



Australian
Competition &
Consumer
Commission

Determination

Application for authorisation lodged by
Association of Magazine Publishers of Australia Inc
to

conduct a pilot program designed
to address an oversupply of
magazines to newsagents

Date: 25 June 2015

Authorisation number: A91472

Commissioners: Sims
Rickard
Schaper
Cifuentes
Court
Featherston
Walker

Summary

The ACCC has decided to grant authorisation to the Association of Magazine Publishers of Australia (MPA) to enable a pilot program to test the effectiveness of a proposed approach to address an industry wide problem of oversupply of magazines to newsagents. The pilot is to run with 40 newsagents who have chosen to participate, over a 3 – 6 month period.

While newsagents' industry organisations have expressed support to conduct the pilot, a number of individual newsagents have raised concerns that the proposed limits on distribution as part of the pilot will not result in any benefit and may make the oversupply problem worse for newsagents. Newsagents also submit that methods and outcomes of the pilot should be made transparent so all stakeholders can have confidence in the process.

In response the MPA has advised that the purpose of the pilot is to test the proposed approach to see if it is effective in addressing the oversupply problem. The MPA also advises that it will, immediately upon receipt, provide the ACCC with a copy of a report on the results of the pilot to be produced by a data analytics company, for the ACCC to place on the public register. The ACCC expects that this report will be completed and provided within 3 months of completion of the pilot.

The ACCC considers that the pilot is likely to result in benefits in the form of information to indicate whether the coordinated conduct proposed may assist in addressing the oversupply problem, and therefore assist with the development of an industry-wide Code of Conduct, and may also result in benefits by gathering the support of industry participants for industry reform. The ACCC considers the report will be important to demonstrate if the proposed arrangements reduce or remove the oversupply problem and the associated costs for newsagents. The ACCC considers any detriment in relation to this pilot is likely to be very limited given its short duration (3-6 months) and limited scope (40 newsagents that are participating voluntarily). The ACCC therefore considers the likely benefits of the pilot will outweigh the likely detriments.

The ACCC grants authorisation until 17 July 2016.

The application for authorisation

1. On 27 November 2014 the Association of Magazine Publishers of Australia Inc (the **MPA**) applied for authorisation. The MPA is seeking authorisation for one year to conduct a 3 – 6 month pilot program designed to address a problem of oversupply of magazines to newsagents (the **pilot**).
2. For the term of the pilot, members of the MPA and magazine distributors - Network Services and Gordon & Gotch - will agree to uniformly apply certain limitations on the distribution of magazines to newsagents that have chosen to participate in the pilot. The limitations are set out in full at **Annexure A**. In summary, the participating distributors and publishers agree to:
 - cease distributing a magazine title if it has experienced consecutive nil sales by the particular pilot participant for a period of time

- limit the number of copies of each magazine title to a certain percentage above the number of the title generally sold by the pilot participant (minimum sales efficiencies). These are to be adjusted through the course of the pilot to ensure supply is closely aligned to demand in the participating stores
- in most cases not require pilot participants to provide returns of full copies of unsold magazines, but instead accept front covers, headers etc. as evidence of unsold copies
- adhere to certain restrictions on the redistribution of magazine issues which have previously been distributed and returned by newsagents, to the distribution of new magazine titles, and to split deliveries of magazine issues during the period an issue of a magazine is on sale
- impose a cap on the period during which distributors can require pilot participants to display magazine issues for sale, except in circumstances where the newsagent is compensated by delayed billing and/or extra sales margins
- not accept early returns of magazine titles during the on-sale period (for weekly, fortnightly and monthly titles), or within 30 days from the on-sale date (for all other titles).

(the Conduct)

3. The aim of the pilot program is to test the arrangements prior to the development and implementation of a national Distribution Code of Conduct intended to optimise the supply of magazines to newsagencies. The MPA advises that the results of the pilot will be used to refine the arrangements and measure their effect prior to seeking to implement them as part of an industry wide reform of magazine distribution which will take the form of a Code of Conduct it will seek to apply generally across the Australian magazine publication and distribution sectors. The MPA advises it also intends the pilot to prove the concept of the changes to the industry to assist in getting stakeholder support for the proposed wider industry reforms.
4. The MPA advises that, during the pilot, the publishers and distributors will work to ensure supply will be closely aligned to demand in the stores, based on actual data. This will take into account a number of factors, including historical sales, marketing and promotional plans, the news cycle, subject matter of the title and seasonal factors. Any excess supply during the trial will be reviewed on an ongoing basis. The MPA further advises that newsagents participating in the pilot will be involved in range assortment selection in the context of these principles.
5. The MPA has also committed to providing the ACCC, immediately upon receipt, with a copy of a report to be produced by a data analytics company on the results of the pilot. This report is to be published on the ACCC's public register and is for the purpose of providing transparency around the pilot methods and outcomes to all stakeholders to feed into discussions regarding the development of an industry-wide Code of Conduct. The MPA expects the report to be completed within 3 months of conclusion of the pilot.
6. The MPA submits that a wider program of reform, which includes education and training for newsagents to improve category management and to increase the

