

internet onto the iPod. Well publicised cases alert the general public to the laws on downloading music from the internet; however, many do not know that downloading a CD onto an iPod is illegal and is a breach of copyright.

Fair use rights will also enable a person who has bought a DVD or computer game to make a back-up copy without any recourse from the distributors or manufacturers.

Obviously, the movie studios and computer game manufacturers are in a spin. Imagine if I am allowed to buy a DVD and make a back-up copy without breaching copyright. What stops me from giving that "back up DVD" to a friend?

Attorney General Phillip Ruddock has asked interested parties to make submissions to the Federal Government. The closing date for submissions is 1 July 2005.

No doubt many copyright holders and their supporters will be busily writing lengthy submissions in an attempt to protect their rights.

If you have a view, either way, now is your chance to have say.



Article by **Nathan Mattock**, a senior associate in Gadens lawyers' litigation group. Gadens lawyers is a top ten ranked firm in Australia. With more than 100 partners and 820 staff throughout Australia, Gadens lawyers partners with clients at local, state and national levels. Phone: + 61 2 9931 4966 email: nmattock@nsw.gadens.com.au

CHANGE OF LEADERSHIP AT PARAMOUNT

Although at the time of writing no announcement had been made about David Hunt's replacement as Managing Director of Paramount Pictures, it is confirmed that David will officially depart Paramount on the 31st July 2005.

In an open email to the industry, David says he had a wonderful 16 years in the industry and is only retiring from corporate life, not work, to pursue a "few adventures up my sleeve".

David notes "we have a fantastic industry and hopes it will continue to provide much enjoyment and profit to all. Look after it nurture it and make decisions that will secure your future, not just your present"

The Board of Directors, Members and all of us at the Australian Video Rental Retailers Association, take this opportunity to wish David well in all his future endeavours. We thank you for all your support and understanding during your term at Paramount Pictures.

Farewell, good luck .

PRESS RELEASE: NEW ROCKET INTEGRATION GIVES STORES WEB-BASED SMS MARKETING

A joint venture involving the newly-released Australian-developed home entertainment store software ROCKET® and Melbourne company i-txt is allowing home entertainment stores to market directly from their store computers to the mobile phones of customers via an internet-based text messaging service.

The new service has been developed specifically for the video/DVD rental/retail industry and allows stores to send reminders for overdue rentals, reactivation of lapsed members, latest movie releases, weekly specials or advice that a reserved title is available for collection.

An integration that has been created between i-txt and ROCKET (and its DOS-based predecessor VIDEOMINDER) allows stores to extract customer data directly from either software program and upload it to the i-txt website for SMS transmission to those specific customers.

All versions of ROCKET (and the latest version of VIDEOMINDER) are automatically compatible with i-txt. No additional software modules are required.

"Getting a cost-effective message directly and personally to each customer quickly, easily and effectively is the aim of every video business," said Angela Dunlop, managing director of ROCKET developer CustomSoft Australia Pty Ltd. "I-txt used in conjunction with ROCKET now provides that capability in-store at a modest cost per customer. As well, stores are using SMS as a simple way of communicating work information to their rostered counter staff." To use the system, stores need only run a ROCKET or VIDEOMINDER customer report, such as the overdue, lapsed member or birthday lists, and log onto the i-txt website, which will automatically upload the mobile numbers in the selected report. All the store then has to do is choose a template message, or create a message, and hit "send".

I-txt features include automatic removal of duplicates, delivery receipts, message history, viewing of inbound SMS replies and mail merge for personalising bulk messages. An automatic "opt-out" feature complies fully with the Australian Anti-Spam Act.

SMS marketing is the most effective and cost efficient form of direct marketing ever. With i-txt, stores can get a message straight into the hands of their customers instantly. From Late lists, birthday messages, lapsed members or special offers, i-txt is the perfect solution.

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OUR MISSION

To develop, promote and represent the video industry. To provide effective service, support and direction for our members.

