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Dear review committee,

I'd like to make a few comments regarding the Issues Paper for the Intellectual Property & Competition Review Committee.

My comments are from the point of view of a consumer, and in particular I would like to address the issue of region encoding for digital media. While my discussion is with regards to DVDs, the region encoding issue will become more and more common in other technologies as time goes on.

Thank you, and best regards,

Simon Walmsley

Region Encoding of Digital Media

Imagine if you bought a book in England and were *prohibited* from reading it in Australia. Imagine if you bought a CD or cassette of music while travelling somewhere outside Australia and your CD player or tape recorder refused to play it because it wasn't purchased in Australia. We all enjoy the benefits of books and CDs, and even more so since these media have the benefit of being useable anywhere in the world. While the imagined scenarios that I have described sound ridiculous, this is *precisely what is now happening in the DVD industry*.

A DVD is physically similar to a CD, except it has considerably more data storage capacity – enough to hold a movie. One of the great things about DVD movies is a quantum leap in video and audio quality over VHS tape. The same DVD can hold commentary tracks, multiple language tracks, subtitles in a number of languages, and additional interesting content relating to the movie.

The international DVD industry has divided the world into 6 arbitrary regions. The United States is region 1, the UK and Japan are in region 2, Australia is region 4, and so on. The idea is that each DVD is encoded with a region number that a DVD player checks to ensure that the DVD is for use within that region. Some (very few) DVDs are encoded region 0, and will play in all regions. Other DVDs are encoded with region 2 and 4, and so will play in players from the UK as well as Australia. A region 4 encoded DVD will only play in Australia.

I understand that some DVD companies are lobbying the government to make it illegal to modify a DVD player so that it can play DVDs from all regions. Please do not agree to their requests! While I would like region coding to be eliminated altogether, please at least allow the current situation of people modifying players to continue.

I want to be very clear about one thing: when a DVD player is modified to play all regions, *it has nothing whatsoever to do with piracy*. I wholeheartedly support moves to reduce or eliminate piracy so long as those moves don't stop people from doing reasonable things with legitimate products. For example, at the moment some people modify their Sony Playstation game consoles in order to play pirated CDRs of games instead of legitimate games. I am quite in favour of the prohibition of such modification. But with DVDs, the hardware modification is done for a very different reason – and that reason is not to play pirated movies.

What I am writing about is *wanting the ability to play a DVD from anywhere in the world*. If I buy a legal and proper DVD of a movie in another country I want to be able to play that DVD in Australia. It's as simple as that. I can do it with books, cassettes, CDs, even videotapes and LPs. Please don't stop me watching my choice of DVD.

The current situation with region encoding is to create ***technology enforced exclusive markets*** – otherwise known as monopolies. Please don't pass legislation that prevents us from buying multi-region players or modifying players to be multi-region. If you pass such legislation, you will be allowing monopolies, will reduce competition, and will encourage lower quality products.

My reasons are outlined on the following pages.

1. Availability

A movie may be released in one country and is not available in Australia. Take for example, the movies Gallipoli, Picnic at Hanging Rock, and Walkabout. All of these movies are available in the USA on DVD, but are not available in Australia. Eventually they will be available, but who knows when? Worse, what if the local company does not want to reissue the movie on DVD for whatever political reason? If the movie is available somewhere else why should I not be allowed to import my own copy and watch it here? It should be noted that by contrast, on occasion, certain DVD titles are available in Australia that have not been released anywhere else. Should we stop other people from buying the available Australian product? In my opinion, no.

In some cases the movie may be of a subject so obscure that the manufacturer simply doesn't even consider global distribution. For example, a particular TV series on the BBC "Great Train Journeys of the World" may be made into a DVD for sale in the UK but never offered to Australia because the ABC never happened to show the series.

Finally, in terms of availability, there is the sheer number of movies from around the world produced in all manner of countries that will eventually be available on DVD. Many of these will not be available locally in Australia. Even comparing region 1 with region 4 shows a disparity of availability: currently there are more than 4000 titles available in region 1, and only about 300 available in region 4.

2. Different Content on the DVD

2.1 Audio & subtitles

One of the advantages of the DVD format is the availability of multiple audio tracks. These allow director's commentaries and other interesting content to be available simultaneously with the movie. For example, the US DVD of Walkabout contains a feature length commentary by the director about the film. You can watch the movie normally, but if you switch to the director's commentary track, you can hear the director describing the scene that you are watching. If the DVD is released in Australia this commentary is not likely to be included on the Australian region 4 release. This is because the commentary track is owned by Criterion (an American company), and the Australian DVD issuer may not license the commentary since the comparatively low Australian population may not make it a viable option. Now some people won't care what the director has to say. But I don't want to have my choice to listen to this fascinating insight into the movie eliminated.

The different content also extends to languages and subtitles encoded on the DVD. There are only so many languages that you can fit on a DVD. Another region may contain the language or subtitle tracks desired. For example, a Japanese person living in Australia may want to watch a movie with Japanese subtitles. Or an Australian person trying to learn Japanese may want to hear the Japanese soundtrack to a film. I don't think the Australian government should restrict this person's choice.

2.2 Versions of a film

Sometimes there are different editions of a movie in different regions. For example, the director's cut of a film may only be available in one region. For example, while the movie Leon is available in the USA as a region 1 movie, it is available as an extended director's cut in region 2, Japan.

