



AUSTRALIAN FEDERATION AGAINST COPYRIGHT THEFT

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AFACT SUBMISSION - DIGITAL ECONOMY FUTURE DIRECTIONS CONSULTATION PAPER

10 February 2009

INTRODUCTION

The Australian Federation Against Copyright Theft Limited (AFACT) very much appreciates the opportunity to provide a submission in response to the Australian Government's *Digital Economy Future Directions Consultation Paper* ["the Paper"] to assist the Government identify issues to raise in the anticipated *Digital Economy Future Directions Paper* ["the Final Paper"] intended to "outline a roadmap for Government and industry to maximise Australia's online participation"¹

The Paper raises a number of issues and the on-line preamble invites the public to provide a response on only those issues that are regarded as priorities and we have therefore been selective in our response.

We understand the Paper is a preamble to the more detailed consultation, examination of international treaty obligations, and formal public review process that would be expected to follow publication of the Final Paper if specific instances of legislative and/or regulatory reform are identified for consideration in that document.

We also understand that the Government is seeking "to increase the effective use of networked information and communication technologies ["ICTs"], especially the internet, by consumers *and all businesses [my emphasis]* to drive higher productivity growth and community participation in the digital economy"².

We take this opportunity to commend the Government for its ongoing work in this area and for its appreciation that any consideration of how to increase the 'effective use' of the internet must examine *both the opportunities and the threats* presented to consumers and businesses by networked information and communications technologies in the current and fast changing digital environment in Australia.

The following submission will consider issues raised in the Paper from the perspective of the impact and potential impact of ICTs on the business of production and distribution of cinematographic film ("film") in Australia and in respect of copyright infringement of film and television content products via the internet.

¹ Australian Government Digital Economy Future Directions Consultation Paper pg 1

² Ibid pg 1

Information on AFACT, the film industry in Australia, movie piracy and copyright theft is attached in Annexure A.

EXECUTIVE SUMMARY

The film and television industry in Australia has challenges but is successful and diverse - it delivers films to consumers in a wide and increasing range of formats and price points and has adopted innovative ICT in many areas of development, production, post production, animation, high definition digital disc, digital effects, digital/3D cinema and distribution. Our industry sees great opportunity for ICT and emerging internet applications to enable legitimate content to be offered to both create and meet wider audience demand in vastly more flexible, effective and productive ways.

Measuring Success

The nature of digital technology and especially ICTs as “both disruptive and generative”³ means an increase in adoption of the internet cannot of itself be assumed to be of benefit to particular businesses, content creators or consumers in Australia.

For example, how do we measure the value of a cinema to the local community it services, what business factors sustain the ‘success’ of that business, and what opportunities and threats does it face in the digital economy?

A recent study by Price Waterhouse Coopers into the economic value of copyright industries to Australia found that they contributed 10.3% to Australia’s GDP – an increase of 66% since 1996, employing 837,000 Australians and contributing \$8.8 billion or 4.1% of all exports.

For content industries to adopt on-line delivery, requires a safe, stable digital environment in which to thrive. However little work is being done outside of individual affected IP industries to examine the economic impact of internet piracy, the attitudes and issues of internet users that contribute to this behaviour, and the impact on business take-up and investment in legitimate on-line content delivery business models.

The filmed content industry is challenged by increasing internet piracy, but the combination of successful business models meeting consumer tastes and desires, improved cross industry co-operation, regulation and law enforcement efforts, technological protection measures and clear consumer education – can if consistently applied be expected to deliver increased compliance and more productive on-line participation with determined effort and investment.

Filmed content businesses [like newspapers and many other copyright based businesses] continue to assess on a business case basis the extent to which embracing internet distribution of their content may reduce or expand the market return for their content.

The benefits of adopting internet distribution in Australia and therefore its ‘success’ must be assessed on whether the benefits outweigh the risk or reality of collapsing/cannibalising diverse revenue streams and reducing both the return on investment, the community services available, and the capacity [for content producers] to invest in the creation of more content – especially high value or niche audience content in Australia.