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**It's on again this year
Do not miss out
Put the date in your diary now
Friday 9th December 2005**

**7.00 pm
Sofitel Wentworth Hotel
Phillip St, Sydney**

**For further information
and tickets sales
Contact Ross 02 9960 0046 or
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Piracy Remains a Top Priority

The results of the members feed back survey form unanimously confirmed that Australian Video Rental Retailers Association [AVRRA] members believe Piracy is the most important issue that affects their business.

The Board has actively discussed the issue at AVRRA Board meetings during the past year and the Association is working in close consultation with the Australian Federation Against Copyright Theft and other industry representatives to fight this very concerning issue.

This fight cannot be won without your help and to this end AVRRA encourages all members to get involved in reporting Piracy whenever it comes to your notice. One example just recently, in the big scheme of things seemed trivial, resulted in Rotary, District 9470 in Western Australia now prohibiting all sales of DVD and video in their market stalls. It is thought Rotary will adopt this decision to ban the sale of DVDs and videos throughout Australia. Only a small step but what a great result.

For those members who have not as yet taken a recent look at the AVRRA web site, I encourage you to do so. The Board has developed the site with its own dedicated Piracy icon giving members:

1. a direct link to the Australian Federation Against Copyright Theft to report Piracy
2. it lists all the latest AFACT media releases to keep you fully informed
3. provides members with a suggested generic letter to raise the issue with the local authorities and Government representatives and the local media.

Make use of the AVRRA web site – it is a very effective tool in fighting Piracy.

On another front I can report various meetings with Government by AFACT has successfully put the issue of Piracy on the Governments radar. The Executive Director of AFACT was asked to provide a detailed report on the issue of piracy which was tabled at a joint meeting of all state Attorney Generals, recently held on the Gold Coast.

Another industry delegation met with Senator Chris Ellison in late April to highlight the concerns the industry has about the lack of compliance Australian Customs shows at arrival ports in Australia on the passenger importation of DVDs. Senator Ellison was keen to talk about this issue and from the onset made it clear he understood the concerns Australian business had. This resulted in AFACT being asked to provide the Senator with a proposal that he could use to guide Government on an appropriate solution.

Piracy is a concern – wheels are moving, albeit slowly, but we need your help to fight this, so get involved, report all instances of Piracy to AFACT.

Membership 2005-2006

The membership year commences 1st July 2005 and all current AVRRA members will be receiving renewal invoices in late June.

The AVRRA Board of Directors wish to thank you for your support during the past year and looks forward to you renewing your membership and working with you to make the Video Industry the number one in home entertainment.

We ask that you all continue to encourage other retailers to be a part of AVRRA, the only independent body representing the rental channel.

AFACT MEDIA RELEASES

**April 22, 2005
Brisbane Court Fines Two Market Sellers \$22,000 For Pirate DVD Sales**

On 15 April, 2005, Brisbane Magistrates Court convicted Mr John Payne, a real estate salesman from Parkinson, and Ms Heng Liew Tan (a.k.a. Alice Payne) from Calamvale, of four counts of copyright-related crimes. The two pleaded guilty to three charges of possession of pirated DVDs with intent to sell, and one charge of selling pirated DVDs, and were ordered to pay fines of \$11,000 each and forfeit to police all goods seized.

Payne and Tan regularly sold pirated DVDs at Rocklea's local Sunday markets in Brisbane's inner west. Despite repeated warnings by the Australian Federation Against Copyright Theft (AFACT) and the Australian Federal Police, they continued to sell the discs, leading to raids on a Parkinson home, Coopers Plains storage facility, and a private vehicle. Hundreds of discs were seized from the three locations.

"AFACT and our members are very pleased to see the courts firmly enforcing Australia's laws in relation to intellectual property theft and movie piracy," said Adrienne Pecotic, Executive Director of AFACT. "The sentences handed down last week send a very strong message that the crime of piracy generates serious consequences."

**April 28, 2005
AFACT Movie Piracy Survey Shows Relative Availability of Pirate Movies Has Direct Impact on Video Store and Cinema Owners**

An Australian Federation Against Copyright Theft (AFACT) survey of video stores and independent cinemas across Australia has shown that the impact of piracy varies widely and is affected by the location of each individual store and its proximity to movie piracy activity.

Eighty-seven percent of respondents throughout Australia reported that pirate movies are available at their local markets, schools and shopping centres.

