

Code Conciliator's Annual Report

1 July 2022 – 30 June 2023

Conciliator

I was appointed as Acting Code Conciliator in October 2016 and Code Conciliator in 2017.

The Film Exhibition and Distribution Code has been preventing and resolving disputes between Australian distributors and exhibitors since 1998.

The Code must be regularly reviewed to ensure that it is relevant and useful for the cinema industry. The most recent review of the Code was finalised in 2022. The Code review, which stretched over several years, required much effort from the Chair of the Code Administration Committee, Katherine Sainty. I wish to acknowledge the efforts of the Chair, Cecily Zhu the previous Code Secretariat and the Committee members in modernising the Code.

Clause 18 of the Code states that distributors and exhibitors must provide training on the Code for relevant staff. This is important, particularly for new staff, to understand the purpose of the Code and the obligations and rights of exhibitors and distributors. I have mentioned to the Committee on several occasions that it would be ideal to provide training on dispute management and avoidance to Code signatories. This is because the best approach to dispute resolution will always be dispute prevention. The Committee has been supportive of training for the industry.

In October 2022 I conducted a one hour educational workshop for members of ICA at the ICA annual conference. The workshop mentioned the Code, the benefits of negotiating outcomes that are mutually beneficial and provided tips and tools for resolving complaints. A follow up workshop will be conducted online for ICA members this year.

I have also provided similar training sessions for Hoyts staff and AIDA members. I will conduct a similar workshop for members of the MPDAA in July 2023.

I hope that this training will encourage exhibitors and distributors to discuss issues as they arise, to listen and try to understand the perspective of the other, and to negotiate workable solutions.

In early 2022 Cecily Zhu ended her role as Code Secretariat. This has been an important role, as the Secretariat takes enquiries from exhibitors and distributors about issues that might become disputes and assists those callers to resolve their complaints. The vast majority of enquiries have, over the years been resolved at the Secretariat level, avoiding the need for conciliation.

The role of Secretariat has not been easy to fill since Cecily's departure. Otila Thompson, from Sainty Law, has capably undertaken the administrative portion of that role during the past 12 months. There have been very few calls from exhibitors and distributors during this period of time. I understand that Otila received one new enquiry from an exhibitor in 2023. In future any calls from exhibitors or distributors about disputes will be forwarded to me until the role of Secretariat is filled. There have been no Code Conciliations in the past 12 months.

I urge the Committee and the signatories to continue to support the Code, and fair and equitable dealings between exhibitors and distributors, as this will support a vibrant and viable cinema industry in Australia.

Number of Disputes

No enquiries were escalated to the Conciliator in the past 12 months.

Nature of Complaints

One dispute enquiry was made to the Code Secretariat.

Summary of enquiries:

1. The enquiry was a complaint about a distributor offering session requirements that were acceptable to the exhibitor and then revoking the offer and subsequently offering session times that did not suit the business of the exhibitor.

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.

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