

Guidance and information

Film distribution and exhibition code of conduct

On 13 August 1998 Commission Chairman Professor Allan Fels launched a voluntary code to provide mediation between parties in the cinema industry.

For some years, the Commission has received a constant stream of complaints from small film exhibitors about the supply and conditions of supply of films, particularly first release films which are the lifeblood of film exhibitors. The small exhibitors argued that refusal to supply, or onerous conditions of supply, was an abuse of market power by the large distributors. However, to prove a breach of this particular section of the Trade Practices Act, the exhibitor or the Commission had to prove that the distributor had the purpose or intention of damaging or destroying particular competitors.

The new code follows an extensive study of the industry by an ACCC-commissioned consultant who recommended the development of a code of conduct.

The new code contains principles covering the supply of prints, trading terms, supply of trailers and advertising materials, supply of information, review of sessions policy, and exhibitors' and distributors' obligations.

The code also provides for a quick, accessible and relatively inexpensive means of settling disputes. The linchpin of this dispute resolution process is access to an independent conciliator.

The code will be administered by a Code Administration Committee made up of representatives from all parts of the industry.

The Commission hopes that the code will allow for greater transparency in the industry, provide more objective benchmarks for access to films and the terms and conditions of such access, lead to a greater degree of certainty for all parties, and help to alleviate the mistrust which has developed between major distributors and some small exhibitors.

Along with the Oil Code and the Franchising Code of Conduct, this code is designed to help address the imbalance of bargaining power that small business suffers in its commercial relationships.



New publications

Publications for franchisees and franchisors

The new Franchising Code of Conduct, in force from 1 July 1998, gives franchisees specific rights in their business dealings with franchisors, from start up to termination. The code, developed by the Commonwealth Government as part of its work to facilitate small business operations, is a mandatory code of conduct. It is prescribed under the Trade Practices Act and is enforced by the ACCC.

The code covers disclosure by franchisors of business details to intending franchisees, dispute resolution, freedom of association, operation of marketing funds, independent advice on sign-up, and other key aspects of a franchising relationship.

Copies of the code are available free from Commission offices and the Department of Workplace Relations and Small Business. Further information and electronic versions of the code are available from the website of the Department of Employment, Workplace Relations and Small Business at <http://www.dwrsb.gov.au/smallbus/fairtrad/francode.htm>

To help franchisors comply with the code, the Commission, together with the Office of Small Business, has also produced a Franchising Code Compliance Manual which is available for \$130 from Commission offices. It is a small business tool, user friendly and written in plain English.

The manual gives comprehensive coverage of various issues including the application of the code, franchise conduct, renewals, terminations, supply of goods and services, and disclosure document obligations.

It includes a diskette (incorporating a checklist and sample disclosure document) plus copies of the *Franchising Code of Conduct* and *Small business and the Trade Practices Act* booklets. It is available for \$130 from ACCC offices.

For franchisees, the Commission has produced a booklet, *The franchisee's guide*, explaining when the code will apply and what information should be provided to help franchisees make

sound commercial decisions. The booklet also discusses the rights and obligations of franchisors and franchisees under the code and what to do when things go wrong. It is available free from Commission offices and from the Commission's website.

News for business: Product safety standard for cots

On 30 June 1998 a new mandatory product safety standard covering children's household cots took effect. The standard applies to household cots, both new and secondhand. It does not include folding cots, carry cots and cradles. The standard is based on the Australian/New Zealand Standard 2172:1995.

The Commission has produced a news for business guide to the standard. The guide is particularly important for anyone who makes, distributes, imports, sells or hires household cots, as all are required to adhere to the standard. It includes a checklist to help assess whether or not a cot meets the mandatory requirements.

The Commission's guide should be read in conjunction with the standard itself, which sets out technical and performance specifications, and the gazette notice. The news for business guide is available free from Commission offices. The standard can be purchased from Standards Australia by phoning 1 300 654 646, and the gazette notice is available from Commission offices.