

Annual Report 2010 - 2011

**Film Exhibition and Distribution
Code of Conduct
Administration Committee**

Chairman's Report

Introduction

The Code of Conduct in the last year has functioned in line with the best hopes of those who initiated it.

The meetings have been conducted in a friendly and cooperative spirit, the matters raised have been dealt with from an industry wide perspective and the small number of complaints has been settled by the early intervention procedures.

It is a healthy situation for the code to be in when many technological advances and changes have been foreshadowed throughout the distribution and exhibition arms of the industry.

To ensure that complacency does not take hold, the Administration Committee has decided that a further review of the code will take place in the next financial year to make sure that it remains relevant and active in both arms of the industry.

The committee met in August and December in 2010 and in March and June in 2011.

Issues considered

Among issues arising from the new technologies, the Committee discussed in some detail digital distribution protocols relating to the delivery of digital prints and the timing of the delivery of Key Delivery Message [KDMs]. A major concern was that there should be sufficient time allowed in case there was a technical problem with the KDM.

The Committee recognised that the delivery and use of KDMs, while still in the early stages, was likely to be an increasing issue with the growth of digital distribution.

It was agreed that exhibitors and distributors should work closely to ensure effective development of KDMs and to put in place measures to minimise the impact of corrupt KDMs.

To make sure that this issue was covered, it was suggested that there should be amendments to the Code to incorporate developments in relation to digital prints. The Committee also decided to revisit the issue in the next financial year to monitor developments.

Alternative content providers

The Committee again considered the question of whether or not alternative content providers should be covered by the Code of Conduct.

The Committee took the view that if the Code were open to alternative content providers becoming signatories, the Code's dispute resolution mechanism would be available should disputes arise involving the content providers.

Opening the Code to alternative content providers would have no significant impact on the Code's operation in the Committee's view.

Classification Issues

The Committee has been consulted at length by the Classification Board and the Australian Attorney-General's Department about classification generally and especially in view of the current examination of Australia's classification system by the Australian Law Reform Commission.

The Committee met with the Director of the Classification Board, Mr Donald McDonald and the Assistant Secretary of the Attorney General's Department, Ms Jane Fitzgerald in November 2010 to discuss the issue of consumer advice.

Both the Board and the Department sought input from the members of the Committee on the current consumer advice being applied by the Board. Issues such as the effectiveness of the consumer advice, how it could be varied to make it more helpful to cinema patrons and how it could be best displayed by distributors and exhibitors were canvassed.

Ms Fitzgerald advised the meeting that it was nearly 20 years since classification issues had been considered and given the enormous expansion in technology since then, it was the intention of the Attorney-General to refer the matter to the Australian Law Reform Commission for examination and report early in 2011.

Mr McDonald said he hoped there would be further meetings so that the Classification Board and the distribution and exhibition industries could provide the best possible information on classification categories and content to cinema goers and home entertainment audiences.

Law Reform Commission Inquiry

In January this year, The Attorney-General's Department sought the views of the Committee on the draft terms of reference for the Law Reform Commission.

Organisations represented on the Committee made submissions to the Department. On behalf of the Committee I sent the following submission.

The Film Exhibition and Distribution industries have subscribed to a voluntary Code of Conduct since 1998. The Code is administered by the Code Administration Committee which I chair [FEDCAC]. It is Australia-wide and represents the overwhelming number of distributors and exhibitors – both major and independents.

The Administration Committee has considered the terms of reference and – apart from a couple of minor additions – believes that the terms of reference are wide enough to cover the substantive submissions which the Committee will present to the ALRC during the inquiry.

We would like to ensure that the inquiry will be able to deal with such matters as industry self-regulation and the cost of classification of material, especially with film in all its forms.

Therefore we would suggest that the paragraph which begins “I refer to the ALRC for inquiry...” should conclude with the words...”continue to provide an efficient and costs effective framework for the classification of media content in Australia, including self regulation.”

On March 24, Attorney-General Robert McClelland announced that the Law Reform Commission would conduct a review into the classification system and would consult widely with the community and interested parties before reporting back in early 2012.

The review is considering issues including:

- existing Commonwealth, State and Territory classification laws
- the current classification categories contained in the Classification Act, Code and Guidelines
- the rapid pace of technological change
- the need to improve classification information available to the community
- the effect of media on children and
- the desirability of a strong content and distribution industry in Australia.

The Administration Committee considered whether it would make a submission on behalf of the exhibitors and distributors throughout Australia. Organisations represented on the Administration Committee indicated that their own organisation may make an independent submission to the Commission because of issues especially relevant to their members.

Members of the Committee are consulting with their organisations on whether a FEDCAC submission will be made and a decision will be made before the Commission's closing date is reached.

Code Review

One of the important clauses in the Code of Conduct is that the Code should be subjected to regular reviews to ensure that it remains relevant to the signatories and takes account of developments in the industry and the rapidly increasing changes in technology.

It is now six years since Mr Neill Buck submitted his review of the Code and made 24 recommendations. All of those suggested changes have since been implemented.

However the last five years have seen accelerated changes in the industry and there is a Law Reform Commission inquiry due to report early in the new year.

Committee members have foreshadowed that there needs to be a further review to be conducted shortly and the issue will be considered in the early meetings in the next financial year.

Chairman's term of office

At its meeting in August last year, the Committee reappointed me for another three year term. I thank the members of the Committee and the organisations which they represent for their vote of confidence.

As in years past, I thank the members of the Committee for the way they have conducted the code business over the last 12 months. Members are frank with each other during discussion of issues which come before the Committee; they are discussed with goodwill and regard for the whole of the industry.

I would also like to thank the Code Conciliator, Mr David Newton, and the members of the Accord Group who provide secretariat services to the code. I mention in particular Ms Nathalie Birt and Ms Alicia Chilton.

One of the main reasons for the state of the code has been the success of the dispute resolution procedures. For many years now, the code has employed early intervention procedures to deal with disputes. These are available to signatories without cost and have proved to be very effective.

The overwhelming number of potential disputes are settled by using the early intervention procedures administered by Nathalie Birt from the Secretariat and on behalf of members of the Committee, I thank her for her work in this important part of the code.

John Dickie

Chairman

August 10, 2011