³ Ibid pg 17

Digital Confidence

In 2005, research firm LEK Consulting estimated that internet piracy accounted for \$92 million in lost revenues for the film industry in Australia (not including piracy of free-to-air television programs). The report estimated that Australians downloaded 11 million illegal copies of films in 2005. Broadband penetration in Australia has more than doubled since that study.

Trust and confidence in on-line transactions will be improved by both an increase in education about e-security and about 'what is legal and what isn't legal on-line' as well as adequately resourcing law enforcement bodies to enforce the law in the on-line environment.

AFACT submits the Final Paper should examine ways to limit the exposure of public and private organisations to on-line business failure and security issues as a result of the unauthorised use of P2P networks for distribution of unauthorised copies of film and television programs and other copyright works. In particular that Government take steps to more effectively discourage illegal file sharing by encouraging IP industries and ISPs to implement 'graduated response'. A study by 'Wiggin'⁴ in 2008 shows that 70% of people, across all age groups, would discontinue illegal file sharing if they were to receive a warning letter from their ISPs.⁵

Australia's Regulatory Framework

The Australian safe harbour regime represents a fine balance between the interests of copyright owners and other parties by adopting some parts of the equivalent regime operating under US copyright, while recognising Australia's existing unique legislative and judicial framework and following extensive consultations and both Senate and LACA Reviews. There are cogent reasons for not amending the law at this time including the complexity of balance struck in the existing regime which would impact other areas of the Copyright law, the failure of the regime to encourage ISPs covered under the existing definition to effectively address on-line copyright theft, and the likely impact on a significant case addressing this area of the legislation currently before the Federal Court.

Any further examination of the Copyright Act and its impact on the operation of basic and important internet services will need to be made in the light of how the law operates to encourage the creation of innovative copyright works, the remuneration to the authors of those works through exclusive usage rights, the system of exceptions for various fair dealing uses and the system of protection and enforcement of IP rights on-line. We would anticipate a need to address this impact through specific consultation on any specific suggestions or recommendations that may be brought to light following the publication of the Final Paper.

AFACT appreciates the opportunity to contribute to the Paper and looks forward to actively engaging with Government in the development and implementation of Australia's "Digital Economy Future Directions".

⁴ http://www.wiggin.co.uk/article_read.asp?ID=87

⁵ Graduated Response is a proposed cooperative system between rights holders and ISPs. When an infringement is detected on an Internet Protocol (IP) address, the ISP is notified who then determines the owner of the IP address. The ISP warns the user of illegal activity on their internet connection providing sanctions against users who continue to engage in illegal activity after being warned.

AFACT SUBMISSION - DIGITAL ECONOMY FUTURE DIRECTIONS CONSULTATION PAPER

WHAT DOES SUCCESS LOOK LIKE?

What markers of success can Government, industry and other stakeholders establish?

How will we know when we have maximised the potential of Australia's participation in the digital economy?

Copyright film is a product generated by the creativity and investment of people and businesses who hope to secure a consumer market, find an audience for their content, and derive revenue for their efforts.

Australian and global film and television content businesses have very successfully embraced digital technologies to transform and generate market and productivity gains – for example the rapid and extraordinary growth in the home entertainment content market created by adopting the digital DVD format to deliver filmed content to consumers.

While assessing the opportunity and threats of the internet on revenue streams, film and television content businesses have also embraced significant creative and productivity gains through ICT in the digital and online facilitation of production, post production and animation digital effects.

The nature of digital technology and especially ICTs as “both disruptive and generative”⁶ however means an increase in adoption of the internet cannot of itself be assumed to be of benefit to particular businesses, content creators or consumers. It may for example be merely replacing/substituting for other services of equal or more overall benefit – or result in widespread misappropriation of valuable copyright works such as through digital and on-line piracy.

Filmed content businesses [like newspapers and many other copyright based businesses] continue to assess on a business case basis the extent to which embracing internet distribution of their content may reduce or expand the market return for their content.

