

SUBMISSION
BY
MEDIA ENTERTAINMENT AND ARTS ALLIANCE
TO THE
DEPARTMENT OF FOREIGN AFFAIRS AND TRADE
REGARDING
AUSTRALIA-MALAYSIA FREE TRADE AGREEMENT

MAY 2005

The Media Entertainment and Arts Alliance

The Media Entertainment and Arts Alliance (Alliance) is the industrial and professional organisation representing the people who work in Australia's media and entertainment industries. Its membership includes journalists, artists, photographers, performers, symphony orchestra musicians and film, television and performing arts technicians.

Executive Summary

The Alliance made a submission to the Department of Foreign Affairs and Trade in November last year in response to a call for comment on the scoping study being undertaken for a free trade agreement between Australia and Malaysia. This submission builds on the November submission.

As noted in the November submission, the Alliance considers that trade liberalisation is best achieved multilaterally. However, where bilateral agreements are pursued, the Alliance considers that positive listing agreements, such as the Thailand-Australia Free Trade Agreement, offer more certainty to the countries party to the agreement. In the event the trade agreement with Malaysia is a positive listing agreement, the Alliance is strongly of the view that no commitments be made that might in any way constrain the Government's ability to foster Australia's cultural industries in any manner it sees fit now and into the future.

In the event of a negative listing agreement, the reservations in respect of cultural industries negotiated in the Singapore-Australian Free Trade Agreement serve as a model. The Alliance considers the concessions given in the Australia-United States Free Trade Agreement unnecessarily constrain the Government's ability to support the cultural industries and should not be treated as a precedent for an agreement with Malaysia.

DFAT is familiar with the reasons why the output of cultural industries is different from the output of other industries, why the cultural output of a nation cannot be substituted with the cultural output of another and why they need special consideration in the context of trade agreements. Those arguments are not repeated in this submission.

DFAT is also familiar with the matrix of support provided by government to support the cultural industries and again this information is not repeated in this submission. Rather this submission hopes to further illustrate the climate in which the cultural industries operate in Malaysia.

“Unlike automobiles, tooth paste, appliances, or textiles, information products are not consumed one unit at a time. Rather, each product unit is designed to be utilized repeatedly by many, thus becoming more valuable with use. While the value of a single industrial product such as an automobile, refrigerator, or computer decreases with usage, the precisely opposite effect applies to an information or cultural product. A film, book, television program, or software product increases its value disproportionately the more it is used, viewed, or applied by increasing numbers of people. This has been the case since commercial publishing began and certainly since the age of mass distributed audio-visual products such as popular music, film, and television programs. While we have had ample evidence of this economic phenomenon from the dawn of film and broadcasting, an appreciation of the unique characteristics of cultural products went largely unacknowledged in public policy and research.”

Shalini Venturelli, Associate Professor, American University¹

¹ *From the Information Economy to the Creative Economy: Moving Culture to the Center of International Public Policy*, Shalini Venturelli, Centre for Arts and Culture, pages 7-8, available online at www.culturalpolicy.org.

Background to Malaysia's support for cultural industries

Malaysia's population of 25.5 million comprises a number of ethnic groups with Malays accounting for 50.3% of the population, Chinese 23.8%, Indigenous peoples 11.0%, Indians 7.1%, non Malaysian citizens 6.6% and others at 1.2%.² Collectively, ethnic Malays and other Indigenous peoples are known as "bumiputeras". Malaysia's New Economic Policy (NEP), established in 1971, sought to eliminate poverty, end the identification of economic function with ethnicity and was specifically designed to enhance the economic standing of bumiputeras. Rapid growth, especially through the 1990s prior to the 'Asian meltdown', made it possible to expand the share of the economy for bumiputeras at no expense to other sectors of the community.

In 1991, when the NEP expired, it was replaced by the national Development Policy which broadly mirrored the goals of the NEP but without specific ethnic targets and timetables. In 2001, the Government released the National Vision Policy to guide development over the first decade of this century.³ The focus on the bumiputeras during the latter part of the 20th century is reflected in the broadcasting content standards mandating levels of local programs produced in Bahasa Meluya.

