



THE FILM DISTRIBUTION AND EXHIBITION CODE OF CONDUCT CODE INFORMATION & TRAINING

The Film Code was introduced in 1998 after the ACCC reviewed complaints relating to dealings between exhibitors and distributors. Industry groups agreed to adopt a voluntary code of practice and dispute resolution.

The Code provides a framework for fair and equitable dealing between all distributors and exhibitors. It aims to prevent disputes by clarifying the obligations of both parties and, where disputes arise, to resolve them in a fast, low-cost way.

The Code is administered by The Film Exhibition and Distribution Code Administration Committee (FEDCAC) which is composed of representatives from major distributors, major exhibitors, independent distributors, and independent exhibitors.

The Film Code provides quick, non-legalistic and cost-effective methods to resolve disputes between exhibitors and distributors. An informal resolution process outlines the steps required to resolve a dispute (Section 15). If the dispute is unresolved, a formal resolution process may be used (Section 16). The parties will be assisted by the Secretariat or the Film Code Conciliator.

The Code outlines the obligations for exhibitors and distributors in regard to aspects of the commercial arrangements between them.

CODE SUMMARY

■ **Distributor's Obligation** ■ **Exhibitor's Obligation** ■ **Distributor and Exhibitor's Obligation**

MUTUAL OBLIGATIONS

Fair Dealing

The Code of Conduct for Film Distribution and Exhibition (the Code) says that distributors and exhibitors will deal with each other in a fair and equitable manner. 'Fair and equitable' means:

- Dealing with the legitimate commercial objectives of the distributor and exhibitor (Section 4.2.1)
- Considering the relative bargaining strengths of the distributor and the exhibitor (Section 4.2.2)



Example/Clarification

Film A has been booked over several weeks with a specific policy but the film has drastically underperformed. The exhibitor has asked the distributor for a concession in week 2 to make space to continue Film B which has over performed in week 3. However, the original policy (session requirement) agreement has the film finishing in week 4. As the relationship between the exhibitor and distributor has been fair and equitable in this past the distributor agrees knowing that this will be reciprocated in the future should the need arise.

Combating Piracy

The Code highlights the joint responsibility of exhibitors and distributors to combat piracy, including using commercially reasonable measures to prevent unauthorised recordings of films. (Section 4.3)

Example/Clarification

A distributor has been informed that a pirated version of one of their films has made its way onto the internet. The distributor's piracy team can, in most cases, identify the cinema, screen and session where that film was recorded. On request from the distributor, the exhibitor provides them with footage of patrons entering that session and relevant transaction details for any suspicious persons that might lead to their identification and the distributor passes this information on to the appropriate authorities.

Regional & Country cinemas

Exhibitors and distributors recognise the unique role regional and Country cinemas play in their communities and the importance for flexible negotiations. (Section 6.4)

Breaches

Any party may notify the Code Administration Committee if someone has breached the Code.

Supply of Information

The two-way flow of information between distributors and exhibitors is a key and essential component of the Code. It requires both parties to constantly update each other with relevant information about each release as that information becomes available. This includes but is not limited to classification updates, cinema closures, changes in ownership, policy reduction requests etc. (Section 8)

Education

Exhibition staff who deal with distributors and distribution staff who deal with exhibitors must receive annual Code training, with new staff to be trained within 20 business days. (Section 18)

Example/Clarification

The FEDCAC website has more information about training. All distributors and exhibitors can download this Information Sheet from the FEDCAC website to provide to relevant staff about their key rights and obligations under the Code. After reading the information, they can complete the Code Questionnaire – also on the FEDCAC website.



DISTRIBUTOR OBLIGATIONS

Film Supply

Distributors can decide whether to offer a film to an exhibitor based on genuine commercial considerations. However, they should not discriminate unfairly against any class of cinema or based on previous disputes. If supply is refused, the exhibitor can request an explanation and the distributor must provide a written explanation within four working days. (Section 5)

Example/Clarification

Some films are released on a limited number of city screens but not in regional areas. This is generally an example of a distributor making a difficult decision based on commercial considerations. The exhibitor may request supply and, once WOM has been established, the distributor may decide it is feasible for the film to be released in regional areas.

Flexibility of Trading Terms

The Code states that contracts should be negotiated freely and allow flexibility with respect to

- Film hire rates
- Length of season
- Session requirements
- Bonds and guarantees.

(Section 6)

Example/Clarification

Each distributor will negotiate each film with each exhibitor on a film by film, and location by location basis. Previous terms or arrangements on other films may not be reflected in discussions about another title but fairness and flexibility should be at the forefront of the negotiation for both parties.