Very significant investments have been made and significant risks taken in Australia by companies seeking to establish new internet business models for filmed content delivery to Australian consumers. Reeltime Media and EzyDVD are well known examples of ‘early adopter’ companies that have been ultimately unsuccessful with these business ventures each ending recently in receivership, while offshore companies like Anytime have not found the Australian market viable and have in the main withdrawn their internet content delivery services from Australia.

The benefits of adopting internet distribution in Australia and therefore its ‘success’ must be assessed on whether these benefits outweigh the risk or reality of collapsing/cannibalising diverse revenue streams and reducing both the return on investment and the capacity [for content producers] to invest in the creation of more content – especially high value or niche audience content.

⁶ Ibid pg 17

DIGITAL CONFIDENCE

What more can industry and other stakeholders do to address concerns about consumer privacy and online safety?

The SANS (Systems Administration, Networking, and Security) Institute, one of the Internet's largest repositories of security research and maintainer of the "Internet Storm Centre" (an Internet-based early warning system), has identified P2P file sharing applications as a crucial internet security vulnerability⁷. According to SANS' *@Risk Consensus Security Vulnerability Alert*⁸ "traditional security tools provide an inadequate defence [against the vulnerabilities exposed by P2P applications]".

According to a 2007 study conducted on behalf of *iPoque*⁹, approximately 57% of Australian internet traffic is due to P2P file exchanges. Globally, about 70% of P2P traffic is due to the exchange of video data (motion pictures, films and television programmes).

The use of file sharing networking technologies are frequently and predominantly employed to facilitate copyright infringement while presenting an online environment that renders itself vulnerable to e-security threats.

In the area of both digital confidence facilitating business adoption, and the online skills and knowledge of consumers and businesses, significant additional attention is required to educate the rapidly expanding on-line community in cyber-citizenship and encourage businesses and families to address unauthorised use and distribution of copyright works via the internet which result in associated legal and security risks.¹⁰;

The Paper outlines that "the Government can help promote consumer digital confidence by setting a regulatory framework that encourages businesses to adopt practices that respect user privacy and security" ... and "to ensure that people [and this must include businesses] are as confident to interact and engage via the internet as they are offline".¹¹ We suggest the Government bring together a forum of affected ISP and IP industry businesses to clearly identify and address practical solutions to these issues.

AFACT submits the Final Paper should examine ways to limit the exposure of public and private organisations to on-line business failure and security issues as a result of the unauthorised use of P2P networks for distribution of unauthorised copies of film and television programs and other copyright works. In particular that Government take steps to more effectively discourage illegal file sharing by encouraging IP industries and ISPs to implement 'graduated response'. A study by 'Wiggin'¹² in 2008 shows that 70% of people, across all age groups, would discontinue illegal file sharing if they were to receive a warning letter from their ISPs.¹³

⁷ <http://www.sans.org/top20/>

⁸ <http://www.sans.org/newsletters/risk/display.php?v=3&i=36>

⁹ http://www.ipoque.com/userfiles/file/internet_study_2007.pdf

¹⁰ AFACT refers Government to the detailed submission we provided on this issue to the Attorney General in response to the "Whole of Government e-security Review" in July 2008.

¹¹ Digital Economy Future Directions Consultation Paper - pg 6

¹² http://www.wiggin.co.uk/article_read.asp?ID=87

¹³ Graduated Response is a proposed cooperative system between rights holders and ISPs. When an infringement is detected on an Internet Protocol (IP) address, the ISP is notified who then determines the owner of the IP address. The ISP warns the user of illegal activity on their internet connection providing sanctions against users who continue to engage in illegal activity after being warned.

What more can be done to increase trust and confidence in on-line transactions?

Trust and confidence in on-line transactions will be improved by both an increase in education about e-security and about 'what is legal and what isn't legal on-line' as well as adequately resourcing law enforcement bodies to enforce the law in the on-line environment.

What evidence shows the possible barriers preventing greater online content offerings? What can be done to address these?

In 2005, research firm LEK Consulting estimated that internet piracy accounted for \$92 million in lost revenues for the film industry in Australia (not including piracy of free-to-air television programs). The report estimated that Australians downloaded 11 million illegal copies of films in 2005. Broadband penetration in Australia has more than doubled since that study.