Although Malaysia is rapidly changing from a primary producing country overly reliant on two commodities – rubber and tin – to a diversified industrialised country producing, on the one hand, goods from agricultural materials and, on the other, electronics like semi-conductors and chips, the Government nonetheless actively fosters cultural cottage industries like batik design, songket weaving, pottery, and basket and mat weaving. The Government also fosters the maintenance of traditional songs, music, and poetry.⁴

Following racial riots in May 1969, the Government introduced Rukunegara (Malaysian nationhood) in an attempt to articulate the philosophy that would underpin the nation. It was officially declared on 31 August 1970 in the hope it would strengthen national unity in a multicultural society. It declares that Malaysia is dedicated to "achieving a greater unity for all her peoples, maintaining a democratic way of life, creating a just society in which the wealth of the nation shall be equitably distributed, ensuring a liberal approach to her rich and diverse cultural traditions, and building a progressive society which shall be oriented to modern science and technology".⁵

Rukunegara is guided by five principles:

1. *Kepercayaan kepada Tuhan* (Belief in God)
2. *Kesetiaan kepada Raja dan Negara* (Loyalty to King and Country)
3. *Keluhuran Perlembagaan* (Supremacy of the Constitution)
4. *Kedaulatan Undang-undang* (Rule of Law)
5. *Kesopanan dan Kesusilaan* (Mutual Respect and Morality)⁶

Along with the NEP, the National Cultural Policy was formulated in 1971. It comprises three elements – to place emphasis on cultural programs that enhance national identity, promote national integration and unity and maintain racial harmony.

In 1996, Malaysia launched Vision 2020 which sets out the Government's ambitions to be a developed country by 2020, a strategy articulated by former Prime Minister Dr Mahathir Mohamad in the following terms: "Malaysia should not be developed only in the economic sense. It must be a nation that is fully developed along all the dimensions: economically, politically, socially, spiritually, psychologically and culturally. We must be fully developed in terms of national unity and social cohesion, in terms of our economy, in terms of social justice, political stability, system of government, quality of life, social and spiritual values, national pride and confidence."⁷

² Source: *Background Note: Malaysia*, US Department of State, Bureau of East Asian and Pacific Affairs, January 2005, page 1, available online at www.state.gov/r/pa/ei/bgn/2777.htm.

³ Ibid, page 5.

⁴ Source: *Malaysia*, APRCCN – Cultural Policy and Law, see online at www.culturelink.or.kr.

⁵ Source: *Rukunegara*, All Malaysia Info, see online at http://allmalaysia.info/msiaknow/malaysiana/symbols_rukunegara.asp.

⁶ Ibid.

⁷ *The Way Forward*, a speech presented by His Excellency YAB Dato' Seri Dr Mahathir Mohamad at the Malaysian Business Council, available online at www.pmo.gov.my.

According to Mahathir Mohamad, “Malaysia entered year 2000, the first year of the 21st century and third millennium, determined to achieve its objective of becoming a fully developed country by the year 2020.” He went on to say, “Some have wondered why 2020 and not some other year. As a doctor I am attracted to the optometrist measurement of vision; 2020 indicates 100 percent good vision in both eyes. Our Vision 2020 for Malaysia implies this clear vision of where we want to go and what we want to be.”⁸

Vision 2020 is the blueprint for building a fully developed, knowledge-rich society “through the development of the ICT sector and the use of ICT to increase global competitiveness. The intent behind Malaysia’s Multimedia Super Corridor (MSC) has been to create a high-tech environment and infrastructure that can attract national and international investors and create spillover effects in the rest of the Malaysia economy.”⁹ The MSC “is designed to create an ideal environment for ICT-related production as well as provide the backbone for an information superhighway. The network contains a high-speed link (10Gb/s network) that connects the MSC to Japan, ASEAN, the US and Europe”.¹⁰ The Demonstrator Application Grant Scheme provides funds for multimedia program development. In 1999, the contribution of the ICT sector to GNP was approximately 36.5%. The government provides a range of financial incentives including zero income tax for ten years, research and development grants and a 100% investment tax allowance on new investment in the MSC.

