazines. The critical phrase is “to a significant degree”. A newsagent who displays ten or so pornographic magazines on the top shelf of his shop is not thought to be purveying such material to a significant degree; if he stocks 200 such titles, then the character of his business may be said to have changed and it will require licensing as a sex shop.

2 “Men’s lifestyle” magazines

The explicit nature of so-called “men’s lifestyle” magazines has also attracted criticism. This appears to be recognised in the NFRN’s guidelines which offer the following advice for retailers:

Men’s Lifestyle Mags with front covers or content that may offend some customers:

These titles are not Top Shelf titles, however we do urge members to be sensitive to the concerns of consumers, particularly in relation to the display of titles with front covers and/or content that may be inappropriate to display at a young person’s eye-level or below.

To minimise complaints from consumers, without adversely affecting the sale of these titles, we recommend:

- That they are not displayed adjacent to your display of children’s titles and comics
- That they are not displayed at children’s eye-level or below i.e. that they are not in the direct sight and reach of children
- That where display space restraints preclude the above, titles with front covers that may cause concern are part overlapped with other titles so as to minimise the potential for offence to parents and/or children
- That similar care and consideration is given to the display of any Point of Sale material for these titles
- A free, industry-agreed [planogram](#) indicating the preferred placement of titles is available to download. For further information please visit www.ppa.co.uk/retail³

There is a [Front Page Campaign](#) to “protect children from sexually graphic media” which is working for:

² HC Deb 18 May 1995 vol 260 c365W

³ National Federation of Retail Newsagents, [Guidelines on displaying adult/top shelf titles](#), December 2012

- publications with sexually graphic covers to be moved up high
- publications with sexually graphic covers to be covered or bagged
- publications with sexually graphic content to be age-rated
- industry to self-regulate if they can do so responsibly
- failing successful self-regulation, legislation⁴

In the last parliamentary session, Lindsay Roy tabled an EDM supporting the campaign:

That this House welcomes and supports the Front Page Campaign; notes that recommended codes of practice by the National Federation of Retail Newsagents and the Periodical Publishers Association are widely ignored by newsagents and petrol stations; is concerned that this often means that sexually explicit material is displayed within easy reach of children; is further concerned by the practice of publishers paying for so-called best seller spots involving the display of sexually explicit material near check-outs; further notes that seeing such material can cause children confusion and distress and give them a false view of adult relationships; calls on the Government to introduce and enforce measures to ensure that such material is not displayed at or below children's eye-level, near children's publications or without opaque sleeving; further calls for an independent UK regulator to replace out-of-date and ineffective legislation; and also calls for magazines to be assigned age ratings such as are assigned to cinema films and DVDs.⁵

The EDM received 102 signatures.

3 Bailey Review (June 2011)

Reg Bailey's *Letting children be children: report of an independent review of the commercialisation and sexualisation of childhood* (Dept for Education, June 2011) considered the volume and nature of sexualised images in magazine displays and reported that:

7. There is a widespread and specific concern, expressed both through our parental Call for Evidence and through the public campaigns in this area, about the display of magazines and tabloid newspapers with sexualised front covers or front pages on shelves where young children can see them. Although the content of such 'lads' mags' and newspapers is not pornography in the accepted sense (that is, not strong enough to be considered as 'top shelf' magazines), they trade on their sexualised content and many parents think retailers should treat them in the same way as they treat pornography.

8. There is a voluntary code of practice for newsagents, developed by the National Federation of Retail Newsagents (NFRN), approved by the Professional Publishers Association and endorsed by the Department for Culture, Media and Sport (DCMS), the Home Office, the British Retail Consortium (BRC) and the Association News Retailers through the Association of Convenience Stores. This voluntary code advises retailers to be sensitive to consumer concerns, to display these magazines above children's eye level and away from children's comics (National Federation of Retail Newsagents, 2011). Where space restraints mean that this advice cannot be followed, newsagents are advised to partially cover the titles in question. We note that larger retailers now often put boards with the magazine logo or branding in front of each of

⁴ <http://www.frontpagecampaign.org/our-work/> [accessed 20 June 2013]

⁵ EDM 263 2010-12, Front Page Campaign, 16 June 2010

the magazine titles on display (known as 'modesty boards') so that the front covers of these magazines are hidden but customers are aware that the magazines are in stock.

9. The NFRN has made clear to the Review that while the major retailers may find this code of practice relatively easy to follow, smaller businesses may not. Nor do they think it likely there will be full compliance across thousands of sites (the NFRN alone represents 16,000 retailers). This view is supported to an extent by research carried out for the Scottish Parliament earlier this year (Scottish Parliament, 2011). However, businesses which are often in the heart of communities and widely used by families for small purchases need to be conscious of their relationship to all their customers, not just the purchasers of the magazines. The NFRN code of practice makes clear that:

"Making your customers aware that you adopt a 'family-friendly' policy on display, you may find that parents with children are much happier to shop in your store." National Federation of Retail Newsagents, 2011

10. Following a campaign led by Mumsnet, a number of major retailers including supermarkets and petrol stations have agreed to take measures to ensure that 'lads' mags' are displayed out of the view of children. This is a very welcome development, but should be adopted across the whole of the news retail industry.⁶

The report recommended that "magazines and newspapers with sexualised images on their covers are not in easy sight of children":

Retail associations in the news industry should do more to encourage observance of the voluntary code of practice on the display of magazines and newspapers with sexualised images on their covers. Publishers and distributors should provide such magazines in modesty sleeves, or make modesty boards available, to all outlets they supply and strongly encourage the appropriate display of their publications. Retailers should be open and transparent to show that they welcome and will act on customer feedback regarding magazine displays.