interest of newsagents in the magazine category is needed and that this would be provided to a subgroup of newsagents participating in the pilot along with the distribution limitations. The MPA submits this will improve the efficiency of newsagents' management of magazines with the ultimate aim of increasing sales of magazines through newsagents. However, based on discussions with the ANF, the MPA considers that newsagents will not engage in education or training processes until they see that the oversupply issue is being addressed by distributors and publishers.

7. The pilot is to be conducted with 40 newsagents, representing a national cross-section of all store types and all regions, participating for a period of 3 – 6 months commencing in late June 2015. Approximately half of the newsagents will be subject to the distribution limitations but not the education and training to improve category management, to enable testing of the impact of the education and training proposals on magazine sales.
8. On 12 April 2015 the ACCC issued a draft determination proposing to grant authorisation to the pilot for one year. At the same time, the ACCC granted interim authorisation to allow the pilot to commence in April 2015 with 20 newsagent participants as originally intended by the MPA. A conference to discuss the draft determination was requested by newsXpress group of newsagents and was held on 23 April 2015.

Background

9. The MPA represents the three largest Australian publishers of consumer, cover-priced and nationally distributed magazines. Its members are Bauer Media Pty Ltd, News Corporation Limited and Pacific Magazines Pty Ltd. The MPA members represent approximately 63% of magazine sales by revenue and 7% by number of titles.
10. Network Services (the distribution division of Bauer Media Pty Ltd) and Gordon & Gotch Australia Pty Ltd (**Gordon & Gotch**) are the two largest magazine distributors in Australia, distributing 170 million and 190 million copies of magazines respectively through retail outlets and direct subscriptions. Other distributors include Integrated Publications Solutions, a wholly owned subsidiary of Fairfax Media Ltd, which is not involved in the arrangements at the pilot stage.
11. The pilot will test proposed distribution arrangements intended to address inefficiencies in the supply of magazines to newsagents by reducing the number of magazines distributed to more closely match actual demand.
12. The MPA advises that the marginal cost for a publisher of printing additional copies of a magazine is low relative to the cover price. As a result, the ACCC understands publishers have an incentive to distribute to newsagents many more copies of an issue than are likely to be sold, so as to avoid losing sales in case of a sudden increase in demand for a particular title and to increase their visibility and shelf space exposure to consumers. In addition, the relatively low cost of distributing magazines means there is an incentive for a publisher to redistribute unsold copies of magazines which have been returned by newsagents.
13. As a result of the publishers' incentives described above, contracts between domestic publishers and distributors generally result in distributors being paid according to the number of copies distributed to newsagents rather than the

number of copies sold. Therefore distributors have a commercial incentive to act for as many publishers as possible and to fully distribute (and to some extent redistribute) all magazines that are supplied by those publishers.

14. The ACCC is aware that newsagents have consistently reported problems caused by the oversupply of magazines for at least the past 10 years. The ACCC understands that each distributor in Australia distributes certain bestselling 'masthead' magazines which newsagents need to stock, as well as a considerably larger number of less popular titles, and that newsagents are supplied with mastheads on condition that they also stock and display less popular titles. Newsagents generally incur the costs related to any oversupply of magazines in the form of labour costs, freight costs for returns, and cash flow issues due to being charged up front for most titles and not reimbursed until returns are processed.
15. As most newsagencies are small businesses, the ACCC understands that the problems of oversupply can create complexities in managing magazines as a product category, which may lead to unnecessarily high costs for newsagents in the marketing and sales of magazines. For example, given the large volume of unwanted magazines newsagents are supplied, the space available and the cost of displaying and repacking copies, a newsagent may simply opt to return some magazines without offering them for sale. This may include titles for which there is, or would be, a demand in their area and may result in newsagencies being unable to supply consumers with the range of titles they are seeking.
16. The ACCC understands that the sale of hardcopy magazines through the newsagency distribution channel has been in decline for a number of years. The MPA submits that this is due in part to the increasing disengagement of newsagents with the magazine category, who have instead favoured other product categories.

