

APPENDIX 5

EFFECTIVE PRACTICES FOR ADDRESSING UNAUTHORIZED CAMCORDING

Unauthorized camcording as the source of copyright piracy has grown exponentially over the last few years, tracking the development of camcorder technology that makes detection difficult and the copies nearly perfect digital quality. Normally this recording is captured for economic gain, and copies of the film are quickly disseminated for mass reproduction and distribution. An unauthorized recording may include a video capture, an audio capture, or more commonly, both.

Unauthorized camcording affects all points of a film's life cycle – from the box office to rental to sales, damaging the film industry's ability to generate revenue in other markets as unauthorized copies are shipped to other economies and, with increasing frequency, are uploaded to the Internet where they are made available around the world. This activity not only affects the film and related industries, including many local businesses, but also impacts the economies of affected APEC members and others due to the loss of tax revenue from legitimate sales and because of the frequent involvement of organized criminal organizations in the illicit trade of movies derived from unauthorized camcording.

Because unauthorized camcording may develop in those markets where laws either do not address the problem or where enforcement is weak, anti-camcording piracy legislation imposing effective deterrent remedies, and effective enforcement practices, is necessary to address this problem.

APEC economies are committed to reducing unauthorized camcording. Steps that affected economies may take to address the challenges of unauthorized camcording in cinemas include: (1) educating the public about the problems posed to businesses and the consumer by unauthorized camcording; (2) working with the private sector to identify and prevent unauthorized camcording in cinemas; and (3) developing and implementing legal measures to effectively deter unauthorized camcording.

Effective Practices

(1) Public Awareness

Member economies can educate the public about the problems associated with the unauthorized camcording in cinemas by providing citizens with information about what unauthorized camcording is; how and why it is detrimental to local businesses, such as cinemas, advertisers, and local home video distributors; and how it affects jobs and the local economy. Public awareness campaigns can include trailers in local theaters, signage outside and inside cinemas, and public service announcements. Public-private partnerships can effectively maximize resources. Recognizing the differences between the experiences and resources of APEC member economies, affected APEC members can explore ways to strengthen technical cooperation in this regard.

(2) Engage with Private Sector on Capacity Building for Effectively Responding to Unauthorized Camcording

Member economies can collaborate with the private sector to educate and train theater managers and employees on how to detect unauthorized camcording in cinemas and how to safely respond to a patron suspected of engaging in such activity. Training materials for cinema staff are readily available online at sites such as www.fightfilmtheft.org. Member economies can also work with the

private sector to educate local law enforcement officials about the economic impact of camcording, linkages to organized criminal networks, and any national anti-camcording statutes.

(3) Legal Framework to Effectively Deter Unauthorized Camcording in Cinemas

Member economies are encouraged, at least when there is a demonstrable need, to put into place or have in place appropriate legislation or regulations to effectively deter the unauthorized recording of a motion picture in a cinema.

A number of APEC members have enacted legislation or are considering legislation to this effect. Some examples include (*to be updated as appropriate*):

Australia – Section 132AD and sub-s 132AL(2) of the Copyright Act 1968

Canada – Section 432 of the Criminal Code “Willful and Forbidden Acts in Respect of Certain Property” as amended by Bill C-59 – an Act to amend the Criminal Code (Unauthorized Recording of a Movie)

Hong Kong, China - Copyright Ordinance (Chapter 528) – section 118(1), (2A) (4) and (8), sections 119, 122, 131 and 132 and Prevention of Copyright Piracy Ordinance (Chapter 544) – sections 31C, 31F, 34 and 35

Japan – Act on the Prevention of Unauthorized Recording of Movies in Theatres

Malaysia – anti-camcording provisions are included in the currently proposed legislation to revise the Copyright Act 1987.

Mexico – anti-camcording legislation is pending before the Senate.

The Philippines – The Anti-Camcording Act of 2010, Republic Act 10088.

Thailand – anti-camcording legislation is being considered by relevant government agencies.

United States – 18 U.S.C. § 2319B – Unauthorized recording of Motion pictures in a Motion picture exhibition facility

[Other APEC economies:]