Like Australia, Malaysia is experiencing skilled labour shortages especially in ICT. Consequently, the Malaysian Government is investing in high quality comprehensive education. In March 1997, the Cabinet instructed Telekom Malaysia Berhad to set up the Multimedia University in Cyberjaya. It opened two years later. Established to become “a world class university that leads in learning and research within the broad sphere of multimedia and information technology”¹¹ it offers degrees in multimedia covering film, animation and games. The Computer in Education (CIE) Program equipped schools with computers and trained teachers to conduct CIE. Computer Aided Design and Computer Aided Manufacturing were added to the curricula of secondary technical schools. The National Information Technology Agenda (NITA), launched in December 1996 by the National Information Technology Council, provides the framework for using ICT to transform Malaysia into a developed country. “The NITA vision is to use ICT to transform Malaysia, across all sector, into an information society, then a knowledge society, and finally a ‘values-based’ knowledge society.”¹²

Financing of cultural activity

As is the case in Australia, all three levels of government – federal, state and local – participate in financing the promotion of Malaysia’s cultural industries.

At the federal level, financial commitment to the cultural industries has been in place ever since the first Five Year Development Plan of 1966-1970.

Like Australia, Malaysia seeks to foster private sector participation in the arts and provides tax deductions for those making cash contributions to the Ministry of Culture, Arts and Tourism to sponsor orchestral, theatrical and other cultural performances. “To increase the quality of cultural performances, artists such as writers, actors, dancers, singers, musicians, composers and lyricists participating in performances recognised as national culture are given tax exemption on the income so derived. Tax exemptions are also given to stage plays organised by local theatre companies.”¹³

⁸ *Malaysia on Track for 2020 Vision*, Mahathir Mohamad, available online at the United Nations Online Network in Public Administration and Finance, <http://unpan1.un.org>.

⁹ *Creating a Development Dynamic, Final Report of the Digital Opportunity Initiative*, Accenture, Markle Foundation and United Nations Development Programme, July 2001, Appendix 3, available online at www.opt-init.org.

¹⁰ *Ibid.*

¹¹ Vision Statement, Multimedia University, see online at www.mmu.edu.my.

¹² *Creating a Development Dynamic, Final Report of the Digital Opportunity Initiative*, Accenture, Markle Foundation and United Nations Development Programme, July 2001, Appendix 3, available online at www.opt-init.org.

¹³ Source: *Malaysia*, APRCCN – Cultural Policy and Law, see online at www.culturelink.or.kr.

Malaysians are encouraged to develop a deep respect for moral values and ethical behaviour, principles that underpin the Rakan Muda programs – youth friendship programs – designed to foster healthy lifestyles and to instil positive values. To encourage public involvement in cultural activities, the Culture Division of the Ministry of Culture, Arts and Tourism organises or sponsors activities like the Socio-Cultural Youth Camp “which is intended to create and develop a generation of cultural leadership who are creative and innovative in the field of culture and art.”¹⁴

Arts and culture in Malaysia – relevant legislation¹⁵

- Antiquities Act 1976 (Act 168)
- National Art Gallery Act, 1958
- Legal Deposit of Library Material Act, 1986 (Act A667)
- National Library Act, 1972; The National Library (Amendment) Act, 1987
- National Archive Act, 1966 (Act 44), (Revised 1971), (Act A85), (Revised 1993), (Act 511)
- Tourist Development Corporation of Malaysia Act 1972
- Broadcasting Act 1988 (Act 338), Broadcasting (Amendment) Act, 1997 (Act A977)
- Radio Communications Regulation (Advertising) 1985
- Cinematography Film - Hire Duty Act 1965 (Revised 1990), (Act 434)
- Perbadanan Kemajuan Filem Nasional Malaysia Act 1981 (Act 244), Perbadanan Kemajuan Filem Nasional Malaysia (Amendment) Act, 1984 (Act 589) (Malaysian National Film Development Corporation FINAS Act)
- Perbadanan Kemajuan Kraftangan Malaysia Act 1979 (Act 222)
- Theatres & Places of Public Amusement (Federal Territory) Act 1988 (Act 182)
- Bernama Act, 1967 (Revised 1990), (Act 449)
- Entertainment Duty Act 1953 (Revised 1973) (Act 103)
- Copyright Act 1987; Copyright (Amendment) Act 1997
- Computer Crimes Act 1997
- Digital Signature Act 1998

