



OFFICE OF FILM
& LITERATURE
CLASSIFICATION

Te Tari Whakarōpū Tukuata, Tubitubinga

Buying and Selling DVDs and Videos on the Internet

It is now as easy to buy and sell videos and DVDs on the internet from places such as Amazon.com, eBay and TradeMe as it is to buy and sell them in newspapers such as Trade & Exchange. The Office receives many inquiries from people buying or selling videos and DVDs that have either foreign rating labels or none at all.

This brochure discusses the legal obligations imposed on individuals who buy and sell videos and DVDs on the internet. Everything in this article applies to the sale and purchase of videos and DVDs in newspapers as well. Although the Films, Videos, and Publications Classification Act 1993 contains offence provisions related to the display, exhibition, making and copying of videos and DVDs, for the sake of clarity only the law related to a simple purchase, sale and private possession of a video or DVD is discussed here.

Sellers

The Films, Videos, and Publications Classification Act 1993 states that a film, video, computer game or DVD must not be offered for supply to the public unless it has a New Zealand label affixed to it. The words “supply to the public” include sales, hires, exchanges and loans. A seller who breaches this obligation is liable to a fine of up to \$3,000 (\$10,000 if the seller is a company).

On the other hand, New Zealand law cannot apply all over the world. If it did, every other country would also be able to claim its law applied all over the world.

The following scenarios show whether or not a seller is breaching the law by advertising over the internet a video or DVD for sale or hire that does not have a New Zealand label on it.

A. Seller in New Zealand; Buyer in New Zealand.

The seller is located in New Zealand and is “offering for supply to the public”. The seller must therefore have a New Zealand label on the video or DVD. If the product is hosted on an overseas website such as Ebay, the seller is still required to comply with New Zealand law.

B. Seller overseas; Buyer in New Zealand.

The seller is “offering for supply to the public” of New Zealand (and everywhere else) but because the seller is not located in New Zealand, the DVD does not need a New Zealand label even if the buyer is in New Zealand. (If the overseas seller is using a New Zealand based company, such as TradeMe, their DVD does need to have a New Zealand label).

C. Seller in New Zealand; Buyer overseas

The seller is located in New Zealand and is “offering for supply to the public”. The seller must therefore have a New Zealand label on the video or DVD. If, however, the seller excludes New Zealanders from the offer, then the seller is no longer “offering for supply to the public” and the DVD does not need a New Zealand label.

D. Seller overseas; Buyer overseas.

Neither seller nor buyer is located in New Zealand, so New Zealand law does not apply to them. They must, however, comply with relevant foreign laws.



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Buyers

The Act imposes no labelling obligations on buyers of videos and DVDs. A person can legally buy a video or DVD that does not have a New Zealand label on it, although the seller may be in breach of the law.

With one exception (discussed below under “Buyers and Sellers”), it is also legal for someone to possess an unlabelled or foreign labelled video or DVD for his or her own use.

Under scenarios A, B, C and D on the previous page, the buyer may legally purchase an unlabelled or foreign labelled video or DVD from any seller anywhere. If however, the buyer goes on to offer that video or DVD for sale or hire to the public, she becomes a seller and the law related to sellers set out above applies.

Buyers and Sellers

It is illegal for anyone to possess, buy or sell an “objectionable” (as defined by New Zealand law) video or DVD in New Zealand. A video or DVD can be objectionable under New Zealand law even if it has an overseas label. Indeed, a video or DVD does not have to have been classified for it to be “objectionable” in New Zealand law. A person located in New Zealand is liable to be imprisoned for up to 5 years for buying and possessing an objectionable video or DVD, regardless of where the seller is located. A person located in New Zealand who offers to sell an objectionable video or DVD is liable to be imprisoned for up to 10 years regardless of where the buyer is located.

The Customs Service has the power to seize objectionable videos and DVDs that have been imported into New Zealand. Buyers and sellers should therefore make themselves aware of the definition of “objectionable” in New Zealand law to avoid prosecution.

Computer Games

The law treats computer games slightly differently because the Act was written before they became a significant and popular medium. Section 8(1)(q) allows a computer game that has no restricted content to be sold without a New Zealand label affixed to it. A computer game that has been classified MA15+ in Australia or any game with restricted content must have a New Zealand label on it before it is sold.

Summary

People in New Zealand who offer videos and DVDs for sale on the internet should be aware that the law requires them to comply with labelling obligations and obligations not to deal in objectionable material or restricted material where the purchaser is underage. People in New Zealand who buy videos and DVDs on the internet need not worry about labelling obligations, but they, like sellers, have obligations not to deal in objectionable material. Because a video or DVD does not have to have been classified for it to be objectionable under New Zealand law, an overseas label offers no protection from prosecution if the video or DVD is indeed objectionable in this country.

Anyone interested in obtaining a label should contact the Film and Video Labelling Body at:

Email: enquiries@fvlb.org.nz

Website: www.fvlb.org.nz

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