



VILLAGE ROADSHOW LIMITED

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Mr George Livery
General Manager
Village Cinemas Australia
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30 November, 1999

Ms Susan Halliday
Acting Disability Discrimination Commissioner
Disability Rights Unit,
Human Rights and Equal Opportunity Commission.
GPO Box 5218 Sydney 1042.

Dear Ms Halliday,

We thank you for the opportunity to present Village Cinemas' position in relation to the captioning of films exhibited in Australian cinemas. Before we address the specific issue of captioning films, we believe it is important to establish our commitment to the wider area of providing equal access to people with disabilities.

Village Cinemas is committed to providing the movie-going public with the best cinema experience in Australia and throughout the world. To this end, we are committed to ensuring that all patrons have the opportunity to enjoy our facilities on an equal basis. In the past, Village Cinemas Australia sought to do this by meeting the standards set by the Building Code of Australia. However, it has become apparent that this standard does not go far enough to guarantee sufficient standards of equal access.

In order to rectify this, Village Cinemas Australia has taken a proactive approach to complying with the provisions of the DDA, which is intended to:

- Eliminate discrimination on the basis of disability in regards to the provision of equitable access to facilities and services.
- Address issues of staff training, education and employment.

For the past two years, Village has utilised the services of Morris-Walker Consultants, independent disability management specialists, to assist in providing world's best practices in matters of equal access. In conjunction with Morris-Walker, Village has audited all existing cinema sites throughout Australia to identify areas in which access could be improved. We continue to submit all plans for new cinemas to Morris-Walker for review and approval prior to commencing any works. Most importantly, we are in the process of finalising a Disability Discrimination Act Action Plan.

Village Cinemas' Action Plan defines guidelines and standards for all existing cinema complexes and all future developments. It also provides a schedule of completed works together with a timelined schedule of works to improve access where necessary.

Of equal importance is the evaluation of existing employee policies, procedures and guidelines. Village is aware that its employees must be educated to effectively and sensitively interact with customers and fellow employees with disabilities. To this end, we have included a dedicated section within the forthcoming 'Village System', a comprehensive manual for the ongoing operation of Village Cinemas, and the first document of its kind within the company. This document will then form the basis from which all training materials and programmes are developed.

Finally, Village recognises that the expectations of its patrons are constantly changing. As such, Village intends to constantly improve upon the standards set in this Disability Discrimination Act Action Plan, policies and training modules and, in doing so, guarantee that a visit to a Village Cinema is a positive experience for every one of our valued customers.

We felt it important to provide this background so that HREOC understands that Village has approached this submission from an informed and positive position.

At the heart of the issue of captioning films is the identification of which party is responsible for the captioning itself.

The cinema industry is made up of three separate entities:

1. **the Producer**, who raises capital, makes the film, and retains ownership and intellectual property rights;
2. **the Distributor**, who is the representative of the producer for a film in a given territory; and
3. **the Exhibitor**, who operates the cinema site in which the public can watch the film.

In more common terms, the producer is the manufacturer, the distributor is the middleman, and the exhibitor is the shopkeeper.

A cinema is the physical facility in which films are shown. It is effectively a store and the film is the product sold. As outlined above, Village Cinemas is highly aware of its obligation to make its 'stores' accessible to all people who wish to use them. As a result, our sites feature wheelchair bays (frequently more than required by law), toilets for people with disabilities, tactile surface indicators, indicators on railings and balustrades, lifts and ramps. Importantly for this submission, most of our auditoriums feature hearing loops (which enhance dialogue on a film's soundtrack whilst minimising incidental noise).

Via its facilities and equipment, therefore, Village enhances the moviegoing experience in all ways other than modifying the actual film print.

Although we sell access to the public to view films, they remain at all times the property of the film producer. This is evidenced by the fact that exhibitors pay 'film hire' and must return the print to the distributor (the producer's local agent) at the completion of the season. We have a copyright licence to screen the film in public but we do not have the right to modify or adapt the film.

As exhibitor, Village Cinemas has no right to provide either open or closed captioning. Both forms of captioning violate copyright, since we have to provide the dialogue for the film in a form other than that paid for within film hire. Further complications arise when providing the text to songs (a regular and integral part of Disney animated features, amongst others) which might have copyright to the songwriter and when we provide our own descriptions of non-verbal sounds. In addition, open captioning would involve modifying the film print by overlaying text.

From a practical standpoint, it is inappropriate to require cinemas to caption films themselves. Aside from contravening aforementioned copyright laws, this would result in each Australian cinema exhibitor providing different captioning for the same film title.

Furthermore, although distributors are the film producers' representatives they also have no right to modify the film print in any way without the express permission of the film producer. As such, Village Cinemas believes that if it is necessary to provide captions for films, it should be the responsibility of the film producers as owners of the product.

Nevertheless, we would like to briefly discuss the different types of captioning available, since both forms of technology have a real impact on the level of enjoyment our customers will experience.

Open captioning, which involves superimposing subtitles onto the prints of each film, would have a number of negative implications to the vast majority of our customers and, by extension, to all levels of the film industry. The inclusion of English-language captions for English language films would diminish the level of enjoyment for the vast majority of our customers without hearing disabilities and would cause some to seek alternative forms of entertainment. Village Cinemas seeks to enhance the moviegoing experience for all people and, with the assistance of Morris-Walker, we have been increasingly successful in doing so. However, by exhibiting open captioned versions of all films at all sessions, we would be detracting from the movie-going experience for the majority of patrons to enhance the experience of a few. We do not believe this form of captioning would be to the advantage of the wider community.

Although not as distracting, **closed captioning** will still have a negative impact on those seated around the customer using the plexiglass panel to reflect rear-projected captions. Once again, we are mindful of technology that benefits some customers, but detracts from the experience of many more. Furthermore, based on information provided by the Director of WGBH Educational Foundation and our own experience shipping similar equipment internationally, we conservatively believe it would cost A\$2 million to fit out our cinema circuit with the closed captioning system. We have serious reservations about committing to the current closed captioning technology, which is likely to be made obsolete in the very near future (within 3 – 5 years) with the advent of digital systems, which could allow for a better means of providing captions.

Although we are committed to the principles of the Disability Discrimination Act, we remain unconvinced that any current captioning technology could enhance the moviegoing experience for some of our customers without compromising the experience of many others.

Nevertheless, Village Cinemas is committed to providing an unparalleled cinema experience to all its customers. We will continue to improve access to all our cinema sites and to monitor and take advantage of technological advances as appropriate. We will also continue to improve our staff training programmes to reflect current standards and expectations.

Once again thank you for your invitation to participate in this inquiry. We will continue to monitor other submissions and inquiry and welcome any further information HREOC might have.

Kind regards,

GEORGE LIVERY

General Manager

Village Cinemas Australia