Key cultural institutions

- **Department of Museum and Antiquity** – charged with collecting and preserving the nation’s cultural and historical heritage and its flora and fauna and disseminating cultural and historical knowledge through exhibitions, lectures, workshops and so on.
- **National Art Gallery** – the Legal Deposit of Library Material Act 1986 (Act A667) requires all publishers in Malaysia to deposit five copies of print material (books, serials, maps, charts, etc.) and two copies of non print materials (cinematography, film, microfilm, video, audio recordings and other electronic media) published or produced in Malaysia with the National Library of Malaysia.
- **National Archives of Malaysia** – collects, stores and preserves all records and information of national value and historical significance including government records.
- **Filem Negara Malaysia** – established in 1946, it is the media arm of Government, producing documentaries, trailers and animated films and recording events of socio-cultural and historical importance.
- **National Film Development Corporation (FINAS)** – established under the Perbadanan Kemajuan Filem Nasional Malaysia Act, 1981 (Act 244) to promote, nurture and facilitate the development of the Malaysian film industry. Its functions include making recommendations to the Minister regarding policies, methods and measures to be adopted to nurture and support the local film industry; to stimulate the industry’s growth and to enhance standards including by way of the provision of research and advisory services; to regulate industry; and to promote the industry within Malaysia and internationally.
- **Radio and Television Malaysia (RTM)** – provides services through domestic and overseas broadcasts known as Voice of Malaysia. Its key objectives are “to explain and provide widespread and in-depth coverage on government policies and programmes so that they would be fully

¹⁴ Ibid.

¹⁵ Sources: Lawyers, The Malaysian Online Legal Resources, see www.lawyerment.com.my; Malaysia, APRCCN Cultural Policy and Law, www.culturelink.or.kr and Malaysia Culture and Information – Legislation, see online at www.kempen.gov.my.

understood by the people; to stimulate interest and promote the way of thinking of the people in line with government policies and aspirations; to develop civic consciousness and promote the development of Malaysian arts and culture; and to provide suitable materials for general information, education and entertainment purposes.”¹⁶

- **Karyanika Exhibition and Marketing Centre** – established to foster and promote Malaysian handicrafts and cottage cultural industries.

The audiovisual industry in Malaysia

Malaysia

“Malaysia has some of the toughest censorship laws in the world. The authorities exert substantial control over the media and restrictions may be imposed in the name of national security.

The government is keen to insulate the largely-Muslim population from what it considers harmful foreign influences on TV. News is subject to censorship, entertainment shows and music videos regularly fall foul of the censors, and scenes featuring swearing and kissing are routinely removed from TV programmes and films.

The TV sector comprises commercial networks and pay-TV operations. Around a quarter of TV households subscribe to the Astro multichannel service. A second pay-TV operator, MiTV, is in the pipeline. TV3 is a leading national private, terrestrial broadcaster.

State-owned Radio Television Malaysia (RTM) operates two channels and many of the country’s radio services. Private stations are on the air, broadcasting in Malay, Tamil, Chinese and English.

Newspapers must renew their publication licences annually, and the home minister can suspend or revoke publishing permits.

Malaysia had some 8.7 million internet users by 2003, according to the International Telecommunication Union. Some web sites, such as Laman Reformasi, close to former deputy prime minister Anwar Ibrahim, freeMalaysia or Malaysiakini, have come under official criticism.

The press:

New Straits Times – English-language

The Star – English-language

Business Times – English-language

The Malay Mail – English-language

Malaysiakini – English-language, online news service

Television:

Radio Television Malaysia (RTM) – state-run, operates TV1 and TV2 networks

TV3 – commercial network

ntv7 – commercial network

Radio:

Radio Television Malaysia (RTM) – state-run, operates some 30 radio stations across the country and external service Voice of Malaysia

Time Highway Radio – private Kuala Lumpur FM station

Era FM – private FM station

News agency:

Bername – Malaysian national news agency”

Source: BBC, *Country Profile – Malaysia*, last updated 2 April 2005, available online at http://news.bbc.co.uk/1/hi/world/asia-pacific/country_profiles/1304569.stm.

Like Australia, Malaysian government policy is to foster its cultural industries.

Screen Digest 2004 lists Malaysia as one of the top 20 countries by government production investment in feature films, coming in at number 18, ahead of Australia at 22. Feature film production in Malaysia has been increasing in recent years, from nine features in 1997 to 26 in 2003. 25 features are due for release during 2005 and, if all are cleared by the censors in time, this year’s Malaysian Film Festival in July will see 31 films vying for awards, the largest number since the Festival was established in 1980.¹⁷

¹⁶ Source: *Malaysia*, APRCCN – Cultural Policy and Law, see online at www.culturelink.or.kr.