Relevant previous authorisations

17. The ACCC has authorised various arrangements permitting collective negotiations by newsagency associations, on behalf of their members, with magazine publishers and distributors.
18. For example, the Australian Newsagents' Federation Ltd (ANF) has been authorised since 2004 to negotiate with magazine publishers and distributors.¹ The authorisations have enabled collective negotiations over variable commissions and/or supply terms for shelf life, supply allocations, carrying of non-core product, subscription delivery, returns policy, terms of supply and rights of termination.
19. In addition, in July 2014 the Victorian Association of Newsagents was granted authorisation (A91426) for a period of 10 years to allow it to negotiate on behalf of its members with publishers and distributors of magazines.

Consultation

Prior to draft determination

¹ See A90804, A91134 and A91407. Note A90804 (April 2004) included the QNF; and A91407 (August 2014) did not include negotiations with magazine publishers.

20. Prior to the draft determination the ACCC invited submissions from 15 potentially interested parties, including newsagents' industry associations, publishers, distributors, and relevant government bodies, seeking comment on the application for authorisation. Two submissions were received in response.
21. The ANF strongly supports the application, and hopes it will deliver benefits in the form of cost savings for all parties in the publication and distribution chain, by managing problems caused by the current oversupply of magazines. The ANF requested the ACCC consider granting interim authorisation to the arrangements to allow the pilot to commence in April 2015 as proposed by the MPA.
22. The Small Business Development Corporation of Western Australia (**SBDC**) submits that the arrangements have the potential to create fairer relationships within the magazine distribution chain.

Following draft determination

23. In response to its draft determination, the ACCC received a further 27 submissions expressing concern with the proposed pilot, most of them from retail and distribution newsagents.
24. A pre-decision conference was requested by newsXpress and was held on 23 April 2015. The conference was attended by representatives of 16 organisations and businesses including the MPA and Gordon and Gotch, as well as newsagents' industry associations, individual newsagents, POS software service providers and an independent magazine publisher.
25. An additional 12 submissions were received from interested parties at and following the conference.
26. The majority of post-draft determination submissions were received from newsagents opposing authorisation of the pilot. Issues raised included:
 - the proposed minimum sales efficiencies (of 25 – 55%²) continue to be set at oversupply levels, no better than and in some cases worse than current arrangements
 - changes to newsagents' ability to early return copies³ will remove newsagents' only means of managing the cashflow and space problems caused by oversupply. A number of newsagents submit they currently maintain a 70 – 80% sales efficiency through making use of early returns, and therefore the removal of early returns has potential to make the oversupply problem dramatically worse
 - newsagents should be given discretion as to which titles to stock. Although the proposed rules specify distributors are to cease supplying a title to a newsagent after a period of nil sales of the title, worldwide there are thousands of different magazine titles and newsagents expect

² A sales efficiency of 25% means a newsagent is receiving four times as many copies of a title than are sold; 50% means twice the number of copies sold are received.

³ The proposed rules specify that a distributor will not be obliged to accept early returns (defined as titles returned during the on-sale period for weekly, fortnightly or monthly titles, or within 30 days from the on-sale date for other titles) from newsagents except in the case of an error by a distributor.

distributors will replace any title they cease to distribute with another one they are equally unlikely to sell

- supermarkets and other retail channels have considerably more favourable supply terms than newsagents. Newsagents should be given access to the same supply terms to make them competitive with these channels
- data and full results of the pilot, along with full details of the arrangements put in place for pilot participants, should be made fully transparent to all stakeholders after the pilot has concluded to ensure newsagents can trust that the results of the pilot are legitimate and will benefit newsagents.

27. The ANF provided a submission maintaining its support for the pilot and responding to issues raised by newsagents. Another from a provider of point of sale software opposed the arrangements.

28. Public submissions received by the ACCC may be obtained from the ACCC's website **www.accc.gov.au/authorisations**.

ACCC assessment

29. The ACCC's assessment of the Conduct is in accordance with the relevant net public benefit tests⁴ contained in the *Competition and Consumer Act 2010* (the **CCA**).

