

Chairman's Report

**Film Exhibition and Distribution Code
Administration Committee**

2009 - 2010

Introduction

The financial year just concluded 2009-2010 has proved to be a stable one for the Film Code of Conduct.

Among other things the Code has been used to test out some of the issues of the new technology and has been asked to provide a forum to discuss changes to the classification system affecting the way consumer advice is provided for films.

It has also been singled out as a good practice code.

The number of complaints has been at a low level and nearly all of these have been addressed and settled well short of any formal conciliation procedures.

Reputation of the Code

Signatories to the Code might note with some satisfaction that the Film Code of Conduct is being held up as a good practice Code for other voluntary codes.

In a recently published independent review of the fledgling Wine Code of Conduct, favourable reference was made to the Film Code in relation to its structure, the way it deals with disputes and the measures it has taken to deal with any suggestion of retaliation.

This of course does not mean that our Code should rest on its laurels. However, signatories should take credit for the way they have embraced the Code and its provisions and the effort that has been made by all parties to the Code to respond to the recommendations for improvement which have been made by regular reviews since its inception in 1998.

Meetings between MPDAA and ICAA

Another indication of the Code's maturity and effectiveness was the Committee's decision to discontinue regular meetings between the major distributors and the independent cinema operators.

Rather than scheduling regular meetings – which have normally been held in conjunction with meetings of the Code Administration Committee – the meetings will be reconvened to discuss special issues as they arise.

Since they began under the auspices of the Code Administration Committee, the meetings have provided the opportunity for frank discussions to take place on the more day to day issues affecting the independent operators in the cinema industry than the topics generally discussed at the Administration Committee.

These meetings were initiated in 2002 and were endorsed and encouraged by the ACCC in the recommendations it made during one of the Code reviews

It is some measure of the success of these meetings that there are now more informal discussions and settling of issues between the parties outside of the formal arrangements than when they were first convened.

The meetings have also provided a forum for the issues surrounding the introduction of the new technologies and what might be done to make the transition as painless as possible

Film Classification

The Administration Committee considered issues dealing with film classification, consumer advice and media advertising for films.

Members of the MPDAA reported on a meeting with the Classification Board and the Classification Branch of the Australian Attorney-General's Department. The issues of concern ranged from the cost of classification, whether films in 2D and 3D should have to pay for a separate classification and the display of consumer advice in newspaper and poster advertisements.

The Committee considered the issues of sufficient important to ask the OFLC to address the topic at the meeting in Melbourne following the ICAA convention.

At this meeting, Ms Jane Fitzgerald from the Attorney-General's Department Classification Branch outlined concerns about the size of consumer advice in display advertisements in newspapers and on television.

The concern was that in some advertisements the consumer advice was so small it was almost impossible to read. This was certainly against the intent of the legislation that people wishing to see a film should have easily identifiable access to the consumer advice which accompanies the film.

Ms Fitzgerald also said the Department and the Classification Board was re-examining the language and content of consumer advice applicable to each film and was anxious to consult with the distribution and exhibition industry about whatever amendments should be made.

She noted the concerns of industry members about the double cost of classifying a single film for 2D and 3D exhibition.

Committee members indicated that they considered these to be important issues relating to the promotion and exhibition of films and wished to take part in any further discussion in an attempt to reach an agreed upon outcome.

To assist in a more detailed discussion about these issues, Ms Fitzgerald said the Department would prepare a discussion paper for circulation before a further meeting to discuss the issues in more detail.

This will be discussed at a special meeting of the Committee later in the year.

Committee Membership

The Committee considered issues regarding its membership and financial contributions. The items of concern related to Clause 11.2 of the Code. This states that:

The Independent exhibitors shall be represented by two (2) members of the Independent Cinemas Association of Australia and one other provided that if there is no nominee for that third position from a person who is not a member of the Independent Cinemas Association of Australia, then until that third person is filled by such a person, it may be filled by a member of the Independent Cinemas Association of Australia.

The question arose because of the Committee's decision to declare vacant the third position allocated to independent cinema operators because of the previous occupant's non-attendance over a two year period.

The Committee unanimously passed a motion that:

“the position of the third representative for independent cinemas remain vacant until a representation is made to the Committee and that there will be a fee contribution on an equitable basis for that member.”

Conclusion

I thank the members of the Committee for their support during the year. I believe that one of the main reasons for the success of the Code is the way in which all members of the Committee look to the good of the industry as a whole and the amicable and constructive approach they have to issues which come to the Committee for resolution.

In particular I thank the Committee for its efforts in trying to reach all members of the industry and persuading them to become signatories to the Code.

A significant reason for the success of the Code is the patient and helpful assistance signatories - and potential signatories - receive from the Secretariat.

The Secretariat provides advice to the signatories about the provisions of the Code and procedures which need to be followed if a dispute is looming. The main reason why disputes never reach the formal conciliation stage is because the Secretariat is able to act as an intermediary and solve the problem before it reaches the formal stage.

Ms Nathalie Birt provides that valuable service. In addition, she keeps all of us on track and is able to produce minutes which make the meetings seem almost business-like.

On behalf of all members of the Committee I thank her for her work as well as Ms Bianca Keys who has also helped the work of the Committee.

Mr David Newton, the Code Conciliator, has guided the dispute resolution processes of the Code since its inception. He has set a tone which is most helpful in resolving possible disputes in the early stages and all signatories are grateful to him for his assistance.

John Dickie
Chairman
July 30, 2010