¹⁷ *Record entries expected*, New Strait Times, 10 May 2005, available online at www.nst.com.my.

Importantly for producers and directors, the censors are showing signs of being more accommodating. According to filmmaker Saw Teong Hin, filmmakers are now able to present their case when they feel their work has been unjustly censored. Nonetheless, "It is a restrictive and arbitrary system that needs to be improved on."¹⁸ In one concession made by the censors, filmmaker Amir Muhammad noted, "The horror genre was banned for 30 years when a regulation banning violence, horror and sex in movies was introduced. Horror movies came back to local screen last year with Pontianak Harum Sundal Malam, directed by Shuhaimi Baba, a woman director. It was a big hit."¹⁹ (It was not quite so generously reviewed.)

There are no restrictions on importing English language films. However, strong censorship guidelines act to deter a number of titles achieving theatrical release in Malaysia that achieve distribution elsewhere.

Access to exhibition is a contentious issue for Malaysian producers. However, FINAS, Malaysia's film commission, requires the mandatory screening of all films it certifies as Malaysian filmed in Bahasa Melayu. Syarat Wajib Tayang requires exhibitors to screen certified films for a minimum of seven consecutive days, after which time the exhibitor is able to make a commercial determination about whether to extend the season.²⁰ FINAS also determines the release dates for certified films in order to ensure that they are spread throughout the year and to avoid too many competing for audiences simultaneously.

A Government entertainment tax of 25% applies to cinema tickets. Producers of certified Bahasa Melayu language feature films are able to benefit from a rebate from funds raised by the tax. For every Malaysian Ringgit cinema tax raised from the release of certified films, 25% is retained by the Government and the balance is split 50% to the exhibitor and 50% to the producer.²¹

Foreign equity in terrestrial broadcast television networks is banned. The government sets local content quotas on both radio and television programming. "Eighty percent of television programming is required to originate from local production companies owned by ethnic Malays (an increase from the previous limit of 60 percent)."²² However, it is understood that at present the increased quota has not been rigorously enforced where lack of compliance can be demonstrated to be attributable to a lack of local programming availability. The content standard for radio remains at 60%.

As with film, strict censorship mitigates against many overseas television programs being broadcast on television. Consequently, the combination of local content regulation and censorship ensures that Malaysian content dominates television by comparison with Australia. See Appendix A. As in Australia, programming ranges over news and current affairs, children's programs, light entertainment, variety, infotainment, soaps and drama. Reality television has taken hold as it has done around the world. For instance, the second series of *Malaysian Idol* is now in production.²³

As a condition for obtaining a license to operate, video rental establishments are required to have 30 percent local content in their inventories.²⁴

¹⁸ Saw Teong Hin, cited in *Local films stir interest abroad*, New Straits Times, 10 May 2005, available online at www.nst.com.my.

¹⁹ Amir Muhammad, cited in *Local films stir interest abroad*, New Straits Times, 10 May 2005, available online at www.nst.com.my.

²⁰ Sources: FINAS, see www.finas.gov.my and *Films Made in Malaysia*, Datin Rosnani Jamil, President, Scriptwriters' Association of Malaysia, delivered at the UNI-MEI 4th Asia/Pacific Freelance Film Production Technicians' and Creators' Conference, Bangkok, October 2004.

²¹ *Films Made in Malaysia*, Datin Rosnani Jamil, President, Scriptwriters' Association of Malaysia, delivered at the UNI-MEI 4th Asia/Pacific Freelance Film Production Technicians' and Creators' Conference, Bangkok, October 2004.

²² *2003 National Trade Estimate Report on Foreign Trade Barriers*, United States Trade Representative, page 269, available online at www.ustr.gov.

²³ *Cheryl to co-host Malaysian Idol*, New Straits Times, 10 May 2005, available online at www.nst.com.my.

²⁴ *2003 National Trade Estimate Report on Foreign Trade Barriers*, United States Trade Representative, page 269, available online at www.ustr.gov.