ACTION: Publishers, distributors, retailers and retail associations in the news industry, including the National Federation of Retail Newsagents and the Association of News Retailing.⁷

After the publication of the Bailey Review, the Professional Publishers Association (PPA)⁸, issued the following response:

...the [Bailey] review mentions parental concerns regarding the display of 'lads' mags' within retail environments.

The existing [best-practice guidelines for the display of men's lifestyle magazines](#), which have been drawn up by publishers in association with the National Federation of Retail Newsagents and endorsed by the Home Office, are sensitive to these concerns and provide retailers with a series of measures to ensure these titles are placed away from the view of children.

According to the National Readership Survey, the average age of a reader of men's lifestyle magazines is 30, and these titles are not created for, or marketed to children.

⁶ DfE, [Letting children be children](#), June 2011, pp24-5

⁷ Ibid, p25

⁸ According to its [website](#), the PPA represents over 200 companies (from consumer magazine publishers to business-to-business data and information providers and smaller independents)

Publishers fully support the cross-industry display guidelines and the PPA welcomes the opportunity to promote them in the wake of the publication of the Bailey Review.⁹

In May 2013, the Association of Convenience Stores (ASC) published a brief [guide](#)¹⁰ for convenience retailers on how to display men's lifestyle magazines:

The Guide is designed to assist retailers in understanding best practice and how to comply with the longstanding industry code of practice.

The guidance has been published as part of ACS' on-going commitment to deliver on the Prime Minister's challenge to reduce the exposure of children to sexualised imagery.

(...)

As with all magazines, the front covers reflect the content and therefore these titles require careful and responsible display. It is recommended that retailers take particular care to ensure men's lifestyle magazines are not displayed at or below the eye-level of children.

To display these titles in a way that is sensitive to all consumers, but without adversely affecting the sale, we recommend:

- That they are not displayed adjacent to your display of children's titles and comics
- That they are not displayed at children's eye-level or below i.e. that they are not in the direct sight and reach of children
- That where display space restraints preclude the above, titles with front covers that may cause concern are part overlapped with other titles so as to minimise the potential for offence to parents and/or children
- That similar care and consideration is given to the display of any Point of Sale material for these titles¹¹

3.1 Bailey Review progress report (May 2013)

A report on the progress made on the Bailey Review's original recommendations was published on 24 May 2013.¹² On the recommendation that "magazines and newspapers with sexualised images on their covers are not in easy sight of children" the progress report said:

Industry bodies have made some progress on this. The publishing industry's guidelines on the display of magazines have been refreshed to address public concerns and copies have been distributed to 30,000 retail outlets. The guidelines were also published on the [ParentPort](#) website to make them more accessible to parents. Modesty boards have been designed and produced by the Professional Publishers Association (PPA) and made available to retailers on request, although take up so far has been low.

We are disappointed that, despite this effort on the part of industry associations, compliance with the industry display guidelines has been patchy so far. However, the

⁹ "PPA statement in response to the Bailey Review", PPA news release, Undated (June 2011?) [accessed 20 June 2013]

¹⁰ ACS, [Lads Mags Best Practice Guide](#), May 2013 [accessed 20 June 2013]

¹¹ [ACS website – Lads Mags Guide](#) [accessed 20 June 2013]

¹² DfE, [Letting children be children: progress report](#), May 2013 [accessed 20 June 2013]

Association of Convenience Stores (ACS) and the PPA have committed to further action which will help take magazines with sexualised images on their covers out of easy sight of children.

Retailers, especially smaller ones, tend to take notice of the tools provided by their trade associations to help them make their businesses efficient and profitable. We therefore welcome the publication and distribution by the ACS of a new [best practice pictorial guide](#) for convenience retailers on how to display men's lifestyle magazines, similar to those already in use for the display of tobacco. The new advice guide, based on the existing code of practice, can be used as a training guide for stores on, for example, where to locate men's lifestyle magazines on shelves, how to check compliance with the code, and how to communicate with customers and respond to their concerns.

What parents should see

Parents should not see newspapers or magazines with sexualised covers, such as those of men's lifestyle magazines, displayed next to children's titles and comics, at children's eye-level or below, or within easy reach of children. Where space constraints in a store mean it is not possible to display such magazines elsewhere, they should have their front covers partially covered by other magazines.

If a store is still unable to display magazines in line with the industry guidelines, modesty boards are available free of charge to retailers and we would expect them to respond positively to any concerns that parents may have and make any necessary changes to their display.

Next steps

To support their new guide, ACS has also said they will develop, working with parent and consumer organisations, information for parents on what to expect in store and how to go about raising a concern. We expect to see this new guidance in spring 2013, and it will be made available to parents on the [ParentPort](#) website.

We also welcome moves from the PPA to feature a revised 'planogram' for the display of magazines in its booklet 'Making More Money from Magazines' when it is reprinted this spring. This will ensure that men's lifestyle magazines are not located close to titles that may appeal to children and young people, such as video game and computer magazines, and in a way that seeks to prevent customer complaints. The PPA will at the same time reissue the industry guidelines on the display of men's lifestyle magazines.¹³

¹³ Ibid, pp11-2