SUBMISSION BY THE AUSTRALIAN VISUAL DISTRIBUTORS ASSOCIATION TO THE COST RECOVERY INQUIRY BY THE PRODUCTIVITY COMMISSION

The Australian Visual Software Distributors Association (AVSDA) represents the distributors of home video and video games. A list of members is attached. Member companies include the Australian arms of several international companies (such as Warner, Buena Vista/Disney, Sony and Nintendo) as well as wholly owned Australian companies both large and small (such as Roadshow Entertainment and 21st Century Pictures).

All member companies are required to have their products classified by the Office of Film and Literature Classification which charges fees which are currently based on cost recovery.

The following comments relate to several questions posed in the Issues Paper of October 2000, made available by the Commission.

What are the specific public and private benefits and cists of the activities to which cost recovery is applied.

The classification system provides an indication of the age groups for which videos and games are suitable as well as advisory indications on the type of content in the particular product which has attracted that rating. The costs are borne by the distributors of the product. Distributors do not object to the classification system, but believe that there may be more cost effective ways of carrying out classification and still ensure the system's integrity.

Comparison with overseas classification systems

In many other countries censorship is voluntary or is self regulated (as in the United States). Australia is most commonly compared to New Zealand and Britain.

In Australia all films (including video and DVD) and video games are required to be classified by the OFLC except for a narrow range of exemptions. Fees are on a sliding scale depending on the length of the film. In the case of video games, the OFLC trains people within the companies to classify them and then the product is submitted to the OFLC for official classification.

There are significant differences between the New Zealand system and the Australian. In NZ distributors submit all films classified up to and including the M classification or its equivalent in the UK and Australia to the industry run Film and Video Labelling body for labelling. For this they are charged $150 for a cinema

film and 20 cents for a stamp to be affixed to the case of each video. Only material likely to be classified MA(15+) or over must be submitted to the government for classification at a cost of NZ$1,000 for a standard video. In the case of one AVSDA member the cost of classification of the same range of product was $58,850 in Australia and $8,000 in New Zealand. There is currently no requirement in New Zealand for games to be classified unless they are likely to be MA(15+) or over.

While classification fees in Britain are higher than Australia the range of titles which are exempted from classification is broader than currently exists in Australia. However, legislation currently before the Parliament will bring Australia more into line with the UK.

While AVSDA welcomes the proposed expansion of the list of categories which do not require OFLC classification, we also believe that the current classification system could be streamlined further to reduce government involvement and therefore reduce costs to industry. We believe that the system in place for the classification of video games should be extended to video. This would mean that preliminary classification work can be done by company staff trained by the OFLC.

In any event, we do not believe that price comparisons are necessarily useful as this does not take into account local economic conditions, such as wages and other overheads.

Appropriateness of full or partial cost recovery

The current charging of the OFLC is one of cost recovery directly related to the cost of classifying the products. AVSDA believes that this is the most appropriate method. Legislation was recently rejected by the Parliament which sought to charge OFLC users for the full costs of OFLC operations. This would have meant that users would have been paying an additional $2.5 million to cover the community service obligations of the government relating to classification. These functions include secretariat services for the Standing Committee of Attorney-general (SCAGS), the preparation of Ministerial letters, research and community consultation and the handling of complaints made about decisions of the OFLC. An additional component of the OFLC's community service obligation is the annual payment of $600,000 to the States and Territories for enforcement purposes, agreed to in the process of developing the current classification scheme in 1995.

In the Explanatory Memorandum to that legislation the Government stated that the industries benefited from these activities. AVSDA does not agree with this suggestion. For example, those who comply with the legislation would be paying for the policing of those who do not comply.

Further, as stated in the Explanatory Memorandum referred to above, no industry consultation occurred before the Government decided to adopt this policy of recovery of community service obligation costs – consultations which did occur specifically excluded these costs.

Is it appropriate to vary fees according to some measure of firm size or throughput

AVSDA does not believe that fees should vary according to firm size or throughput. The size of a company does not necessarily reflect profitability or return on investment.

A review of statutory charges for classification by Ernst and Young in 1998 looked closely at this issue and the current legislation before the Parliament reflects the outcome of this review. A much more equitable system is proposed whereby a much broader range of product is exempted from classification. This means that many titles, which would not have been released because the cost of classification made it uneconomic to do so, will now be released.

A V S D A

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