Unlike Australia, commercials are allowed on the public broadcasters. “Commercials are restricted to a maximum of 20 percent foreign film content and only Malaysian actors may be used in commercials shown in Malaysia. The Government of Malaysia has an informal and vague guideline that commercials cannot ‘promote a foreign lifestyle.’”²⁵

According to Nielsen Media Research Malaysia, advertising expenditure in the sector during 2004 was RM4.4 billion (US\$1.16 billion) up 17% from 2003. The increase was in large part due to the launch of two new television stations – 8TV and the relaunched Channel 9. However, industry commentators believe growth in the advertising sector will continue notwithstanding Channel 9 “temporarily” going off air from 1 February this year, a mere 18 months after its relaunch.²⁶ Channel 9 has said it is now undergoing a “systematic and comprehensive corporate and debt restructuring scheme” aiming to draw new investors. According to the Asia Pacific Broadcasting Union, “New owners – widely speculated to be the Media Prima group – are expected to relaunch the station by February 2006.”²⁷ As Media Prima already owns Sistem Television Malaysia Berhad (TV3) and the newly launched 8TV,²⁸ acquiring Channel 9 will lead to a greater concentration of ownership in television broadcasting.

As is the case in Australia, Malaysian production companies and postproduction houses have been looking offshore for work. Increasingly, companies are reporting reliance on offshore work for up to 50% of turnover. Many companies share views expressed by Justin Woon of Twisted Media about the need “to strike a fine balance between servicing the local and foreign markets. The foreign work will ultimately be more demanding and would require both greater resources and quality, so we have to ensure that we do not overburden ourselves and ultimately limit our availability to handle existing local clients.”²⁹

Lucrative markets for Malaysia are Indonesia and Thailand, and increasingly China. Thailand, for instance, is said to be worth US\$500 million in advertising work. According to Nielsen Media Research figures, the advertising spend in 2004 across twelve Asia Pacific markets hit a record US\$62 billion. Securing cross border work has been particularly important for production houses that specialise in television commercials. Some companies report working with clients from the United States, Pakistan and Japan.

mfx’s Peter Coleman reports, “Our foreign market ranges from the middle East, India, Africa through Southeast Asia and China. We have also been quoting for Australia and the US, as more people realise that distance is no longer a major issue, what with communication via the Internet being so efficient.”³⁰ By way of example, a Tusker Beer commercial was shot in Kenya, produced in Dubai, using an Australian director and director of photography, then edited and postproduced in Malaysia at mfx.³¹

Not only are Malaysian companies seeking to augment domestic work with overseas work but, in the wake of two recessions during the 1990s, are also seeking to balance the kind of work they undertake. Rather than specialising, for instance, in television commercials production, they are increasingly seeking to work in television drama as well, thus enhancing survival chances in the event of another economic downturn.

As is the case in many other markets, including Australia, television commercials budgets have yet to recover from the downturns of the 1990s. The average budget in Malaysia is reported to be around RM150,000 (\$US40,000). While budgets are not moving, advertising expenditure in Malaysia is predicted to continue to increase during 2005 by RM400 million (US\$105 million) to RM4.8 billion (US\$1.26 billion).

²⁵ Ibid.

²⁶ *New Age of Post*, Asia Image, April 2005, available online at www.ai-interactive.com; *Malaysia’s Channel 9 to go off air ‘temporarily’*, Asia Pacific Broadcasting Union, 11 January 2005, see online at www.abu.org.my.

²⁷ *Malaysia’s Channel 9 to go off air ‘temporarily’*, Asia Pacific Broadcasting Union, 11 January 2005, see online at www.abu.org.my.

²⁸ Ibid.

²⁹ Justin Woon, Twisted Media, cited in *New Age of Post*, Asia Image, April 2005, available online at www.ai-interactive.com.

³⁰ Peter Coleman, mfx, cited in *New Age of Post*, Asia Image, April 2005, available online at www.ai-interactive.com.

³¹ *New Age of Post*, Asia Image, April 2005, available online at www.ai-interactive.com.

The Media and Freedom of the Press

This year, Reporters without Borders released its Third Annual Worldwide Press Freedom Index. Rankings have regard to freedom of information and safety of journalists. Denmark, Finland, Iceland, Ireland, the Netherlands, Norway, Slovakia and Switzerland ranked equally in first position followed by New Zealand at ninth place. Australia ranked 41st whereas Malaysia ranked 122nd,³² a sharp drop from 104th place in 2003.³³

Piracy and Corruption

As indicated in our November submission, piracy is an ongoing issue with Malaysia considered to be the most significant producer/exporter of pirate optical disc entertainment software in the world.

