

COMMENTS CALL ON VIDEO EZY/ BLOCKBUSTER ACQUISITION PROPOSAL

The Australian Competition and Consumer Commission today issued a Statement of Issues on the proposed acquisition by Video Ezy Australasia Pty Ltd of Blockbuster Australia Pty Ltd and the master franchise rights for the business. Both Video Ezy and Blockbuster are owners and franchisors of stores in Australia that primarily rent and retail DVDs and games to consumers.

The statement invites further information and comment on the wholesale purchase of new release DVDs and the rental supply of DVDs to consumers. In particular, the ACCC invites comment on:

- whether the combined purchasing power of Video Ezy and Blockbuster would enable the merged entity to gain exclusive deals or other arrangements from DVD distributors that may raise the costs of other video rental outlets or otherwise undermine the ability of those other outlets to compete with the merged entity, and
- whether, despite the relevant franchisees remaining distinct and independent small business operators, the merger would facilitate tacit cooperation or otherwise undermine competition between independent Video Ezy and Blockbuster outlets, particularly where those outlets are the main video rental suppliers in a local market.

“The ACCC is seeking further information on its competition concerns regarding the wholesale purchase and rental supply of DVDs before making a final decision,” ACCC Chairman, Mr Graeme Samuel, said today. The ACCC invites further submissions from Video Ezy, its suppliers, competitors and customers as well as other interested parties that focus on the topics outlined in the Statement of Issues by Wednesday 23 May 2007. The ACCC expects that, once it has considered any further submissions, it will make a final decision on the proposed acquisition on 6 June 2007. The Statement of Issues will be available on the ACCC’s website, www.accc.gov.au, under *Mergers*.

Media inquiries

Mr Graeme Samuel, Chairman
(02) 6243 1131 or mobile/pager 0408 335 555
Dr Stephen King, Commissioner
(02) 6243 1178 or 0439 988 901
Ms Lin Enright, Director
Media Unit, (02) 6243 1108 or 0414 613 520
General inquiries Infocentre:
1300 302 502 NR 115/07 9 May 2007

AVRRA Policy

AVRRA Policy – Sales Kits

The information published in distributor sales kits provides retailers with the terms and conditions of sale on all products and allows retailers to make informed buying decisions. AVRRA expects that the information provided in distributor sales kits or on the Business to Business websites is full and accurate and, once provided, will not be varied for any reason, unless notified 21 days prior to shelf date and an opportunity to modify orders is made.

AVRRA Policy – Copy Protection / Piracy

Video piracy, whether for distribution or for personal use, is a serious and ongoing problem for the industry. The investment of both distributors and retailers in high quality product is compromised by piracy and all possible steps should be taken to overcome this problem. AVRRA recommends that all DVD products be copy protected using the latest technologies available. AVRRA also supports the collection of funds of up to 5 cents per unit sold into the rental/retail market to be used by a joint task force to combat Piracy, lobby Customs and educate the consumer as to its detrimental affect.

AVRRA Policy – Alternate Home Entertainment Providers [i.e. not bricks and mortar Video stores]

AVRRA respects the right of alternative home entertainment providers to market their product to consumers. However, AVRRA will continue to monitor the marketing tactics of the provider/ operators to ensure that accurate information is provided and that misleading statements or misrepresentations are brought to the attention of those service provider’s content owners and the appropriate statutory authorities.

AVRRA Policy – Exclusive Titles, Exclusive Versions and Exclusive Release dates.

AVRRA strongly disagrees with release of exclusive versions of any and all DVDs to any selected customer[s] and also exclusive releases. In addition, AVRRA strongly disagrees with early release dates of any and all DVDs to selected customers.

AVRRA Policy – Pre-Trailer on DVD

The use of current releases to promote or advertise forthcoming DVD releases is generally supported by AVRRA and the industry. However, the following guidelines should be followed:

1. Trailers included before the feature film should be limited to product released in the following month or recent New Releases.
2. There should be a provision for customers to fast forward but not skip trailers if they desire.
3. Third party products should not be advertised prior to the feature.
4. Include the Rent or Buy tagline on all trailers.

AVRRA Board Changes

With the resignations of both Rick Wight and Andrew Gardiner, February this year, the Board of AVRRA are very pleased to announce the appointments of Leila Agha, member of Leading Edge video group and Ray Robinson, a Blockbuster multi franchisee to the AVRRA Board.