In the absence of effective education, the expectation by consumers created by ICT applications that copying the image on the screen or disc should be treated differently from stealing the screen or disc itself, together with ready access to technology that facilitates copying, is a principal contributor to the current rising levels of copyright theft in Australia and must be met by a concerted campaign of education and awareness, and appropriate sanctions.

The lack of appropriate cyber citizenship together with a lack of confidence in appropriate regulation and law enforcement in the on-line environment contributes to undermining of confidence in both content businesses and online distribution businesses to invest safely in the medium [note the significant investments made, followed by the failure of innovative Australian on-line authorised film content distribution ventures such as "Reeltime" and "EzyDVD"];

Unfortunately the "disruptive" nature of ICT has seen some online ventures effectively build global businesses from the users' appetite for unlicensed copyright content. The filmed content industry is challenged by competing business models and technologies vying to build revenues by delivering film content to consumers, sometimes without due regard for the cost of production of that film content or the fees and royalties payable to the people and businesses that contributed to the creation of the film.

International developments that are helping to increase the trust and confidence of both businesses and consumers in on-line content transactions include self regulatory industry agreements "that aim to facilitate licensing of digital works and the re-use of creative content."¹⁴

"Among other measures taken to enable the growth of UGC online and respect for intellectual property are the ...'UGC Principles' which are a set of guidelines agreed to in October 2007 by a group of media and internet companies that have as their objectives: (1) the elimination of infringing content on UGC Services, (2) the encouragement of uploads of wholly original and authorised user-generated audio and video content, (3) the accommodation of fair use of copyrighted content on UGC Services, and (4) the protection of legitimate interests of user privacy... These principles reflect the way forward so that creators, creative industries and UGC platforms continue to develop. They may serve as inspiration for a framework on the Internet which would continue to support the achievement of the full potential of the on-line, user-generated environment."¹⁵

¹⁴ MPA Submission in response to the EU Commission Green Paper "Copyright in the Knowledge Economy" – pg 9

¹⁵ Ibid. See also <http://www.ugcprinciples.com/>

In addition ISP and IP industries have begun to implement forms of “graduated response” regimes in the United States and the United Kingdom to educate on-line users of unauthorised copies of copyright material, to direct them to legitimate sources of the desired material, and to appropriately escalate sanctions in the event of repeat infringement. A ‘graduated response’ system is under consideration for possible commencement in New Zealand in early 2009.

These “graduated response” measures have been reported as very effective to educate consumers, give them greater trust and confidence in on-line content transactions, and reduce on-line infringement of copyright product with negligible repeat infringements after the first notices are received.

Unfortunately ISPs have not agreed to [or even broadly discussed] similar measures in Australia and have failed to develop an industry code of conduct to address rampant on-line piracy levels. We submit that in view of this failure it is necessary for Government to mandate a code of conduct to address on-line piracy so that those current and future businesses who wish to develop legitimate on-line film content distribution systems are not left to compete with increasing levels of theft.

ENSURING AUSTRALIA’S REGULATORY FRAMEWORK ENABLES THE DIGITAL ECONOMY

Should the existing copyright safe harbour scheme for carriage service providers be broadened?

The carriage service provider regime has been in its current form since it was introduced as part of the US Free Trade Agreement Implementation Act 2004. The regime represents a fine balance between the interests of copyright owners and other parties by adopting some parts of the equivalent regime operating under US copyright, while recognising Australia’s existing unique legislative and judicial framework and following extensive consultations and both Senate and LACA Reviews. There are cogent reasons for not amending the law at this time.