Seventeen percent of video store owner respondents and 33 percent of cinema owner respondents reported movie piracy to their local police. Of these, only one case was reported as resulting in police action [in association with a report to AFACT].

Over 25% of video store respondents were West Australians reporting high impact on sales of customer access to pirate movie sources overseas. West Australian businesses are particularly hard hit by proximity to movie piracy in Bali.

Adrienne Pecotic, Executive Director of AFACT, said, "The AFACT survey confirms that movie piracy is evident in all States and is impacting upon small businesses across Australia."

AFACT is participating in independent research commissioned by the MPA to assess the extent and financial impact of movie piracy on the film and television industry in Australia.

SURVEY RESULTS

Video Stores

99% of respondents owned their own store. All respondents reported that movie piracy was affecting their store, causing a downturn in revenue and customer visits. 70% reported a decrease in average rostered staff hours from 2003 – 2004.

Survey Results indicate that:

- Over 80% of respondents had observed piracy at local markets, 45% at local schools and 38% at local shops and shopping centres.
- 99% of respondents reported customers bringing pirate discs in from overseas, with 87% hearing reports from customers of sourcing pirate discs in Australia.
- 17% of respondents had reported movie piracy to their local police with none of these reports resulting in police action.
- The impact of movie piracy reported by respondents ranged widely from 5% to 90% with video store owners being most concerned about the availability of pirate discs in their neighbourhood,

followed by concern about customers buying pirate discs overseas or downloading illegal copies over the internet.

Independent Cinemas

53% of respondents owned their own cinema. 83% of respondents reported that movie piracy was affecting their theatre, with 47% reporting a decrease in average rostered staff hours from 2003 – 2004.

Survey Results indicate that:

- Over 63% of respondents had observed piracy at local markets, 33% at local schools and 20% at local shops and shopping centres.
- 97% of respondents reported customers bringing pirate discs in from overseas, with 73% hearing reports from customers of sourcing pirate discs in Australia.
- 33% of respondents had reported movie piracy to their local police with only one of these reports resulting in police action [in association with a report to AFACT].

The impact of movie piracy reported by respondents ranged widely from 2% to 60% with cinema owners being most concerned about customers burning illegal copies at home, downloading illegal copies over the internet, and buying/renting illegal discs in their neighbourhood.

**May 3, 2005
Victorian Man Gets Gaol on Child Pornography, Movie Piracy and Illicit Drugs Charges**

A Victorian man was convicted in Geelong Magistrates Court on 27 April, 2005 on copyright-, drug- and child pornography-related offences. Scott Sheppard, from Corio, Victoria received a three month gaol sentence with one month to serve for driving while disqualified, a one month gaol sentence suspended for two years on child pornography charges, and a three month sentence for copyright-related charges with one month to serve, and a twelve month good behaviour bond. Sheppard

is appealing the child pornography charges.

His partner, Nanette Blackney, also from Corio, was fined \$750 for possession of illicit drugs, and was sentenced to three months suspended gaol sentence on copyright-related charges.

The convictions came after police raided the couple's Corio home and a commercial address in Breakwater in May last year, seizing illicit drugs, two computer towers, four DVD burners, one printer for manufacturing DVD labels, two monitors and over 200 DVD-Rs. Child pornography was also found on one of the computers. The Breakwater property was capable of producing over \$550,000 worth of pirated DVDs in a twelve month period.

"Links are often found between movie piracy and other crimes including child pornography, and the gaol sentences handed down today by the Court are well-deserved," said Adrienne Pecotic, Executive Director of the Australian Federation Against Copyright Theft.

Piracy in Australia

AFACT estimates that MPA Member Companies lose in excess of \$59 million in potential revenue annually in Australia alone. The illegal distribution of unauthorized copies of movies rose from 4% in 2000 to around 8% of the legitimate market in 2003. Police across Australia have more than doubled the number of illegal discs seized in 2004 compared to 2003. Discs comprise mostly DVD-R copies as DVD-R technology has increased its share of the pirate optical disc market. In addition Australian Customs seized over 40,000 pirate DVDs imported into Australia in 2004, a marked increase compared to the 14,000 seized by Customs in 2003.