Leila has successfully run her own video store for several years now and holds a Master of Business Administration amongst a series of other educational qualifications. Leila is also currently involved in many local community volunteer activities.

Ray Robinson’s involvement in the video industry started some 26 years ago. Ray spent many years working on the Distributor side of the industry finishing up with Roadshow in 2001 to become a consultant to the Blockbuster Group head franchise. In 2002 Ray took on his first Blockbuster franchised store and quickly expanded to become a multi site franchisee with some 19 stores under his control.

The experience of both these new Board members will undoubtedly add strength and a new dimension to the AVRRA Board.

Office of Film and Literature Classification for DVDs



Industrial Relations Contact Numbers

One of the most time consuming tasks of any business these days is ensuring wages and conditions for all staff are correct. For the convenience of members we have produced a list of contact details for all the Industrial Relations Departments (Australia)

New South Wales
131 628
www.dir.nsw.gov.au

Victoria
03 9651 5560 or 1800 287 287
www.irv.vic.gov.au

Western Australia
1300 655 266
www.docep.wa.gov.au

Queensland
1300 369 945 within state or 1800 177 717 elsewhere
www.dir.qld.gov.au

South Australia
08 8303 0400
www.industrialcourt.sa.gov.au

Tasmania
03 6233 7657
www.wst.tas.gov.au - general info
awards conditions
www.pat.tas.gov.au - award rates

ACT and NT
1300 363 264
www.wagenet.gov.au
note this web address also has links to each state site.

OUR MISSION

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

AVRRA Launches Strategic Goals Campaign

Would you believe me if I told you that three minutes of your time and one cheque can make your industry stronger and your business smarter? Good; read on.

The Australian Video Rental Retailers Association (AVRRA) is the single national membership body representing the interests of our \$650 million dollar industry. The AVRRA Board met recently and a unanimous decision was made to take a more vigorous, active role in promoting and protecting our members’ businesses as the premier home entertainment delivery format.

As you well know AVRRA is an industry association that’s not afraid to get its hands dirty. Our highest profile victory was over Warner Bros and its two-tier pricing of DVDs and we stood up again and challenged many claims made by Pay TV operator Foxtel. The Warner victory alone has saved our industry millions of dollars.

Now it’s time to act again, the AVRRA Board has set out a comprehensive list of strategic goals that they believe need to be addressed immediately.

Piracy

Having spent a huge amount of time, effort and expense involved in an Industry campaign against Piracy, it appears that campaign has stalled thru a lack of funding and an agreed direction with the campaign. The AVRRA Board is now committed to working directly with our members in fighting the Piracy issue. Point of Sale material, a voice over Piracy message on all trailers and direct lobbying and contact with the Australian Customs are our main focus.

Positive Public Relations

With all the new supposed whiz-bang deliver formats unfortunately the rental channel has taken a back seat in any positive public relations that has appeared in the media over the last few years. You know what I mean; Rental never gets a positive mention, its all doom and gloom. Well that’s all about to change, we have briefed our highly respected media consultants and they are currently preparing a detailed, positive public relations

media campaign that will highlight the benefits of rental and drive consumers back into your stores.

Rental Advertising

The AVRRA Board relentlessly continues to push all Distributors into using the “Rent or Buy Tag line” when advertising all their titles but this is not enough. Rental needs a national generic Rental advertising campaign to drive consumers back to renting movies.

Membership Drive

Although Association membership numbers have substantially increased over the last six years, the old saying is certainly correct “Strength comes with numbers” and boy with all the current issues at hand we certainly need strength and unity within the industry. An important strategic goal for 2007 is an active membership drive.

AVRRA Policy Promotion

AVRRA’s charter is to develop, promote and represent the video industry [our members], to do this AVRRA has recently revised and amended the AVRRA Policies and a concerted effort is needed to publish and promote those Policies within the industry as bench marks that we believe in.

Of course to do all of this it not only takes time but money and the Board of AVRRA is seeking a commitment of \$200 per store, from its members, to invest in the future of their businesses and future of the Rental channel.

THIS IS AN INVESTMENT FOR YOUR FUTURE SO DO IT NOW!!

Refer to the attached insert and send your cheque to:
AVRRA P O Box 420 Spit Junction 2088 NSW.

Or fill in your credit card details and then fax to:
[fax] 02 9960 0041

A tax invoice, marked paid will be issued upon receipt of your payment.

