



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

JULY 2012

1 Introduction

AHEDA is pleased to make this submission to the Standing Committee on the behalf of its members. 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. AHEDA also has three Associate Members whom represent the three major DVD and BD replication (manufacturing) facilities in Australia; Regency Media, Sony DADC and Technicolor.

As a preliminary observation, AHEDA finds it surprising that the Committee is conducting a comparative examination of the price of "videos" (which we assume covers the supply of physical media (DVDs and Blu-ray discs) containing movie TV and other audiovisual 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 takes place 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 have fallen steadily over time. Also, it is potentially very damaging since it could impact on Australian manufacturing and physical distribution and distort competition in a fast moving sector.

2 Fast moving and competitive market

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). However, retailers set their own pricing and average retail DVD prices suggest that they are broadly on par with those in Europe. In any event, for the reasons set out below, prices in Australia for physical home entertainment products are falling and it is expected that this trend will continue.

The industry in Australia is facing considerable pressure and sales of physical product are declining:

- DVD and Blu-ray combined sales are declining year on year in Australia (peak of AUD 1.4bn in 2008 declining to 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 (source iTunes).

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 problem in Australia and significantly impacts business models and viability (see piracy section of this submission).
- As shown in attachment A to this submission, there continues to be explosive growth in new technology and the means of content delivery with huge changes to the sector already being witnessed all of which provide consumers with more opportunities for viewing audiovisual content in more convenient ways – these include internet based video on demand (VOD), Electronic Sell Through (EST) - on-demand through web enabled set-top boxes / games consoles / iPads, catch up TV etc. This will continue to challenge the sale of physical products.
- Retailers are using DVDs as loss leaders (ie selling below wholesale price).
- The growth of global e-commerce opportunities (such as the ability to purchase from Amazon) allows Australian consumers the opportunity to purchase products on-line and thereby provides a significant constraint on local pricing.
- Local prices in any given territory are affected by a number of local factors including, amongst others, local manufacturing and distribution costs, advertising and marketing costs and retail overhead costs.
- Australian distributors are also required to meet local regulatory requirements such as classification and media access features that require local production and attention that again affect costs of supply.
- Prices of audiovisual products purchased overseas will also be affected by changes in currency exchange rates at any given time.

¹ AHEDA statistics: www.aheda.com.au

3 The industry supports local manufacturing

The industry is keen to continue supporting local manufacturing provided that it is economic to do so. Australia has a significant local DVD manufacturing and physical distribution presence that has recently been upgraded to include the latest technology in high definition Blu-ray Disc replication. There are three main disc replication facilities located in Melbourne and Sydney; they are Regency Media, Sony DADC and Technicolor.

Local manufacturing offers a number of benefits, namely it:

- 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 advertising, marketing and printing efforts.

Communications Minister Senator Stephen Conroy recognized this investment by global companies into Australian manufacturing facilities when he opened the new Sony DADC Blu-ray Disc manufacturing facility in June 2009 stating:

“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”.

Unfortunately, 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 between the two selective markets with which Senator Conroy has chosen to compare Australian IT prices as well as 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

It is important for the Committee to recognise that Australia has some of the highest rates of online piracy (both peer-2-peer and streaming) infringements in

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>

the world and 90 per cent of P2P piracy in Australia is infringing.⁵ Australia is currently 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. This is the difficult and regrettable position for rights holders following the rejection of remedies sought by them in the recent case *Roadshow & Ors V iiNet* (see para 55 of judgment). The Court itself 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.

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 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

In summary, AHEDA is concerned to ensure that the Standing Committee does not recommend unwarranted action in setting prices in a market-based economy that may detrimentally affect the industry. In particular:

- The sector is going through a period of unprecedented and rapid change that will inevitably result in greater choice of viewing, purchasing and renting options as well as a variety of different pricing models and affordable access to content for consumers.
- 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 and could be seen as sovereign risk.

⁵ http://www.afact.org.au/assets/research/BitTorrent_Report_2011.pdf

AHEDA would be pleased to elaborate upon the above points and to provide further information to the Standing Committee, if that would be of assistance in its deliberations.

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):