First, were the Australian safe harbour regime to be expanded to extend protection to non-ISP facilities operators, in the belief that this would harmonise the Australian safe harbour provisions with those under US copyright law, they would in effect secure a windfall benefit without becoming subject to conditions which apply under the US system. A key difference between the Australian safe harbour regime and the regime under the DMCA is that under the Australian regime the beneficiary of the safe harbours has no obligation to disclose details of infringing internet users to copyright owners whereas under the US regime a beneficiary of safe harbours does. This condition is fundamental to the US safe harbour regime and the maintenance of an appropriate balance between the interests of businesses and copyright owners.¹⁶

Were the Australian safe harbour scheme to be extended in the proposed single way without also introducing the disclosure condition, a copyright owner in Australia would be at a substantial disadvantage in comparison with their position under US copyright law, unfairly shifting the balance of interests currently struck under Australian copyright law,¹⁷ where there is no cogent evidence of

¹⁶ The balance struck between interests of copyright owners and facilities operators in the DMCA involves 3 elements: (1) an obligation on facilities operators to produce details of internet users alleged to have engaged in infringing activity, (2) the requirement that an ISP act in response to a take down notice and (3) a safe harbour for facilities operators who comply with the requirements under (1) and (2).

¹⁷ All the while there is no evidence of any material threat to facilities operators other than internet service providers which would justify a change in one specific element of the Copyright Act as opposed to a range of other amendments that would have benefits for other interest groups.

a threat that would justify the amendment.¹⁸ (It also illustrates the dangers in seeking to selectively import elements from another copyright law system without also understanding the context and conditions attaching to them in their home country.¹⁹)

Secondly, the safe harbours are currently the subject of consideration by the Federal Court in a case launched in November 2008 which is likely to be heard during 2009. The safe harbour regime is the central issue in the case. The proceedings were commenced by motion picture studios (and an Australian television broadcaster) in reliance on the existing state of the safe harbours. Amendment of the safe harbours now would be unfair to parties who brought a case in reliance on existing law.

The proposed amendment would not have a neutral impact on the case. It could well influence the interpretation of the safe harbours. This can be easily illustrated. Currently the only evidence that would be relevant to the impact of the safe harbours would be evidence from an internet service provider. This would change if a wider range of facilities operators were included in the scope of the safe harbours and provide a different context for the provisions to be construed. This is apparent from the terms of 116AG(5), which specifically requires the Court to consider the relative burden, feasibility and effectiveness of the proposed orders, currently only in relation to one class of business; ISPs.

Thirdly, the proposed amendment would in reality require numerous amendments to the safe harbour regime in Div 2AA, some being more than textual. ie. the provisions are littered with references to "carriage service provider" and refers to potential codes or regulations under the *Telecommunications Act* (which would not apply to non-ISP businesses seeking to benefit from the safe harbours).

AFACT also submits that it would also be inappropriate for one aspect of the carriage service provider regime to be considered in isolation of other elements of the regime, such as the concept of "industry code" in s116AB and s116AH. Although there is no industry code in place, the Government is well placed to facilitate the development of such a code by all relevant parties including affected copyright industries and carriage service providers within the existing legislative framework, and which is compliant with the Copyright Regulations.

As outlined earlier, there are a number of relevant international developments in support of such industry codes to facilitate the effective adoption of ICT technologies for the legitimate distribution of IP content on the internet, including developments in New Zealand, the United States and the United Kingdom.

¹⁸ No proceedings have been filed against Universities or other facilities operators since the implementation of the Australian safe harbour regime and the parties seeking the amendment cannot point to any material threat to them in Australia.

¹⁹ These dangers were apparent when the Parliament was not prepared to mechanically import into Australia the US law on fair use when the copyright Act was law amended in 2006. Contrary to the submissions made by parties seeking to import those provisions, a more careful assessment of the differences between the legal systems and copyright laws of both countries revealed that importing individual concepts from US law was fraught with danger and would undermine the certainty already present in Australian copyright law over the last 100 years.

Does Australia's copyright law unreasonably inhibit the operation of basic and important internet services? If so, what are the nature of such problems and practical consequences? How should these be overcome?

The existing Australian copyright regime has been extensively reviewed by Government over the last five years including through the Digital Agenda Review, the AUS Free Trade Agreement, the Fair Use Review and the Format Shifting Review. As mentioned above, the Copyright Act presently represents a fine balance between the interests of copyright owners and other parties by adopting only some parts of the equivalent regime operating under US copyright: and while recognising Australia's existing unique legislative and judicial framework and after extensive consultations and both Senate and LACA Reviews.