“Members Have Your Say”

“ The Board is encouraging members to email or write to the AVRRA office detailing, in short or at length, their thoughts on the industry and the matters that concern them most.

Email to: ross@avrra.com.au

or mail to: AVRRA Ltd,
P O Box 420
Spit Junction 2088

So get involved, let us know what’s on your mind. Look forward to hearing from you.

ASSOCIATE MEMBERS

Rocket Software (Customsoft) • Imagine Entertainment (an IDT entertainment company) • Eagle Entertainment • Legal and Commercial / National Default Registry • New Zealand Video Dealers Association • APRA • Settec Australia • Summit Technology Australia Pty Ltd

Distributors Withdraw their Support for the Awards

Here we go again another merry go round ride. The Association was notified recently by the President of AVSDA, that the Distributors would not be supporting the Australian DVD and Video Industry Awards this year. The explanation offered for this decision was that the members of the AVSDA Board wanted more control in the direction of the evening given that retail is the large majority of their business and rental has a larger portion of the night than desired, adding not that Rental is not important to them.

Hold your horses, take a step back in time, wasn't it the Distributors who four years

ago asked AVRRA to abandon their Rental awards and merge into one joint industry awards night, the Australian DVD and Video Industry Awards.

Those awards over the last three years have been a huge success with attendances of well over the five hundred people mark on each occasion. In conjunction with AVSDA the format and direction of the events had been fine tuned to suit the purposes of both Associations. Many, many people within the industry extended glowing comments and praises for the night saying that a single industry awards night was huge plus for the industry as a

whole. A great chance for all people in the Industry to get together at one time and not only award and recognize those worthy of an award but to celebrate the wonderful industry we all work within.

Well the AVSDA decision has put a stop to all of that. The Board of AVRRA is astounded and extremely disappointed with the decision.

So it is with huge regret we must inform our members that there will be no awards this year. The Board will continue to re think other formats for such an event hopefully in 2008.

Hackers: 1, Hollywood film studios: 0 – Blu Ray and High Definition DVD security hacked in a matter of days

Hackers have struck a powerful blow against film production companies in the war on piracy. The security regime used on new generation Blu Ray and High Definition (HD) DVDs, called the "Advanced Access Control System" (AACS) has been successfully hacked, and in a matter of mere days.

How the hack works

AACS involves a form of encryption on HD and Blu Ray DVDs. The film is stored on the HD or Blu Ray DVD is encrypted, and can only be accessed by a 'key' which also stored on the DVD and read by the player. If you make a copy of the DVD, the encrypted data will be copied, but not the key. Without the key, the DVD player cannot play the film.

A hacker going by the name "Muslix64" discovered that a readable version of the key was stored on his computer's memory. Muslix64 wrote a computer program that can be used to read the version of the key stored on the computer's memory, and then applied to a copied version of a DVD so that the player can decrypt the film data.

Muslix64 made the program available on the Internet so that consumers could make back-up copies of their HD and Blu Ray DVDs, and also included some keys

for popular movies that he had already obtained using the program.

Needless to say, the Hollywood powers-that-be are not happy. Vast quantities of time and money were spent developing AACS. It is highly embarrassing for it to be so easily dismantled.

Is the hack illegal in Australia?

The AACS works in a similar way to access control on Sony Playstations. Each involves a key (or an 'access code' in the case of a Playstation) without which the disk will not play. Neither mechanism actually prevents unauthorised copies of the film or game being made.

In 2005, the High Court ruled that mod-chips in Playstations were legal, but copyright laws have changed since then.

When the High Court looked at Playstations, it considered whether the 'access code' used on Playstation games was designed to "prevent or inhibit the infringement of copyright". It found that it wasn't, because it did not prevent an illegal copy being made. Under the new laws, the court would instead consider whether the access code or decryption key is "used in connection with the exercise of copyright". This is a much broader test. If the AACS is used in connection with the exercise of

copyright then it is illegal to circumvent the AACS, and Muslix64 would be liable for copyright infringement under Australian law.

How might the film studios respond?

It is too late for the film studios to do anything about the HD and Blu Ray DVDs that are already on the market. All of those movies can be hacked using Muslix64's software, notwithstanding that such activity is likely to be illegal.

In order to respond to the hack, the film studios will need to change the way the encryption key is read or stored on the computer's memory, so that it cannot be read by Muslix 64's software.