Supply of Trailers & Advertising Material

Subject to availability, distributors will provide each exhibitor with a DCP of the film, access to trailers and reasonable quantities of advertising materials. (Section 7)

Example/Clarification

Digital download trailers are available to exhibitors within a day of becoming available and are usually sent without a request being made. However exhibitors can contact sales representatives to request or confirm materials. Exhibitors have the responsibility to ingest these trailers in a timely manner as these files will be deleted after a number of weeks.

Supply of Information

Distributors will supply information in a timely manner about upcoming product and release dates. Prior to booking deadlines, the distributor will confirm in writing the terms of supply. Where available the actual or estimated film duration and classification are provided when confirming supply. (Section 8)

Example/Clarification



A distributor has agreed to supply a film to an exhibitor but, at the time of the negotiation, the length of the film was unknown and estimated to be 120 minutes. When the actual time comes in at 170 minutes, the parties negotiate in good faith with a view to overcoming any adverse impact on the exhibitor. No recourse against the distributor is possible for estimate information proving to be inaccurate.

Terms of Trade Policies and Guidelines

Distributors must establish Terms of Trade Policies and Guidelines and make these available on a confidential basis to exhibitors and the Conciliator. Distributors must communicate any changes one month in advance, where possible. (Section 9)

Example/Clarification

A distributors' Terms of Trade are available on request. Each distributor has their own Terms and will set up individual Agreements with each exhibitor. Every film also requires an individual Agreement, available in discussion with the distributor's booking representative.

Session Policy Review

Where a film underperforms, distributors agree to review the session requirements after a reasonable request by an exhibitor. (Section 9.5)

Example/Clarification

A film has been booked into a small or a regional cinema and a minimum guarantee (MG) has been stipulated as being X dollars. The film underperforms in week 1 and does not achieve enough Box Office to cover the MG. The distributor and exhibitor discuss combining the results of Weeks 2 and 3 (or the remainder of the film's season) and they agree the MG should be applied to Box Office results for the entire booking and not just week 1.

EXHIBITOR OBLIGATIONS

Supply of Information

Some distributors may require to be kept informed of any promotional and media activities and programming changes. (Section 8)

Credit References & Prevention of Supply

Exhibitors must provide credit references to distributors when asked and they cannot stop a distributor from supplying films to competitors. (Section 10.1 & 10.2)

Example/Clarification

A distributor generally asks a new exhibitor to provide credit references when they are unknown to the distributor. If an exhibitor is unable to provide credit references to prove they are not a credit risk, a bond may be required for a finite amount of time to prove they can operate successfully.

Fulfilling Agreements



Exhibitors must fulfil their agreements with distributors, including sharing accurate box office data, displaying promotional materials as required and paying film hire as specified in the distributor's Terms of Trade or as agreed. (Section 10.3)

Example/Clarification

After opening a new film, the exhibitor sends accurate daily and weekly box office data to the distributor and to third party BO data aggregators, as indicated by the distributor.

Advertising

If available, exhibitors agree to play trailers, display posters, and credit the distributor in advertising for a film at least two weeks before its exhibition. (Section 10.4)

Example/Clarification

An exhibitor has booked a film and has been provided with the relevant official advertising materials by the distributor. These trailers, posters and digital ads should be displayed at least two weeks before the film opens to ensure ample advertising for the film. Some distributors may conduct a Trailer and Materials check from time to time. Others require details of trailer placements and confirmation of the display of in-theatre materials.

Refusal of Film

Exhibitors must, on request, provide the distributor with the reasons why the exhibitor has not agreed to accept a film. (Section 8.7)

Example/Clarification

An exhibitor refuses to book a film into their cinema and, on request from the distributor, explains the reasons why they cannot play the film or prefer not to program it. This dialogue may facilitate a better understanding of the exhibitor's situation or audience for future negotiations.

Session Policy Review

Exhibitors will inform a distributor if they intend to reduce sessions in the first two weeks of the release of a film. (Section 9.7)

Example/Clarification

A film significantly underperforms in the first two weeks of release. The cinema has another film which is performing better than expected. The exhibitor feels it is necessary to adjust session times and quantities to maximise Box Office of the title that is showing more demand from the public. Meanwhile, the distributor has invested heavily in marketing for the second week of release.

A timely discussion between the parties allows the distributor to potentially adjust their marketing commitments or for the exhibitor to postpone adjusting the sessions to allow the marketing to reach the audience.