Any further examination of the Copyright Act and its impact on the operation of basic and important internet services will need to be made in the light of how the law operates to encourage the creation of innovative copyright works, the remuneration to the authors of those works through exclusive usage rights, the system of exceptions for various fair dealing uses and the system of protection and enforcement of IP rights on-line. We would anticipate a need to address this impact through specific consultation on any specific suggestions or recommendations that may be brought to light following the publication of the Final Paper.

OPEN ACCESS TO PUBLIC SECTOR INFORMATION

What categories of Public Sector Information [PSI] are most useful to industry and other stakeholders to enable innovation and promote the digital economy?

Care should be taken in considering whether to allow public use and reuse of publically funded copyright cultural material such as film and television content in order not to disenfranchise/remove creative incentive from the original authors of these works or diminish the returns on investment to Government Agencies currently used to promote the creation of new works.

What are priority issues that will facilitate the use of PSI?

A priority issue is to consider the balance between the social and economic benefit of innovation that might come from the public use and reuse of publically funded copyright cultural material such as film and television content measured against the social and economic benefit of incentivising the original authors and retaining their exclusive right to create new works based on their original copyright work.

MEASURING THE DIGITAL ECONOMY AND ITS IMPACTS

What, if any, additional datasets should government collect to improve the benchmarking of Australia's digital economy?

A recent study by Price Waterhouse Coopers into the economic value of copyright industries to Australia found that they contributed 10.3% to Australia's GDP – an increase of 66% since 1996, employing 837,000 Australians and contributing \$8.8 billion or 4.1% of all exports.

However little work is being done outside of individual affected IP industries to examine the economic impact of internet piracy, the attitudes and issues of internet users that contribute to this behaviour, and the impact on business take-up and investment in legitimate on-line content delivery business models.

The filmed content industry is challenged by increasing internet piracy, but the combination of successful business models meeting consumer tastes and desires, improved cross industry co-operation, regulation and law enforcement efforts, technological protection measures and clear consumer education – can if consistently applied be expected to deliver increased compliance and more productive on-line participation with determined effort and investment.

Appropriate datasets to benchmark this assumption need to be introduced to measure the impact of these factors on the extent and breadth of on-line piracy, and the adoption, efficiency and 'success' of ICT to film content businesses and related consumer services.

What do you consider are the key digital economy indicators?

An accurate assessment of 'success' and 'key digital economy indicators' can only be made by measuring both the economic contribution to Australia's GDP of the increasing use of the internet by particular services and businesses compared to other technologies/business models, and the impact of the increasing use of the internet by particular services and businesses on the social and cultural well being of Australians.

If we measure and globally benchmark our participation in ICT against both social and economic markers we will monitor our participation in the digital economy and will be able to identify the extent to which it is continuing to deliver benefits as opposed to reducing benefits to particular business sectors and to Australia's society and GDP as a whole.

For Example:

It is not easy to maintain the commercial viability, research, development and investment in much film product in the face of many of the threats currently presented by ICT challenges. Certain sectors of the film industry in Australia such as Australian film and television production, independent cinema, and film rental – especially in suburban and regional areas - are already at real risk of market failure.

Care must be taken to assess the economic and social value of some existing business models as against the digital economy equivalent. If the local cinema in a regional town is replaced by on-line film content delivery how do we measure the relative 'benefits' of that development to the social well being of the local community ?

The Paper identifies that "the next wave of growth in the digital economy is predicted to be driven mainly by increasing revenues through growing spend per user rather than increasing the number of users"²⁰

Australian [and global] film and television content producers have very successfully licensed copyright content on an exclusive basis and across many different price points to consumers from cinema exhibition to ad sponsored 'free to air' television in order to maximise return on high risk investment. In the context where six out of ten MPA studio feature films never deliver a profit, audio-visual content has developed one of the most diversified markets for a single entertainment product. For this reason, content businesses will carefully assess on-line distribution opportunities to 'grow the audience' and also to prevent or minimise the risk of cannibalising critical valuable revenue streams.

