

**SUBMISSION TO THE AUSTRALIAN HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON INFRASTRUCTURE AND
COMMUNICATIONS – INQUIRY INTO IT PRICING**

JULY 2012

1 Introduction

- AHEDA represents the \$1.3 billion Australian film and TV home entertainment industry covering both packaged goods (DVD and Blu-ray Disc) and digital content.
- In 2011, AHEDA members moved over 67 million titles worth \$1.2 billion in wholesale DVD and Blu-ray sales. These figures do not include retail or digital sales.
- The Association currently has 10 members including all the major Hollywood film distribution companies (Sony, Warner Bros, Universal, Twentieth Century Fox and Paramount) through to wholly-owned Australian companies such as Roadshow Entertainment, Madman Entertainment, Hopscotch Entertainment, Fremantle Media Australia and Anchor Bay Home Entertainment.
- We also have three Associate Members whom represent the three major DVD and BD replication (manufacturing) facilities in Australia; Regency Media, Sony DADC and Technicolor.
- We find it surprising that the Committee is conducting a comparative examination of the price of "videos" (which we assume covers the supply of movie and TV programme content) sold in Australia over the internet or in retail outlets as part of its analysis of the pricing of IT hardware and software products.
- The reality is that sale of home entertainment products is a special case - supplied in a dynamic and highly competitive market where there are material constraints on pricing. Any intervention in this sector would be unwarranted given the significant pressures that ensure that prices are kept low and erode over time. Also, it is potentially very damaging since it could impact on Australian manufacturing and distort competition in a fast moving sector.

2 Fast moving and competitive market

- DVD and Blu-ray combined sales are declining year on year in Australia (peak of 83m sales at a value of AUD 1.4bn in 2008 declining to 76m at a

value of AUD 1.29bn in 2010 and a further fall of 8% in 2011)¹. This is in line with the global downward trend in DVD and Blu-ray sales (eg British Video Association report a 5-6% annual decline in sales).

- Further, average DVD prices drop each and every year with catalogue DVD films now available to Australian consumers for under \$10 in price. According to independent industry analyst, IHS ScreenDigest, average DVD prices in Australia in 2012 are \$17.49. Australians can also rent the latest films online for as little as \$3.99 for a new release.
- The terms of the Inquiry seem to suggest that there are regional retail price differentials which are attributable to the pricing practices of international suppliers (ie wholesale pricing). Retailers set their own pricing and average retail DVD prices suggest that they are broadly on par with those in Europe.
- There are a number of pressures which constrain pricing and confirm that there is no need to consider intervention in the sector:
 - Piracy is a major issue and significantly impacts upon pricing in the sector (see piracy section of this submission)
 - Growth of new technology / means of content delivery with huge changes to the sector already being witnessed – internet based VOD - on-demand through web enabled STBs / games consoles / iPads etc
 - Retailers are using DVDs as loss leaders (ie selling below wholesale price)
 - Growth of global e-commerce opportunities eg Amazon – allowing Australian consumers the opportunity to purchase products on-line and thereby providing constraint on local pricing

3 The industry supports local manufacturing

- Australia has a significant local DVD manufacturing presence that has recently been upgraded to include the latest technology in high definition Blu-ray Disc replication:
 - Allows Australian distributors to supply retailers and consumer demand offering "just in time" supply chain order fulfilment;
 - Facilitates local regulatory requirements such as classification markings;
 - Supports local printing and marketing efforts
- This investment by global companies into Australian manufacturing facilities was recognized by Senator Conroy when he opened the new Sony DADC Blu-ray Disc manufacturing facility in June 2009 when he said:

¹ AHEDA statistics: www.aheda.com.au

“As a manufacturer and exporter of consumer entertainment products, Sony DADC is a great example of Australia’s digital skills and industrial capacity...and it is an important part of our national digital economy”.

- There are three main disc replication facilities located in Melbourne and Sydney; they are Regency Media, Sony DADC and Technicolor.
- The above investment in the Australian economy and jobs could be jeopardised if intervention were to force suppliers to look to lower cost manufacturing alternatives.

4 Average wages

- It is also worth the Committee noting the differences in the average hourly wages from the two selective markets Senator Conroy has chosen to compare Australian IT prices and the findings of the Productivity Commission into Australian retailing:
- Minimum hourly adult wage: (currency conversion as at 29 May 2012):
 - UK is £6.08 = AUD\$9.68²
 - US is \$7.25 = AUD\$7.37³
 - Australia is \$16.51⁴

5 Video piracy and the internet

- Senator Conroy, in his letter to Committee Chair Mr Nick Champion MP (18 May 2012) in which he requests the committee to investigate IT pricing and outlined the terms of reference for such an inquiry, gave some context about the market, business models, growth in broadband infrastructure and the roll-out of the Government’s National Broadband Network.
- It is important for the Committee therefore to understand that the film and TV industry has been involved in major litigation resulting in a recent High Court decision in *Roadshow & Ors V iiNet*.
- The Court acknowledged that the present statutory and regulatory regime is:

“...not readily suited to enforcing the rights of copyright owners in respect of widespread infringements occasioned by peer to peer file sharing...”.
- It is clear from the decision that the policy outcomes in relation to online piracy which the Government sought by way of the 2000 amendments to the Copyright Act have not been achieved. Additionally, the case has shown that there remains unacceptable uncertainty for rights holders and more importantly for consumers.

² <http://www.hmrc.gov.uk/pay/payroll/day-to-day/nmw.htm>

³ <http://www.dol.gov/dol/topic/wages/minimumwage.htm>

⁴ <http://www.fairwork.gov.au/pay/national-minimum-wage/pages/default.aspx>

- It is now becoming increasingly urgent that the Australian Government takes a lead role in addressing this problem and separately we have asked the Government to do so.
- This context is important for the Committee given that Australia has some of the highest rates of peer-2-peer and streaming piracy infringements in the world. Currently Australia is exposed without a legislative regime to counter such behavior other than consumers being targeted with law suits which the movie and TV industry find ineffective and disproportionate, and the High Court found in the iiNet case to be impracticable (para 55 of judgment).
- This inquiry into IT pricing which specifically includes video is curious in this context given the stated importance of reducing piracy levels in the past by the government and also the [Gillard Government's recognition](#) that content is the key driver of the digital economy. At the end of the day – no business model and no price point can compete with free.

5 Conclusion

- No action is warranted. The sector is facing rapid change that will inevitably result in greater choice of viewing options and lower prices for consumers. History proves this to be the case.
- Intervention into the market economy would be damaging:
 - It is not only unnecessary but it risks distorting the sector at a critical point in its development.
 - Moreover, it may jeopardise the investment and commitment of industry participants to the local economy.

Attachment A: Embracing online competition and promoting new business models

- In Australia, consumers can access movie and TV content over the following set-top box or internet based platforms with such variety and choice likely to only increase (click a box to access the website):