Worse, a British company may add "region 4" to the same DVD as the region 2 version to save manufacturing costs. This means that the Australian release of a DVD title is subject to the British censor laws. Both recent James Bond movies (Goldeneye and Tomorrow Never Dies) have several scenes cut from to give them a family rating in the UK, although the complete movies were released in Australia with an Australian rating. The cut scenes are not disgusting or hideous, they were simply cut for the British censors for a particular desired rating, while left in for a different Australian rating. The upshot of all this is that when the customer purchases the DVD of the movie in Australia, they get the British censored version and not the Australian cinema release version. Again, some people won't care, but others will want the complete film as shown in Australian cinemas. Where can they buy this title? Not in Australia - we can only buy the British censored version here. Instead, we must import from the USA. All I want is to continue to be allowed to play the imported title on my DVD player at home.

2.3 Widescreen and other quality issues

There is also the availability of a 'widescreen' version of a movie. The region 4 version of the movie Dune is not widescreen, is made from an extremely poor quality source and looks and sounds simply awful. The comparison to the region 1 version of the same title is almost a joke. Why should I be forced to watch the inferior region 4 product (it is actually made in England and is encoded with both regions 2 and 4) when I can buy a high quality region 1 version from the US? By way of contrast, some Disney titles are available in Australia in a high quality widescreen format compared to their low quality non-widescreen US counterparts.

2.4 PAL vs NTSC

The Australian PAL format is technically superior to the US NTSC television format. DVDs released in Australia have 25% more lines of resolution region than their USA counterparts. Moreover, the colour quality of PAL is superior to the US NTSC format. The local DVD product therefore has a potential quality advantage over the foreign product. I say potential because some PAL DVDs have been very poorly authored (see reason 2.3). While this is a reason for someone to use the region 4 version of a movie, it furthers the difference between the content.

By contrast, PAL versions of movies run 4% faster than their NTSC counterparts (or the theatrical release), and the resultant speed change comes through as a pitch shift. What this means is that music and audio play just 4% faster, which changes every note of music and makes people speak with a slightly higher pitched voice. In addition, the movie length of the PAL release is reduced by 4% from the theatrical release. This does not worry most people, but again, all I am asking for is to be allowed the choice of playing the version of the movie that I want.

3. Price

Australian new DVDs are currently cheaper than the regular retail price of their USA counterparts, and half the price of their UK counterparts, although there are exceptions (e.g. Titanic is a very expensive DVD in Australia). If availability and content were equal, the retail price in Australia is the current winner.

In summary, my basic desire is to allow the consumer more choice. But while all of these reasons are valid, I believe that the DVD companies want to disallow region modifications for two primary reasons:

- Firstly, there are staggered times for movie releases throughout the world. A movie released in the US may be released in Australia 6 months later. The movie may therefore be released on DVD in the USA before it has even been shown in the cinemas in Australia. The region code is to prevent people in Australia watching the movie on DVD instead of going to the cinema. It should be noted that more than 95% of the released movies on DVD are older back catalog items to which this argument does not apply. And as digital distribution and projection of movies in cinemas becomes mainstream, this argument will be even less valid.
- Secondly, different companies have distribution rights in different countries. For example, Titanic is distributed by Fox outside the USA, and by Paramount within the USA. This is the basis for the existing parallel import restrictions on movies, although I would maintain that the result of the parallel import restrictions is actually an inferior product due to the monopoly that results, *made all the more ironic since the majority of movies are not Australian in origin*. It should be noted however, that some companies, such as Columbia, distribute their own movies in both region 1 and region 4, and have extremely high quality transfers in both regions. Nonetheless, they still region encode their product.

Both of these reasons are also cited by book, CD and videotape industries. Although the reasons for wanting a form of protection like region encoding seem fair enough at first glance, the world is becoming more global, and the idea of exclusive distribution arrangements reduces that global nature and also eliminates choice. Nonetheless, try suggesting that a book purchased overseas should not be read in Australia. I would encourage you to think about why you would find it offensive to be disallowed from reading a book or playing a CD bought elsewhere, and then apply those same thoughts to DVDs.

Of course, if the Australian product was released in a timely manner, contained the same material, and was priced appropriately (as some of the companies are at the moment), there would be no need for anyone to buy outside Australia. Region encoding merely enforces monopolies, reduces competition, and reduces quality. At least the different DVD companies provide a small measure of competition (Columbia/Tristar, Warner Bros, and Roadshow for example, are producing high quality transfers for region 4, while companies like Paramount have yet to produce a single region 4 DVD).

My belief is that as the number of titles increases in Australia, there will be less and less reason for individuals to buy from overseas. And this is especially true since the price is reasonable together with the generally higher quality of PAL. But please don't stop us from doing so by introducing "no multi-region" legislation. By all means have anti-piracy legislation, but don't let the anti-piracy legislation stop ordinary consumers from having what I believe are valid choices.

My guess is that over time content providers are going to go one of two directions. The first possible direction is a global market, where people can buy anything anywhere. While I would like this to be the case I don't think it very likely compared to the profiteering possible by the second possibility: **technology enforced exclusive markets – otherwise known as monopolies**. We already see this happening with DVD. Please don't let these content providers stop consumers from choosing between legitimate valid alternatives. Let us watch our US, UK, Japanese and European DVDs in Australia, just as we're able to listen to our US, UK, Japanese and European CDs. And while we're on holidays in the USA, we can read our Australian bought books.

Thank you, and best regards.