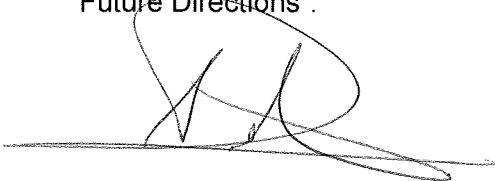
For example, the Paper identifies several benefits of geo-location data in the context of ICT²¹.

²⁰ Ibid pg 5 Booz & Co, Digital Confidence – Securing the Next Wave of Growth [2008]

Australian [and global] film and television content producers have very successfully licensed copyright content on a geo-location basis in order to maximise return on high risk investment, and are overseas adapting this practice successfully to the internet to target content and associated advertising and promotions to prime audiences. Conversely an inability to adapt, or restrictions placed on, use of geo-location data and licensing on the internet would be expected to significantly hamper revenue streams and therefore adoption of this medium by content producers for prime audio visual content compared to existing business models.

The film and television industry in Australia has challenges but is successful and diverse - it delivers films to consumers in a wide and increasing range of formats and price points and has adopted innovative ICT in many areas of development, production, post production, animation, high definition digital disc, digital effects and distribution. Our industry sees great opportunity for ICT and emerging internet applications to enable legitimate content to be offered to both create and meet wider audience demand in vastly more flexible, effective and productive ways.

AFACT appreciates the opportunity to contribute to the Paper and looks forward to actively engaging with Government in the development and implementation of Australia's "Digital Economy Future Directions".

A handwritten signature in black ink, appearing to read 'ADRIANNE PECOTIC', written over a horizontal line.

Adrienne Pecotic
Executive Director

ANNEXURE A

The Australian Federation Against Copyright Theft

The Australian Federation Against Copyright Theft was established in 2004 to protect the film and television industry, retailers and movie fans from the adverse impact of copyright theft in Australia. AFACT works closely with industry, government and law enforcement authorities to achieve its aims.

AFACT acts on behalf of the 50,000 Australians impacted by copyright theft including independent cinemas, video rental stores and film and television producers across the country. AFACT members include: Village Roadshow Limited; Motion Picture Association: Walt Disney Studios Motion Pictures Australia; Paramount Pictures Australia; Sony Pictures Releasing International Corporation; Twentieth Century Fox International; Universal International Films, Inc.; and Warner Bros. Pictures International, a division of Warner Bros. Pictures Inc.

Film Piracy in Australia

A report by LEK indicates that movie piracy cost the film industry in Australia in excess of \$230 million in potential revenue in 2005. The illegal distribution of unauthorized copies of movies rose from 4% in 2000 to around 11% of the legitimate market in 2005. Discs seized by police comprise mostly DVD-R copies made in Australia as DVD-R technology has increased its share of the pirate optical disc market. In addition, Australian Customs seized more than 40,000 pirate DVDs imported into Australia in 2004, a 185% increase compared to the 14,000 seized by Customs in 2003.

In 2008, state and federal police conducted 51 raids involving movie piracy and seized 544,697 pirated DVDs. They also seized 488 burners capable of producing 12 million pirated DVDs a year with a potential street value of over \$61million.

Internet Piracy

Internet piracy is the downloading or distribution of unauthorized copies of intellectual property such as movies, television, music, games and software programs via the internet. Illegal downloads occur in many forms including via file sharing networks, pirate servers, websites and hacked computers. Each file posted on the internet can result in millions of downloads. Posting movies on a peer-to-peer (P2P) networks or unauthorized websites can result in the transmission of these illegal files to millions of people.

Hard goods pirates, who distribute illegal copies of copyrighted material recorded onto DVDs, CDs and videotapes, use the internet to extend their reach, selling these materials through auctions and websites.

In 2005, research firm LEK Consulting estimated that internet piracy accounted for \$92 million in lost revenues for the film industry (not including piracy of free-to-air television programs) in Australia. The report estimated that Australians downloaded 11 million illegal copies of films in 2005.