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Intellectual Property Team
Ministry of Business, Innovation and Employment
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By email: ip.policy@mbie.govt.nz

SUBMISSION on
Review of Ban on Parallel Importation of Films

Introduction

1. Thank you for the opportunity to make a submission on the discussion document on the parallel importation of films. This submission is from Consumer NZ, New Zealand's leading consumer organisation. It has an acknowledged and respected reputation for independence and fairness as a provider of consumer information and advice.

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Summary

2. We believe the temporary ban on the parallel importation of films should be allowed to lapse on 31 October 2013. The ban unnecessarily limits consumer access to the latest films. We agree with the conclusion of the Law and Economics Consulting Group (LECG) that this restriction on trade does not provide a net benefit.

Parallel imports not linked to box office revenue

3. The ban was established to prevent parallel-imported films from undermining box office revenues. However, research carried out by the LECG during the last review suggests *parallel imports and box office revenues are not linked*.

Greater access to films

4. The ban gives licensed distributors a de-facto monopoly over films for a period of nine months. The monopoly allows distributors to delay cinema release dates in order to maximise profits. Lifting the ban will give consumers better access to the latest films as distributors will face competition from parallel imports if cinema releases are delayed.

5. Consumers will also have access to newly released DVDs earlier and potentially at more competitive prices. While consumers can already parallel import DVDs for

private use, they're more likely to buy parallel-imports if they are available from local retailers.

6. We expect distributors will still invest in a variety of films if the ban is lifted. New Zealand has a number of boutique cinemas which specialise in films beyond the mainstream.

Transition to digital exhibition technology

7. One of the reasons for extending the ban in 2007 was to protect box office revenues while cinemas transitioned to digital exhibition technology. An estimated 57 percent of cinemas use the new technology. The remainder (many of them in rural and provincial centres) still rely on film prints.

8. Digital exhibition technology allows distributors and cinemas to obtain films more quickly. In turn, consumers can watch the latest blockbusters closer to the international release. In some instances, the New Zealand and international release are simultaneous.

9. By lifting the ban on parallel-imported films, New Zealand distributors and cinemas will have an incentive to screen films as close as possible to the international release date. Those cinemas that still rely on film print will also have an incentive to transition to new technology.

10. While there is an upfront cost in moving to digital, the films are cheaper to buy. Potential increases in ticket prices to cover investment costs might be mitigated by cheaper running costs in the long term.

11. There is a weak argument that some cinemas will not be able to invest in new technology if their revenue is undercut by parallel imports. As noted above, parallel imports and box office revenues are not linked. The LECG report states the box office did very well in the three years prior to the ban on parallel-imported films (2000-2003). The report also states there was a significant amount of refurbishment and construction of provincial and city multiplexes over this period.

Summary

12. Consumer NZ believes the benefits for consumers of removing the ban out-weigh arguments for retaining it. In 2007, the LECG believed the case for retaining the ban was weak. Today, it may be an impediment to new markets and services. It should be allowed to lapse on 31 October 2013.

Thank you for the opportunity to make a submission on this discussion document. If you require any further information, please do not hesitate to contact me.

Yours sincerely

Hamish Wilson
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