Box Office information

Exhibitors must provide the distributor with accurate daily and weekly box office totals including total receipts and the number of paid and complimentary admissions (Section 10.3)

Example/Clarification

Comprehensive and accurate box office data and admissions information must be given to a distributor by all exhibitors screening the film. This information gives the distributor the ability to assess the performance of the film, adjust or increase the marketing. It also provide the exhibitor with the data to assess sessions and programming.

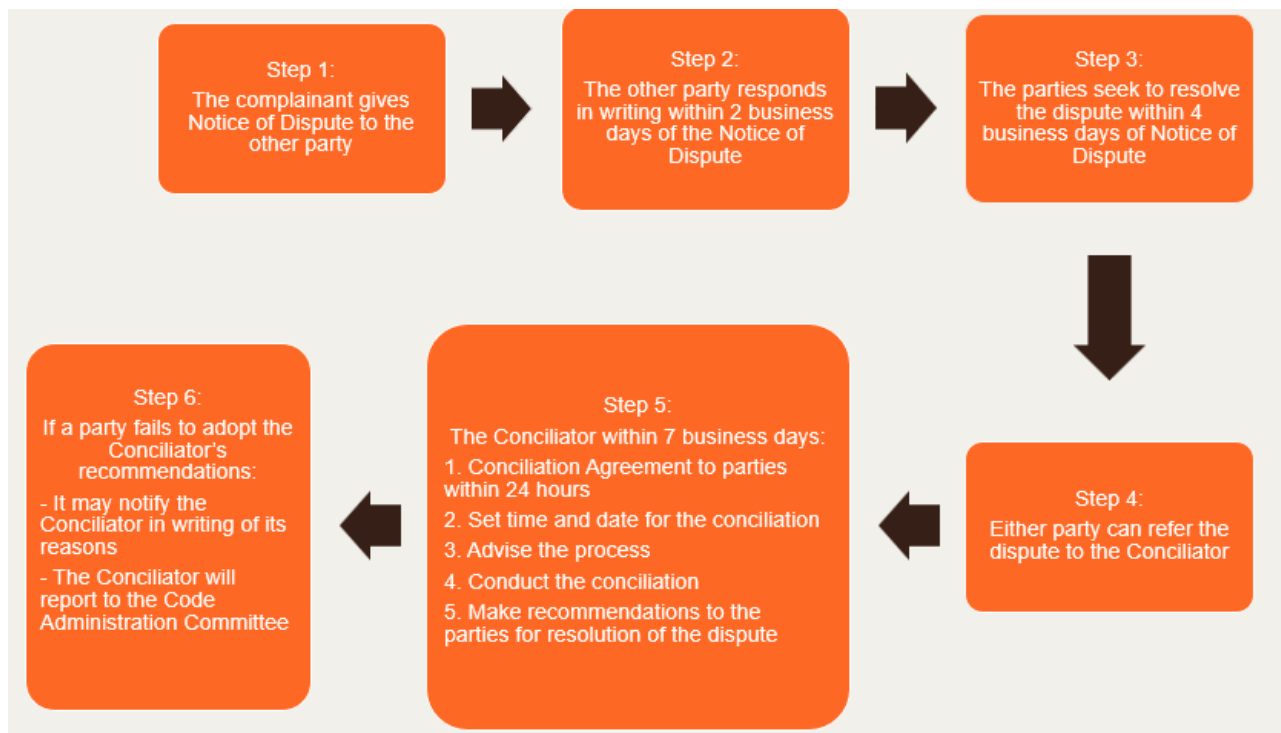
Maintenance

Cinemas must be well-maintained with digital projection systems meeting industry standards. Distributors can withhold films if these obligations are not met. (Sections 10.5 & 10.6)



DISPUTE RESOLUTION

The Code provides an easy dispute resolution process



Informal Dispute Resolution

- The parties discuss the problem.
- If unresolved, one party notifies the Code Secretariat who will contact the managing director or equivalent of the other party for further discussions.
- If still unresolved, the complainant may refer the dispute to conciliation.

(Section 15)

Formal Dispute Resolution

A very small number of complaints progress to the formal dispute resolution procedure, which involves the conciliator facilitating discussions between the parties to help them reach an agreement or provide recommendations to resolve the dispute.

- The Code identifies reasonable time frames for each step of the process.
- Most communications in relation to the conciliation are confidential.
- The parties report to the Conciliator in 14 days on actions taken.
- The cost of conciliation is shared by both parties
- All resolved disputes are reported – anonymously - by the Secretariat and the Conciliator to the Code Administration Committee at the Code AGM and included in the annual report.

(Section 16)