30. In its assessment of the application the ACCC has taken into account:

- the application and submissions received from the applicant and interested parties⁵
- other relevant information available to the ACCC, including information from consideration of previous matters⁶
- the relevant areas of competition likely to be affected by the Conduct, particularly competition in the publication, distribution and retail supply of magazines in Australia
- the one year⁷ authorisation period requested
- the scope of the Conduct, being a 3 - 6 month pilot program involving magazine distribution arrangements to 40 newsagents, and
- all matters raised at the pre-decision conference.

Future with and without

31. To assist in its assessment of the Conduct against the authorisation tests, the ACCC compares the likely future with the conduct for which authorisation is sought and the likely future without the conduct the subject of the authorisation.

⁴ Subsections 90(5A), 90(5B) and 90(8) of the CCA.

⁵ Please see the ACCC's Public Register for more details, including a list of parties consulted.

⁶ See in particular A90804, A91134 and A91407.

⁷ A one year period will enable information sharing between the parties both before and after the pilot.

The ACCC compares the public benefits and detriments likely to arise in the future where the conduct occurs against the future in which the conduct does not occur.

32. The MPA submits that, without the conduct for which authorisation is sought, distributors and publishers are unlikely to implement the pilot to test changes to the distribution arrangements which are currently resulting in an oversupply of magazines to newsagencies. This is because, although the changes are intended ultimately to increase sales of magazines, any single distributor who unilaterally elected to restrict the number of copies distributed to newsagencies would risk losing publishers to competing distributors who did not similarly restrict distribution.
33. Further, the MPA submits that, without the pilot, there is very little chance of achieving industry wide reform to address the oversupply problem. The MPA hopes the pilot will assist in refining the changes to distribution arrangements, and to prove the concept to relevant stakeholders to ensure support from newsagents, distributors and publishers for a Code of Conduct, and from newsagents for a program of education and training to improve category management.
34. Based on the information before it the ACCC considers that, given long-standing issues within the magazine distribution sector for newsagents and the continuing incentives of publishers and distributors, in the absence of the pilot a continuation of the current situation (status quo) is the most likely outcome for the short to medium term.

Public benefits

35. The MPA submits that the pilot will result in benefits through its eventual usefulness in developing and implementing a Code of Conduct that includes restrictions on distribution of magazines to newsagencies throughout the industry. The Code of Conduct is intended to optimise the supply of magazines to newsagents and address associated cash flow issues, which the MPA submits will:
 - reduce costs at the newsagency level and improve the commercial viability of newsagencies
 - assist consumers by helping to ensure the magazines they are seeking are being offered for sale at their local newsagent
 - increase the willingness of newsagents to engage in training and education in marketing and category management, which will further improve the efficiency of the sale of magazines through newsagencies.
36. The ACCC notes the current incentives of magazine publishers and distributors to oversupply magazines to newsagents, the inability of newsagents to refuse to accept unwanted magazines, and the consequent inefficiencies. The ACCC considers these factors are unlikely to change without industry wide agreement to restrict oversupply to newsagents. Such an agreement may lower costs for publishers, distributors and newsagents, and benefit consumers by ensuring the magazines available for sale at their local newsagent are better suited to demand in the area.

37. While the ANF submits that it is hopeful the pilot will help to manage the oversupply problem, a large number of newsagents have submitted that the distribution rules for the pilot will not do anything to address problems of oversupply and may actually make the problem worse, due to changes to newsagents' ability to early return and minimum sales efficiencies (see paragraph 26 for further detail).
38. The ACCC notes the concerns raised by newsagents regarding the proposed minimum sales efficiencies in combination with changes to early returns. The ACCC considers that the pilot, and the use of the information and data obtained from the results of the pilot, is likely to result in a benefit to the public by providing the MPA and its members, as well as other industry participants including newsagents and magazine distributors, with information regarding the impact of the proposed distribution restrictions on the operation of newsagencies, including appropriate minimum sales efficiencies and early returns arrangements. The ACCC notes these issues are likely to be important in the development of any Code of Conduct.
39. In particular, the ACCC considers that the pilot will provide some evidence as to whether or not the proposed restrictions on the distribution of magazines to newsagents, if implemented industry-wide through a Code of Conduct as proposed, will result in the efficiencies in the magazine supply chain that the MPA claims it will, and, if so, the extent of these efficiency gains. The pilot may also contribute to the development of a more effective and beneficial proposed industry-wide Code.
40. Nonetheless the ACCC notes that, even if the pilot shows the proposed arrangements have reduced the oversupply of magazines for participating newsagents, this does not guarantee ACCC approval of any future authorisation application for a magazine distribution Code of Conduct. Any proposed future industry-wide arrangements would be reviewed closely by the ACCC and the likely benefits and detriments assessed on the merits of the application at that time.

