

12 March 2010

Mr Michael Small  
Australian Human Rights Commission  
Level 8  
Picadilly Tower  
133 Castlereagh St  
Sydney NSW 2000

**By facsimile: (02) 9284 -- 9689**

Dear Mr Small

Re: Cinema application for exemption - captioning and audio description

After reading the response from the cinemas, the Disability Discrimination Legal Service ("DDLS") feels compelled to reply to their submission, which can only be described as self-serving and misleading.

The cinemas seem to be implying that a successful implementation of accessibility in relation to 35 cinemas across Australia is an achievement to be looked upon with some pride. Such a statement can only be a reflection of their low regard for deaf and vision impaired communities. These chains have had almost 2 decades to comply with State and Federal anti-discrimination legislation. In that time they have made accessible only 12 cinemas throughout the country. The fact that they believe it to be a worthy aspiration to make 35 cinemas accessible is perhaps reflective of their complete misapprehension as to community expectation, and their responsibilities at law.

The cinema group's misunderstanding of the law is reflected in their attempts to substantiate their position quoting attendance numbers. Firstly, while it seems absolutely redundant to point this out, attendance is low due to the inaccessibility of cinemas, and the limitations of screening and promotion. The community has made these difficulties abundantly clear in their submissions. Secondly, accessibility under the Disability Discrimination Act ("DDA") is not predicated on numbers. Public buildings do not put ramps in, only when they have concluded that a threshold number of people in wheelchairs wish to enter. In relation to the Victorian environment, it is mystifying as to why the cinemas believe that one cinema in Prahran, is conducive to attendance by deaf people all over Victoria.

The cinemas sum up their position honestly when on page 9 they state in relation to 3D - "*our ongoing investment in this technology will be based on our expected return on investment.*". It is clear throughout this submission that the reason so little progress has been made, and such little progress is planned, is simply because expenditure on accessibility on people with disabilities is not a priority.

Many claims are made in the cinema group's submission in relation to what deaf and vision impaired patrons want, and what their experiences have been. These communities have made their views on these matters explicit in their many and varied submissions to the Commission.

In relation to attempts at portraying accessibility as being expensive, we note the following profits made recently by the cinema groups.

Hoyts	\$400,000 000
Greater Union Cinemas:	
Aust Cinema Exhibition division	\$ 42,983 000
Village Roadshow Ltd	\$ 32,352,000
Readings Cinemas:	
owned by Readings International	
Total revenue:	\$191.29 million– 35% of which was for Australia

The DDLS does not understand in this context, why funding by the Australian government is even mentioned in the cinema group's submission.

It is tempting to go through the rest of the submission, which is mostly based on opinion with little factual basis, however the community has spoken for itself and outlined its own views, which clearly articulate how they feel about having been discriminated against for decades now. They have also made it clear that the organisations with whom the cinemas have been dealing with have not and do not reflect their views.

Lastly, in relation to the granting of exemptions in general, the lists of exemptions on page 6, rather than give rise to an argument for the cinemas, actually gives rise to significant concerns about the continued discrimination against the deaf community, assisted by the granting of exemptions that allow this discrimination to occur.

As the cinemas note, there have been a number of approved exemptions under the DDA in relation to entertainment, most of these at the expense of the deaf community. The DDLS does not support these exemptions, and believe such exemptions undermine the Act.

If exemptions are going to be granted in response to an organisation promising to set up an "advisory group" and continuing to make miniscule progress in a given area, then in our view the very integrity of the Commission and the administration of the DDA is called into question.

We continue to oppose the application exemption.

Yours sincerely

Julie Phillips  
Manager

Placido Belardo  
Principal Solicitor