Police jurisdictions now recognise organized crime involvement in film piracy. Organized crime links to movie piracy in Australia were first uncovered following a raid on Malaysia-linked movie pirates in 2002.

Piracy in Asia

The MPA estimates that its member companies lose an excess of US\$896

million in potential revenue annually in the Asia-Pacific region alone. In 2004, the MPA operations in the Asia-Pacific region investigated more than 25,500 cases of piracy and assisted law enforcement officials in conducting nearly 12,000 raids. These activities resulted in the seizure of approximately 49,000,000 illegal optical discs, and the initiation of more than 8,000 legal actions.

About AFACT

The key objective for AFACT is to work closely with industry, government, police and educational institutions to address copyright theft and protect the commercial interests of the film and television industry as well as the interests of Australian movie fans. AFACT members include: Buena Vista International Inc; Metro-Goldwyn-Mayer Studios Inc; Paramount Pictures Corporation; Sony Pictures Releasing International Corporation; Twentieth Century Fox International Corporation; Universal International Films Inc; Warner Bros. Pictures International [A Division of Warner Bros. Pictures Inc]

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Industry push to crack down on pirated DVDs

SAM RILEY
Holidaymakers returning to Australia will be limited to five DVDs under a film industry plan to crack down on pirated movies. The proposal would end the days of people coming back from South-East Asia with bags loaded with pirated DVDs.

The illegal trade costs the Australian film industry an estimated \$200 million a year. The film industry claims Bali is the main source of pirated DVDs brought into WA. Customs Minister Senator Chris Ellison will today meet industry representatives who are calling for changes to the laws which allow Customs officers to seize DVDs only if they believe they are for a commercial or trade purpose. The Australian Visual Software Distribution Association chief executive Simon Bush said people were importing DVDs under the guise of personal use. They could make hundreds of copies for the black market from a pirated DVD.

The West Australian, 29 April 2005

Piracy conviction prompts warning

Illegal DVDs
A CLEARVIEW man who admitted importing illegal horror DVDs from the U.S. has been fined \$1500. Craig Jonathon Radcliffe, 33, pleaded guilty in the Adelaide Magistrates Court to importing prohibited items.

By Roderick Shaw

VIDEO and DVD piracy in the area was recently highlighted with a conviction in Blacktown Local Court. On April 29, the court sentenced Peter Horst Kokorczak, 59 of Smithfield, to a 12-month good behaviour bond for selling pirated DVDs in Blacktown and Penrith last year. Blacktown police worked with the private investigators, the Australian Federation Against Copyright Theft, to secure the conviction.

"Sales of pirated DVDs, videos and CDs are impacting on legitimate businesses," the federation's director, Adrienne Pecotic, said. "Blacktown police deserve thanks for helping to protect businesses trying to make an honest living." The owner of Blacktown book, CD and DVD store, Blue Mink, Kelly Ward, said she was always wary of people trying to sell suspicious-looking products. "We don't have much of a problem ourselves because these are checks by the police and the Department of Fair Trading," Ms Ward said. "We also take identification of people wanting to sell as CDs." But Ms Ward said no security was foolproof. She also said some pirates' copies were almost impossible to distinguish from the original. Ms Pecotic said customers should not buy pirated copies, however temptingly cheap. She said they not only endangered legitimate businesses and people's livelihoods, but could contain nasty surprises. "There's no quality control. You might also buy what you think is a children's video and find that it's really X-rated porn." Ms Ward acknowledged that unfortunately there would always be people willing to buy illegal products.

Blacktown City Sun, 10 May 2005

FAIR GO FOR FAIR USE: MAKING BACK-UPS COULD BE LEGALISED

Copyright holders such as movie distributors and computer game manufacturers got a nasty surprise when the Federal Government announced that it will examine whether to include "fair use rights" as an exception to copyright laws.

Fair use rights enable members of the public to make back-up copies of copyright material for personal use without breaching copyright. These rights exist in the US and most other countries, but not Australia.

An obvious example of an everyday breach of copyright which has been going on unabated is the use of iPods. To use an iPod a person has to illegally copy songs from a CD or from the