Transparency of pilot outcomes

41. At the pre-decision conference and in submissions following the conference, stakeholders raised concerns that some stakeholders do not have confidence that the methods and results of the pilot will be transparent to all parties, but will nonetheless be used to inform industry discussions in the formulation of a Code of Conduct. As negotiations around the development of any Code of Conduct is likely to occur prior to the submission of any authorisation application, interested parties argue the pilot results should be made available to all industry participants immediately after the conclusion of the pilot. Interested parties have also raised concerns that the methods used in the pilot may not be able to be replicated on an industry wide basis due to the level of labour and in-store services which will be invested in stores participating in the pilot.
42. The MPA advises that as soon as it receives the report containing the result of the trial, produced by a data analytics company, it will provide the ACCC with a copy. The report will be provided to be placed on the ACCC's public register. The MPA advises the report will be based on both qualitative and quantitative analysis using data including newsagencies profiles, magazine category segmentation information, sales data, financial data for the stores, and point of

sale data.⁸ The MPA has also advised it intends to provide aggregate results of the pilot to newsagents through the ANF and with each store participating in the pilot.

43. The ACCC considers transparency of the methods and results of the pilot will be important to ensure the potential benefits of the pilot are achieved. A key issue in ensuring benefits result from the pilot will be that relevant parties have confidence as to what restrictions were put in place and the outcomes of these in order to participate in any negotiations around an industry-wide Code of Conduct, particularly as the MPA has stated its intentions to rely on the results of the pilot in developing the Code. The ACCC considers that the report will only provide stakeholder support of further reforms such as the Code of Conduct to the extent it contains enough detail to provide the relevant stakeholders with a sufficient level of confidence and understanding.
44. The ACCC considers a public report of the results of the pilot would be of most benefit prior to the commencement of discussions between industry participants regarding the Code of Conduct, prior to the lodgement of any authorisation application for the Code. The ACCC notes the MPA has advised it intends to provide de-identified data to the ACCC in the context of an authorisation application for a future Code of Conduct, and to identify, subject to consent from the parties, the newsagents participating in the pilot. This information, along with the public analytics report, will need to provide a clear basis to assess the efficiency gains of each of the restrictions applied during the pilot.

Newsagent requests for supply terms similar to competitors

45. Various submissions by newsagents to the ACCC have argued that far greater benefits could be achieved if the distribution arrangements for newsagents were comparable to the current distribution arrangements available for retailers of magazines in other sales channels – such as supermarkets and convenience stores. These newsagents have submitted that supermarkets in particular have considerably more favourable supply terms than newsagents (for example, having access to greater numbers of top selling titles, and control over which titles are stocked), and that newsagents, by stocking loss making titles and by being forced to accept other less favourable supply terms, are effectively subsidising the distribution arrangements of other retail channels.
46. While noting these concerns, the ACCC in this instance is not able to examine as part of its assessment of this application whether some other form of conduct may be more beneficial. However, stakeholders may wish to consider this issue as part of the negotiations for the development of the Code of Conduct.

Public detriments

47. The MPA submits the pilot will be limited in scope and time and therefore will not result in any detriment to the public, but notes that any Code of Conduct that is ultimately adopted is likely to result in changes to the way publishers make payments to distributors, due to the reduced number of magazines being distributed. The MPA notes this may result in adjustments within the industry as parties seek to recover their costs, and there is potential for publishers to increase the cover price of magazines should the Code of Conduct fail to result in increased sales.

⁸ See submissions by the MPA dated 5 May 2015 and 5 June 2015.

48. Overall, the ACCC considers any detriment in relation to this pilot is likely to be very limited given its short duration (3-6 months) and limited scope (40 newsagents), and the fact that participation in the pilot is voluntary for the newsagents involved.
49. The ACCC notes the MPA's intention to develop an industry-wide Code of Conduct and notes that in this regard there is potential for significant detriment resulting from an agreement between distributors on the terms of supply to small business, particularly given the market for distribution of magazines is highly concentrated. The ACCC would be very concerned if the arrangements, if implemented on an industry-wide basis under a future Code of Conduct, were to result in an increase in the cover price of magazines, given the cost savings able to be achieved by all parties under the arrangements.

