

Code Conciliator's Annual Report

1 July 2017 – 30 June 2018

Conciliator

The Film Exhibition and Distribution Code has been successfully resolving disputes between distributors and exhibitors for nearly 20 years.

On 13 June 2017 the Independent Cinemas Australia Inc. (ICA) lodged an application for authorization with the ACCC in respect of collective bargaining and information sharing. As the Code Conciliator, I sought to engage the Code signatories in a facilitated conversation about these proposed changes, with the goal of finding practical solutions to the concerns raised by distributors and exhibitors. A joint facilitated conversation did not occur and ultimately an Authorisation was granted by the ACCC on 16 March 2018.

The Code of Conduct for Film Exhibition and Distribution was originally developed at the instigation of the ACCC following a review of complaints relating to disputes between exhibitors and distributors. It is essential that exhibitors and distributors continue to support the goals of the Code, including, fair and equitable dealings between the parties, a timely and non-legalistic, cost effective approach to settling disputes and a commitment to combat piracy.

This is of particular relevance as the global cinema industry is experiencing increasing threats from the advent of streaming services, the changing demographic of audiences and the challenge of embedding the magic of the cinema experience in a younger 'double screen' generation. To address these, and other challenges, distributors and exhibitors need to be able to work together.

The success of this voluntary industry Code has been possible, over the past nearly two decades, through the commitment and leadership of the FEDCAC Chair, Secretariat and most importantly the commitment of the Code signatories. These individuals, representing large and small businesses and business people, all together want a vibrant, robust and successful cinema industry in Australia.

I urge the Committee and the signatories to continue to support the Code and fair and equitable dealings between exhibitors and distributors.

[Nina Harding was appointed as Acting Code Conciliator (and later Code Conciliator) in October 2016]

Number of Disputes

One new enquiry was received by the Code Secretariat between 1 July 2017 and 30 June 2018. Four enquiries were received in the previous 12 months. A total of 224 dispute enquiries have been received since the establishment of the Code in 1998.

An enquiry made in the previous reporting period (in June 2017) was escalated to the Conciliator this year. This dispute involved a request for first run supply. Representatives for the exhibitor and distributor attended the Conciliation and agreed on certain strategies. Unfortunately, the concerns of the exhibitor lingered and the exhibitor did not follow through on the strategies that were discussed at Conciliation. The Conciliator was advised that the dispute was unresolved.

Nature of Complaints

One dispute enquiry was made to the Code Secretariat.

One dispute enquiry from June 2017 was escalated to the Code Conciliator (see above).

Summary of enquiries:

1. The enquiry was a complaint about a distributor engaging in illegal price fixing by requiring premium ticket pricing for an upcoming movie and not allowing discounted tickets. The matter was not pursued further as the enquirer indicated they merely wanted the Code Committee to be aware of the issue.

Operation of the Code

The Code, which was created in 1998, at the instigation of the Australian Competition and Consumer Commission, was designed to provide a framework for fair and equitable dealings between exhibitors and distributors.

I wish to thank the Code Administration Committee and the Secretariat for their support of the Code and the functions of the Code Conciliator.

I wish to particularly note and thank, this year, the dedication and commitment of the Chair, Ms Katherine Sainty.

Nina Harding

Film Exhibition and Distribution Code Conciliator

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