Nathan Mattock is a senior associate and Hannah Petrie is a solicitor in Gadens Lawyers' commercial litigation division in Sydney.



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TIP-OFF CLOSES DOWN PIRATE WEBSITE IN COASTAL TOWN

Ballina, NSW

In a joint operation involving NSW Police and investigators from Australian Federation Against Copyright Theft (AFACT), Music Industry Piracy Investigations (MIPI) and Microsoft, over 5,000 optical discs were seized at two locations in Ballina, on the Northern NSW coast.

The operation effectively shut down a sophisticated regional Australian piracy website offering hundreds of film, music and software titles for sale nationwide.

The confiscated discs included copies of HAPPY FEET, ROCKY BALBOA and CASINO ROYALE, films that are yet to be released on DVD, popular music CDs including Robbie Williams, U2 and Madonna, and computer software including Windows 2007 and Microsoft

Vista. The haul also included a number of pornographic DVDs, six computers, and a large collection of documents.

"The close working relationship between Police and investigators for AFACT and MIPI ensures that we are taking effective action against internet pirates," said Adrienne Pecotic, Executive Director of AFACT. "We will continue to take strong enforcement measures to guarantee that authorized content of our members is not abused."

"Today's police raid in Ballina reinforces that perpetrators of internet piracy live not just in major cities but in small and regional Australian towns. Internet piracy is of growing concern to the Australian music industry and has a significant negative effect on artists, songwriters and all of the

people involved in the music industry" said Sabiene Heindl, General Manager MIPI. "With less money in the industry as a result of internet piracy there is less money to be reinvested into finding and nurturing new Australian talent," she stated.

Originating in a tip-off by a member of the public, the raid followed a six month investigation into the suspected piracy operation which identified pirated material being marketed on a website. As part of the investigation, examiners made covert evidence purchases by ordering movie and music titles including CLICK, SPIDERMAN 2, and ALIEN Vs PREDATOR. The transactions resulted in pirated DVDs being received by post from a PO Box in Alstonville.

MAN PULLED OVER FOR SPEEDING GETS 12 MONTH SUSPENDED SENTENCE FOR MOVIE PIRACY

Burwood, NSW

On Tuesday 24 April 2007, a magistrate at Burwood Local Court in New South Wales sentenced Omar Moghni of Kingsgrove to a 12 month suspended jail sentence and a \$2,500 fine for possessing pirate movies for sale.

Moghni had pleaded guilty to 54 charges of trademark and copyright offences.

Moghni was arrested for speeding on King George Road, Wiley Park. Inspection of the vehicle by NSW Police uncovered a total of 2,246 illegal DVD movies including

copies of CINDERELLA MAN, WAR OF THE WORLDS and MR & MRS SMITH - films not yet released legitimately on DVD at that time in any part of the world.

The DVDs were found in the rear boot of the car, in a backpack behind the driver's seat, in the driver's door console and in the front passenger foot. Police also discovered A4 ring binders full of DVD movie jacket covers, one labeled "Latest DVD Titles: \$12.50 each."

Adrienne Pecotic, Executive Director of the Australian Federation Against Copyright

Theft (AFACT) said, "This sentence goes to show that movie pirates will be caught red-handed when they least expect it. Our courts support the view that movie piracy is a crime with grave consequences. Movie piracy hurts local businesses, and illegal DVDs sold out of a car boot has a detrimental effect on the legitimate suburban video store who provides employment to people living in their community."

Maximum penalties for copyright infringement are up to \$60,500 and 5 years imprisonment per offence.

WATERFRONT MANSION HOME TO PIRATE DVD LAB

Sylvania Waters, Sydney

Hurstville Police, assisted by investigators from the Australian Federation Against Copyright Theft (AFACT), raided a waterfront home in Sylvania Waters on 12 April, seizing an estimated 2,000 optical discs and 15 DVD burners.

It is estimated that the waterfront pirate lab was capable of producing over 374,400 discs per year with a street value of over \$1.8 million dollars.

Among the confiscated items were feature films currently showing in cinemas BRA BOYS and WILD HOGS, as well as recent releases THE QUEEN and ROCKY BALBOA, both not yet legitimately available on DVD. The haul also included the popular television show LOST.

Investigators from AFACT have confirmed the suspect is a courier van driver with a regular run around Sydney's southern suburbs.