Balance of public benefit and detriment

50. For the reasons outlined in this determination the ACCC considers that the Conduct is likely to result in public benefit that would outweigh any public detriment, including from any lessening of competition. Accordingly, the ACCC is satisfied that the relevant net public benefit tests are met.

Determination

The application

51. Application A91472 was made using a Form A, under subsections 88(1) and 88(1A) of the CCA. Authorisation is sought for the Association of Magazine Publishers of Australia Inc (MPA), its members (including Network Services) and distributor Gordon & Gotch Australia Pty Ltd to make and give effect to the Conduct to implement limitations upon the distribution of magazines to 40 newsagents for a period of up to 6 months. The proposed limitations are set out at **Annexure A** to this determination. The minimum sales efficiencies applied are to be adjusted through the course of the pilot to ensure supply is closely aligned to demand in the participating stores, and pilot participant newsagencies will be involved in range assortment selection.
52. Authorisation is sought as the Conduct may contain a cartel provision and which may be an exclusionary provision within the meaning of section 45 of the CCA.

The net public benefit test

53. For the reasons outlined in this determination, the ACCC is satisfied, pursuant to sections 90(5A) and 90(5B), of the CCA, that in all the circumstances the conduct for which authorisation is sought is likely to result in a public benefit that would outweigh any likely detriment to the public constituted by any lessening of competition arising from the Conduct. Further, the ACCC is satisfied, pursuant to section 90(8), that the conduct for which authorisation is sought is likely to result in such a benefit to the public that the Conduct should be allowed to take place.

Conduct which the ACCC has decided to authorise

54. The ACCC has decided to grant authorisation A91472 to the MPA, its members (including Network Services) and Gordon & Gotch to make and give effect to the arrangements described at paragraph 51 above.
55. The ACCC grants authorisation until 17 July 2016.

Interim authorisation

56. The ACCC granted interim authorisation under subsection 91(2) of the CCA on 12 March 2015 for the MPA, its members (including Network Services) and distributor Gordon & Gotch Australia Pty Ltd to make and give effect to limitations upon the distribution of magazines to 20 newsagents for a period of up to 6 months. The limitations are set out at **Annexure A** to this determination.
57. Interim will remain in place until the date the ACCC's final determination comes into effect or until the ACCC decides to revoke interim authorisation.

Date authorisation comes into effect

58. This determination is made on 25 June 2015.
59. If no application for review of the determination is made to the Australian Competition Tribunal it will come into force on 17 July 2015.

Limitations on the distribution of magazines to be trialled during the Pilot.

Part 1 – Definitions

The following words have the following meanings:

Closed means, in relation to an Issue, the final date at which a Distributor accepts returns by a Retailer of copies of that Issue, as determined by the Distributor.

Distributor means a person engaged in the business of distribution of Titles.

Early Returns means the return by a Retailer of a copy of an Issue to a Distributor, in the case of:

- a) a weekly, fortnightly or monthly Title, during the On-sale Period; and
- b) any other Title, within 30 days from the On-sale Date.

Full Copy Returns means:

- a) the process by which a Retailer returns an entire copy of an Issue to the Distributor; or
- b) the entire copy of any such returned Issue,

as the context requires.

Issue means an issue of a Title.

Launch Issue means the first issue of a New Title.

Mastheads means headers, the front cover or the barcode of a copy of an Issue that have been excised from the copy of the Issue.

New Title means any Title that has not previously been distributed to Retailers.

On-sale Date means, in respect of an Issue, the date, determined by the relevant Distributor, on which the Issue is first made available for sale to consumers by Retailers.

On-sale Period means, in respect of an Issue, the period commencing on On-sale Date and ending on the Recall Date.

Partwork means a Title released as a series of collectable and related Issues over a finite period of time.

Recall Date means, in respect of an Issue, the date, determined by the relevant Distributor, on which the Issue is required to be withdrawn from sale to consumers by Retailers.

Redistribute means the distribution to Retailers of an Issue that has previously distributed and recalled (using refurbished Full Copy Returns or mint copies of the Issue).

Retailer means a newsagency, supermarket, convenience store or other retailer to which Titles are delivered by a Distributor as a regular distribution channel.

