

Code Conciliator's Annual Report 1 July 2015 – 30 June 2016

Number of Disputes

Five new enquiries were received during this period, compared with 6 enquiries per year in the previous 2 years. This totals 219 dispute enquiries received since the establishment of the Code in 1998.

Three of the dispute enquiries were successfully resolved using the Code's informal dispute resolution procedures, which focus on negotiating a satisfactory solution to the dispute with the assistance of the Secretariat as required. The emphasis is on resolving disputes before conciliation. A fourth enquiry was not pursued further. The other matter was an enquiry about the Code's dispute resolution procedures in general.

Since 1998, 9 matters have been conciliated, 8 of which resulted in agreement. No formal conciliations were held during the past year.

Nature of Complaints

Two enquiries related to being offered a movie release 1 week later than to other exhibitors nearby. Another consisted of an exhibitor informing the Secretariat about his concern to obtain a release. Another was an enquiry as to whether a distributor could make a complaint against an exhibitor. Another was a general complaint about a distributor's general sales team's responses.

Administration

Under the early intervention procedures the Code Secretariat plays an active role in facilitating communication and in resolving the problem by encouraging the complainant to take the matter up directly with the Managing Director of the other side and (if that does not solve the problem) by the Secretariat telephoning the Managing Director. This approach can lead to a quick resolution to the problem at no cost to the parties, unlike formal conciliation.

The Code Secretariat plays an important role in allowing complainants to register their concerns, to explain the available alternatives and to facilitate agreement. Sometimes complainants simply wish to discuss the problem with the Secretariat and express their concerns as part of their decision-making process whether to progress the matter under the Code. Often enquirers wish to express some dissatisfaction with how the industry operates without wanting to commence the dispute resolution process. The Secretariat provides an effective and helpful point through which such

issues can be registered and communicated to the Committee. It provides an effective hearing of concerns even if the enquirer does not wish to pursue the matter further.

Operation of the Code

The focus of best practice in dispute resolution over time is the prevention of disputes in the first place. As the Code Administration Committee has increasingly and successfully dealt with industry wide issues, this has led to the minimisation of disputes coming before the Secretariat or myself. It is a role I encourage the Committee to continue and advance.

At the same time I am available to any industry participant to listen to its concerns at any time without prejudicing the final outcome of any conciliation which may occur. My experience is that participants gain reassurance through that role that the Code dispute resolution process will be effective should they choose to use it.

Voluntary industry codes have failed and become statutory codes under the Competition and Consumer Act. The fact that this voluntary Code has developed so successfully over 18 years is a tribute to the leadership of the Chairman for that period, Mr John Dickie, to the professionalism of the contribution in recent times of MPDAA through the work of Ms Lori Flekser and of ICAA through the work of Ms Adrienne Pecotic and to the conciliatory and constructive approach of the Committee members.

I am very pleased to observe over the last year a very positive and effective function performed by Ms Cecily Zhu of the Secretariat in terms of enquiries and administrative and Committee support.

I thank the Code Administration Committee, in particular, the Chairman, Mr John Dickie, for assisting and supporting the Code's Conciliator and Secretariat functions.

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