



4th December 2012

**Professor Jill McKeough
Commissioner
Australian Law Reform Commission**

Dear Commissioner

Re: "Issues Paper on Copyright and the Digital Economy"

I write in my capacity as the General Manager of AIR (the Australian Independent Record Labels Association), a non-profit, membership based organisation that represents the interests of 200 member labels as well as the wider independent music sector in Australia. I have attached more information on the organisation at the end of this letter regarding the breadth of AIR's membership and representation.

This letter is in response to the Australian Law Reform Commission's 'Issues Paper' on Copyright and the Digital Economy. We welcome the opportunity to contribute to this very important discussion.

AIR does not have the resources to provide a detailed response to each aspect of the issues paper however we have had the opportunity to review the submissions of the Australian Recording Industry Association (ARIA), the Phonographic Performance Company of Australia (PPCA) and Music Rights Australia and endorse those submissions.

AIR's members operate in a high-risk environment, investing both time and considerable financial resources into the creation and commercial exploitation of sound recordings. Through such investment, and the associated nurturing of creative talent, they contribute enormously to the Australian contemporary cultural landscape.

Their ability to build sustainable and flexible business models, and continue the cycle of investment and creative output, is based on the protections afforded to rights holders through Australia's copyright framework. As a result, we urge the Commission to recommend against any diminution of our members' rights or extension to compulsory licensing as, in our view, this will inevitably result in a reduction in the markets they would otherwise have reasonably expected to be able to exploit in the normal course of their businesses.

In our view, even a cursory examination of the current services and offerings available to music consumers,

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demonstrates that the industry is willing to enter into commercial arrangements with service providers to provide innovative and varied delivery models, which have been to the benefit of music consumers. We are aware of no compelling evidence which would support the introduction of additional exceptions or expanded statutory licences, and question whether specific circumstances exist which would meet the threshold requirements under Australia's extensive matrix of international obligations in this area.

In particular we draw the Commission's attention to PPCA's submissions in respect of sections 152(8), 152(11) and 199(2) of the Copyright Act (1968). AIR wholeheartedly supports the statements of PPCA – we cannot accept that the small businesses we represent should have their potential earnings curtailed in order to subsidise the business model of the highly successful commercial radio sector and the ABC. All we ask is the opportunity, when necessary, to have the value of our content assessed by the specialist independent arbiter (the Copyright Tribunal) in the context of the then current market.

The music business has always been high risk. In recent years this risk has been exacerbated by the high volume of product accessed illegally via online platforms, and the resulting overall reduction in industry revenues. In order to sustain their businesses and continue to support and participate in the global digital economy our members need certainty and a robust framework of rights protection. Such a framework also encourages continued creative endeavour, and the production of original Australian content.

Yours faithfully



Nick O'Byrne
General Manager
The Australian Independent Record Labels Association Ltd.

THE AUSTRALIAN INDEPENDENT RECORD LABELS ASSOCIATION (AIR)

AIR is a not-for-profit, non-government association dedicated to promoting a commercially viable music industry environment that is conducive to growth and development of the Australian independent sector. AIR represents the business and cultural interests of approximately 200 member labels who invest in, and release the music of an estimated 6,000 independent artists annually. The independent sector comprises between 20% and 40% of Australia's recorded music market more than 90% of the different titles available for sale.

The independent sector provides rich musical and cultural diversity of Australian music. Independent labels are indeed the only labels that specialise in the "arts" including jazz, classical, contemporary classical music, world-music, indigenous music and niche contemporary genres like dance, blues, country, electronic, punk or metal.

AIR maintains strong relationships with ARIA, MCA (Music Council Of Australia), AMIN (The Australian Music Industry Network), APRA (The Australasian Performing Rights Society), Music Rights Australia and international organisations like WIN (Worldwide Independent Network), Merlin, AIM (The Association of Independent Music, UK), A2IM (American Association of American Independent Music) and IMPALA (Independent Music Publishers and Labels Association, Europe).