"The protection of intellectual property is vital to our economic growth and global competitiveness, and movie piracy by any means undermines that," said Adrienne Pecotic, Executive Director of AFACT. "Theft of intellectual property will not be tolerated, and AFACT will continue to work with local police to ensure that infringers of film and television shows are charged and prosecuted according to the law."

Police are expected to lay charges under Copyright laws. Maximum penalties for copyright infringement are up to \$60,500 and 5 years imprisonment per offence.

Police raid stops pirated "Happy Feet" walking out the door

Sydney: She Fashion Accessories video store in Eastwood Shopping Centre mall, in Sydney's north, was raided by NSW police on Tuesday morning this week, with support from investigators from the Australian Federation Against Copyright Theft (AFACT) and Music Industry Piracy Investigations (MIPI). Police seized and confiscated thousands of pirated and counterfeit DVDs, including the Academy Award-winning film 'Happy Feet'.

On Monday night, George Miller's tap-dancing penguin movie won an Oscar, beating US front-runner, the Pixar Studios-produced 'Cars'. 'Happy Feet' was made in Australia and employed the talent of over 500 Australians on the production.

"People often focus on the glitz and glamour of the Oscars but it is the 50,000 Australians who rely on the film and TV industry for their livelihood including young people working in cinemas, video stores and our award winning young film makers that are the first to fall victim to the crime of film piracy," said AFACT's Executive Director, Adrienne Pecotic.

NSW Police and AFACT investigators continued counting illegal discs at She Fashion Accessories video store throughout the day and following. AFACT estimates between fifteen to twenty thousand illegal discs including multiple copies of TV series, unreleased movies and music DVDs were confiscated from the shop during the operation.

The husband and wife proprietors of the store allegedly manufactured illegal copies of popular film and TV series on DVD burners on the front counter of the video store, in full view of customers. Other illegal copies, according to NSW Police Inspector Jim Bilton, are alleged to have been imported in bulk from China.

"The DVDs were being sold or hired for well below the retail price which impacts on not only the revenue that's lawfully entitled to the artist, but also the production companies and impacts through to the genuine businesses," Inspector Bilton told reporters on the day.

The couple were arrested and are expected to face charges under the Copyright Act and the Trade Marks Act.

Offences under the Copyright Act carry a maximum five year jail term and/or a \$60,500 fine for each offence.

DVD PIRATE PAIR FINED \$20,000

A couple from Springvale was fined \$20,000 on 10 April at Dandenong Magistrates Court in Victoria for making and selling pirated DVDs. The sentence follows the raid on the home of Mr Huy Nguyen by Victorian Police and our investigators. During the raid police seized 11 burners, 4 desktop computers, 1 laptop computer, 2 external hard drives and 770 optical discs.

The hard drives were found to contain over 500 film masters used to burn pirated DVD-Rs. Movie titles included recent releases THE ISLAND, MILLION DOLLAR BABY and CELLULAR.

AFACT estimates indicate that Nguyen's sizeable home pirate lab was capable of producing over 165,000 discs per year with a street value of over \$1.6 million dollars.

Mr Huy Nguyen and Miss Thuy T. Tran, Nguyen's girlfriend, pleaded guilty to six charges under the Copyright Act and were found guilty by the court on all counts. Nguyen was fined \$15,000, while Tran was fined \$5,000.

UNDER THE COUNTER VIDEO SHOP OPERATION EXPOSED

Following an AFACT investigation, Bankstown Police and investigators executed a Federal Search warrant on a video store in Chullora on Friday 13 April. As well as supplying legitimate copies of DVDs, the owners of the store operated a pirate DVD business offering such titles as GHOST RIDER, NORBIT, CASINO ROYALE and THE GOOD SHEPHERD. Police seized 1,266 optical discs, including some hard core pornography, a 6 x DVD burner tower, and a summary document of profits made from the illegal pirate activity, amounting to approximately \$3,000 in sales per week.

The owner of the store was arrested and taken to Bankstown Police station, where he was charged with selling an infringing copy of CASINO ROYALE.

Further charges are expected to be laid.

Piracy in Australia

A study by LEK Consulting found movie piracy cost the film industry in Australia an estimated \$233 million in 2005, with losses mainly attributed to illegal downloading and illegal copying. These losses equate to nearly half of the \$536 million contributed to the Australian industry and economy through local and off-shore film and television drama production in the same year.

The illegal distribution of unauthorised copies of movies rose from 4% in 2000 to around 11% of the legitimate market in 2005.

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