Sales Efficiency means the total number of copies of an Issue sold by Retailers expressed as a percentage of the total number of copies of the Issue distributed to Retailers [averaged over, in the case of:

- a) a weekly Title, four consecutive Issues;
- b) a fortnightly or monthly Title, three consecutive Issues; and
- c) any other Title, two consecutive Issues.]

Split Deliveries means the distribution of an Issue by more than one delivery of copies of the Issue to Retailers during the On-sale Period.

Title means a magazine or similar periodical and, for the avoidance of doubt, excludes books.

Part 2 – Distribution Rules

1. *Minimum Sales Efficiency*

A Distributor will ensure that no Title has a Sales Efficiency of less than the minimum Sales Efficiency set out in the table below.

Distribution quantity per Issue	Minimum Sales Efficiency
>..30,000 copies	55%
20,000 copies – 30,000 copies	50%
10,000 copies – 20,000 copies	45%
1,000 copies - 10,000 copies	35%
< 1,000 copies	25%

2. *Consecutive Nil Sales*

A Distributor will cease to distribute a Title to a Retailer for a minimum of 12 months if the Title has experienced consecutive nil sales at that Retailer for, in the case of:

- a) a weekly Title, six consecutive Issues;
- b) a fortnightly or monthly Title, four consecutive Issues; and
- c) any other Titles, two consecutive Issues.

3. *Returns*

A Distributor will not require Retailers to provide Full Copy Returns, except in relation to Partworks.

A Distributor may require that Retailers provide, at the Retailers' expense, Mastheads as evidence of unsold copies of an Issue and may require that Retailers:

- a) package such Mastheads separately from any permitted Full Copy Returns; and
- b) clearly mark packages containing Mastheads or Full Copy Returns as 'Mastheads' or 'Full Copy Returns', as applicable.

4. *Early Returns*

A Distributor will not be required to accept Early Returns from Retailers, except where such Early Return is made by a Retailer to correct an error in allocations quantity.

5. Redistributions – Packs & singles

A Distributor will not Redistribute an Issue on more than once occasion.

If a Distributor Redistributes an Issue, the Distributor will ensure that:

- a) the prior distribution of the Issue has Closed;
- b) at the date of the Redistribution, less than 12 months has elapsed since the Recall Date applicable to the first distribution of the Issue;
- c) the number of copies of the Issue provided to a Retailer is less than the number of copies provided to that Retailer as part of the first distribution of the Issue (unless the first distribution of the Issue was a sell-out at that Retailer); and
- d) the On-sale Period for the Redistributed copies of the Issue is no more than three months.

If a Distributor Redistributes an Issue, the Distributor will use reasonable endeavours to ensure that:

- a) the Issue does contain cover offers that have expired; and
- b) if the Issue is bagged and no current Issue is included (e.g. a “Value Pack” of two old Issues), this is clearly communicated to consumers on the packaging.

6. New Titles

For each launch of a New Title, a Distributor will ensure that:

- a) each Retailer receives notification of the launch prior to the On-sale Date for the Launch Issue; and
- b) the number of copies of the Launch Issue distributed to each Retailer is determined reasonably having regard to the total print run of the Launch Issue and the average sales of 1 or more equivalent Titles (provided that a Distributor may distribute at least 2 copies of the Launch Issue to each Retailer).

For Issues of a New Title subsequent to the Launch Issue, a Distributor will, to the extent such data is available, use EDI sales data to determine the appropriate number of copies of those Issues to be distributed to each Retailer until a regular sales pattern for the New Title is established.

7. Maximum shelf life

A Distributor will ensure that the On-sale Period for an Issue does not exceed twelve weeks unless at least two of the following are applied to the Issue:

- a) Delayed billing, being a process whereby the distributor invoices the newsagent one month after the initial on sale date if the on sale period for that Issue exceeds 12 weeks. Invoicing would then be delayed a further month for each additional month the Issue is on sale;

- b) Retailers are offered an extra sales margin for sales of the Issue on top of the standard sales margin normally paid by that Distributor to Retailers; and
- c) Split Deliveries.

8. *Split Deliveries*

A Distributor may utilise Split Deliveries for an Issue.

If a Distributor utilises Split Deliveries, the Distributor will ensure that:

- a) to the extent such data is available, the Distributor uses EDI sales data to determine the appropriate number of copies of the Issue to be delivered to each Retailer for the second or subsequent deliveries; and
- b) based on the rate of sales, if a Retailer has sufficient copies of the Issue available for sale to consumers, then a second or subsequent delivery should does not occur.