** Audio Visual Division**

**July 8, 2013**

A  submission  in  response  to  the  ALRC  Issues  Paper  42.

Australian Law Reform Commission Review of Copyright and the Digital Economy

Audiovisual Division - Australian Photographic Society - Response

The Audiovisual Division of the Australian Photographic Society represents AMATEUR photographic artists creating short audiovisual sequences for the sole purpose of artistic expression. The use of music in a transformative creation is common, with the entire artistic piece consisting of original photographs, together with music, narration, sound effects etc. This artwork is made for creative, artistic and social reasons. It enables people to express themselves, to convey a new thought or idea, or simply entertain. It is often shown beyond the normal family situation, in a photographic club/festival atmosphere, but it has no commercial value or purpose and is not for financial gain. The original music is always credited at the end of the sequence.

Current licensing schemes are difficult to understand, cumbersome and expensive. Although to have this work considered either "transformative" or "fair use" would be preferable, most artists in this AV medium would be happy to have a specific and affordable license made available for them. At the moment there is such confusion and fear many people who would like to try their hand in this medium do not proceed for fear of litigation. Most of the AV sequences in question would only be seen a few times outside of the home - at a local Photographic club or two, a State photographic event and perhaps two National AV events or competitions. After that, the AV makers usually move on to their next project. No money ever changes hands and the authors could be described as "enthusiastic amateurs". It is our experience that these people do wish to do the right thing and do not wish to "unreasonably prejudice the legitimate interests of the rights holder". Clarification would be much appreciated.

The preferred outcome of this enquiry would be for usage of music etc. by AV artists, as described above, to be considered "**fair use**".

Alternatively, amateur AV artists in Australia would welcome the introduction of a simple, inexpensive license arrangement similar to that available to their colleagues in the UK. Details of that scheme are shown below.

*http://www.theiac.org.uk/iac/copyright/copyright-clearance-scheme.html*

*MECHANICAL COPYRIGHT PROTECTION SOCIETY (MCPS)*

*MCPS protects the Rights of the Composer and permits the licensee to record (dub) musical works owned by it's members which have previously been released as a sound recording on condition that the recordings are privately used only:*

*a) For exhibition to friends and relations in private*

*b) On amateur movie, photographic or video club premises where admission is free or where a charge is made for club funds*

*c) For public exhibition when such is promoted for the raising of club funds or for bone fide charitable causes*

*d) For not more than TWO public exhibitions held annually in addition to those in (a) and (b) above*

*e) For exhibition at annual amateur movie, photographic or video festivals attended by competitors and friends*

*f) Exhibition to judges in amateur film, photographic or video competitions*

*g) For inclusion, as clips and short videos, in YouTube - provided there is no financial gain and no commercial advertising is attached. Such clips may be "embedded" in IAC and club websites so long as they are hosted by YouTube.*

*The licence clears FOR ALL TIME dubbings made within the twelve months of the licence.*