



2 June 2016

Productivity Commission  
Canberra ACT 2600

## **Submission to the Productivity Commission in relation to Intellectual Property Arrangements**

Village Roadshow Limited ("Village") strongly rejects the findings and recommendations in the Productivity Commission's Draft Report on Intellectual Property Arrangements dated April 2016, and urges a reconsideration of its findings.

Village strongly supports the submission from the Australian Film/TV bodies in relation to the Productivity Commission's Draft Report, but wishes to add its separate voice to the discussion.

Village has a diverse and broad range of film and entertainment assets. Our core businesses in cinema exhibition, film distribution, film production and theme parks depend heavily on the creation, skilful use and strong protection of intellectual property, including copyright. From our Village cinemas in Hobart, to our movie studios on the Gold Coast, from Wet'n'Wild Sydney to Event Cinemas in Innaloo, Western Australia, our employees, customers and suppliers rely on a strong framework of intellectual property rights, underpinned by certainty in dealing with those rights.

Village is a proudly Australian company and is one of the largest producers and distributors of filmed entertainment in Australia, from initial ideas, conception and script writing, through detailed involvement in all areas of film production, including owning Australia's largest film studio, to distribution and use of that filmed entertainment through a myriad of channels, including cinema, subscription and free television, DVD and, importantly in today's environment, all aspects of digital and online exploitation. Village speaks with deep knowledge of the practical implications of potential changes to the protection of intellectual property and does not come with an "academic", theoretical, perspective.

The Productivity Commission's Draft Report ignores the real world, and adopts a flawed concept of copyright that colours and prejudices its findings and recommendations. Those findings and recommendations are unsafe for the Australian Government to rely on.

The fact that Australia is a net importer of intellectual property does not mean that we should weaken legal protection of copyright. Australian intellectual property requires strong protection in the face of piracy. The fact that international creative organisations also benefit from Australia's strong copyright protection should not be used as an excuse to water down that protection.

The protection of intellectual property rights has allowed and encouraged Village to invest hundreds of millions of dollars, making long term capital and employment commitments in developing and growing its business, in the knowledge that the key product of its business, namely creative content, will be protected and Village can seek an appropriate return on that investment. Rather than the protective framework offering the minimum incentives for investment, I urge the Commission to listen to a major, real world, enterprise and maximise incentives for the continued strong, (if not stronger), protection of intellectual property in Australia. In that regard, Village endorses the suggestion of the Department of Communication

and the Arts for the Productivity Commission to examine the small claims model adopted by the UK Intellectual Property Enterprise Court to consider whether a similar model could be adopted in Australia.

### **AUSTRALIANS BENEFIT FROM STRONG COPYRIGHT PROTECTION**

In real-world terms, a weakening of copyright protection opens the door to continued, or even increased, online piracy which means:

- The Australian film and television drama production industry would be shut down. Without strong copyright protection there is just no business model.
- Australian families and kids, whether it be in Frankston, Parramatta, Ararat or Launceston, have the cinema as the social hub of their communities. If the product is stolen there will be no viability and not only will there be massive job losses but arguably the soul of communities will go dark.
- The home entertainment industry employs 2000 people and for example in a country like Spain where piracy hasn't been addressed by government the entire sector has closed down with loss of all jobs.

Piracy is theft. Pirate websites earn tens of millions of dollars in advertising but employ not one single Australian and pay zero tax. A survey of 45 of the largest infringing sites demonstrates that over half (60%) were disseminating malware, viruses and fraud programs which hijack and compromise people's computers. The criminals are not deterred because they don't believe they will be caught. Could you imagine a Westfield Shopping Centre or a town centre harbouring shops selling scams, escort services, hard-core pornography, steroids and party pills, which is the world of pirate websites, and what strong copyright protection eliminates?

Of course strong action against piracy means there is a benefit to the United States studios and to their feature film release program but this is secondary to the benefit to Australia and Australians. There are 46,000 Australian jobs in jeopardy and the \$5.8 billion benefit to the Australian economy from the film and television industry is at risk if the Draft Report is acted upon by the Australian Government.

### **VILLAGE DOESN'T JUST RELY ON LEGAL RIGHTS**

Village is very much aware that critical to the success of maintaining the relevance of copyright is that strong legal protection and enforcement of copyright is accompanied by legally available cheap product – Australian digital download is now cheaper than the UK and the USA. Additionally, streaming and on-demand services like Netflix, Stan, Presto and others have opened, and are at world competitive pricing. Village accepts and understands that people want to get product at the same time as the rest of the world and at low prices. Village is using its influence to ensure that films are released into cinemas in Australia at the same time as the rest of the world.

The undersigned is a strong champion of Australian filmed entertainment (as well as international filmed entertainment) and will continue to fight to protect the rights of creators of great content for Australians to consume.

Yours sincerely

**Graham W Burke**  
**Co-Chairman and Co-Chief Executive Officer**  
**Village Roadshow Limited**

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