The International Intellectual Property Alliance 2005 Special 301 Report on Malaysia recommended that Malaysia remain on the United States Watch List but noted “cooperation from the government in Malaysia in 2004 in the form of continued raids, including against optic disc plants, retail stores, copy shops, and companies suspected of using illegal software ... The overall effects of these developments [raids, successful prosecutions, severe criminal penalties] is, for some industries, lowered piracy levels (e.g., 50% for motion pictures, down from 75% in 2002), and increased revenues for motion pictures and recorded music.”³⁴ Despite these improvements, the Report warned of “what is certain to be a more than doubling of pirate DVD exports leading all around the globe” and noted “[e]stimated losses to the U.S. copyright industries in 2004 due to piracy in Malaysia were US\$188.4 million.”³⁵

Nonetheless, initiatives to combat piracy continue. According to the New Straits Times X-ray machines to detect pirated DVDs are being installed at Kuala Lumpur International Airport and at the airport in Penang by the end of this month.³⁶ And Airline Industry Information reported on 6 April this year that “Malaysia Airlines Cargo Sdn Bhd (MASkargo), a subsidiary of Malaysia Airlines System Bhd, has made an agreement with the Motion Picture Association for checking cargo for pirated video compact discs and digital versatile discs, according to Mohd Yunus Idris, the general manager of MASkargo’s cargo operations.”³⁷

On 29 April 2005, the Integrity Institute Malaysia (IIM) and the United Nations Development Programme (UNDP) signed a Memorandum of Understanding under which the two organisations will work on a program focussing on implementing the 2004 National Integrity Plan. According to UNDP representative Dr Richard Leete, it is designed to combat corruption and “help to improve efficiency and contribute to greater public and investor confidence.”³⁸

³² Source: *East Asia and Middle East have worst press freedom records*, Reporters sans frontières third Annual Worldwide Press Freedom Index, available online at www.rsf.org.

³³ *Malaysia drops to no. 122 in press freedom ranking*, Malaysian Media Monitors’ Diary, 27 October 2004, available online at www.aliran.com.

³⁴ *2005 Special 301 Report: Malaysia*, International Intellectual Property Alliance, 2005, page 357 available online at www.iipa.com.

³⁵ *Ibid.*

³⁶ Cited in *Malaysia to install X-ray machines to detect pirated films at two airports*, Airline Industry Information, 6 April 2005, Copyright 2005 MS Communications Ltd, the Gale Group.

³⁷ *Ibid.*

³⁸ *The Integrity Institute Malaysia and United Nations Development Programme Launch ‘Anti-Corruption’ project – 29 April 2005*, UN Development Programme, available online at www.undp.org.my.

APPENDIX A – Program Schedule TV3 for Monday 16 May 2005

0630	Motivasi Pagi
0700	Buletin Pagi
0715	Malaysia Hari Ini (Live)
0900	Berita Terkini
0905	Sesame Street
0930	Nickelodean : Dora the Explorer
1000	Berita Terkini
1002	Citraneka : Putih Gaun Pengantin
1100	Detik Niaga
1102	Citraneka (cont'd)
1130	Sinetron : Cinta Berkalang Noda
1200	Berita Terkini
1202	Memori : Habang Kapiling Ka
1258	My TV3 Capsule
1300	Koleksi Kisah Benar
1329	Jurnal Protege
1330	Buletin 130
1400	Dramasuria : Salam Taj Mahal
1430	Wanita Hari Ini (live)
1530	Telenovela : Rubi
1600	Berita Terkini
1602	Telenovela (cont'd)
1628	My TV3 Capsule
1630	Asian Potpourri : Jealousy
1730	Business News
1732	Rewind Senario : Gitu Gitu Bersama Saiful
1759	Jurnal Protege
1800	Best of TVB : Square Pegs
1900	From the Green Room
1902	Hope & Faith : From And Circumstance
1930	Identiti : Harlina
2000	Buletin Utama
2100	Malaysian Top Host
2130	Misteri Nusantara
2200	Pearl Screen : What A Hero!
2358	My TV3 Capsule
0000	Nightline
0030	Score Board (Live)
0035	NBA Basketball (Delayed)

Source: TV3, see online at www.tv3.com.my.