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**Response by HILLSONG MUSIC AUSTRALIA and HILLSONG MUSIC PUBLISHING to the ALRC Discussion Paper on copyright in the digital economy.**

Hillsong Church through its record label and music publishing divisions, Hillsong Music Australia and Hillsong Music Publishing (Hillsong) is pleased to provide this response to the discussion paper "Copyright in the Digital Economy", June 5 2013.

We have concerns and are opposed to the current proposal for a broad and flexible "US style" exception for fair dealing. For an organisation that primarily produces creative content for its altruistic purposes, and for the furtherance of its non-profit objectives, these changes have potential far reaching consequences.

A lot of today's creative content has a message behind it, whether it be environmental, peace, indigenous rights, spiritual or other messages. This type of messaging has been prevalent throughout all genres of music for centuries. It was exemplified through the songs and creative content of the late John Lennon and is shown in music today. As a Christian organisation, we have been very careful through the years to maintain a consistent message through our content and the protection of it. It is extremely important to us that we are able to maintain a level of control and protection to our overarching message portrayed in the creative output of all of our stakeholders.

Additional to the protection of the intended messages of creative content, it is vital that the perceived associations drawn between individuals and organisations are protected. We, along

with bands such as U2, have historically protected our works from use with causes or individuals that we do not wish to be aligned with.

The current proposals in the discussion paper are too broad to allow appropriate protections for the preservation of the intentions of the content creators. It is from this place of concern that we write this letter.

### **Moral Integrity**

What one considers moral, another may consider differently. This is particularly true of religious content. However, although the term "moral rights" have specific definition under the Act, it would appear that the ALRC confuse moral rights with the right to control the dissemination of works. The act very clearly defines moral right as being right to attribution, right to not be falsely attributed, and the right of integrity.

The Right of Integrity as defined in the Act, is the right of an author or performer to ensure that his or her work is not subjected to derogatory treatment, i.e. in a manner that is harmful to the author or performers honour or reputation.

This protection is of particular concern as it applies to the proposed amendments.

### **Reputation**

Those organisations who have members that are passionate about pursuing creative interests for the benefit of a greater community consistently put their personal interests aside to ensure the message of the greater community is achieved. This does not just happen in Christian organisations, but can happen in other areas of creative output - whether it be Midnight Oil and their passion to see environmental change or even reconciliation, or whether it be the altruistic purposes of a church to see people connect more with their God, the purposes still require reputation protections.

There are currently no provisions in the proposal that protect the reputation and interests of community minded and focussed organisations. It could be envisaged that such protections would be completely lost in the suggested proposal.

### **Inconsistencies**

Provision 6.39 of the discussion paper makes the argument that rights holders should be able to make their own choice regarding licensing their content, having quoted a UK source on the subject. This is clearly an argument for the repealing of the Statutory License provisions.

However, this is inconsistent with the rest of the discussion paper. Although we agree with this statement, the lack of clarity in the rest of the paper around protecting the rights of content owners to retain the distribution channels for exploitation of their work as it applies to the proposed "fair dealing" provision, private and domestic and non-consumptive definitions is of grave concern.

### **Specific Examples**

A number of years ago, it came to our attention that one of our songs and owned sound recordings had been used in the background of a pornographic film. The ability for us to assert our exclusive rights and demand the removal of our song and sound recording was important and this type of situation demonstrates the necessity to have clear parameters around rights holders control.

***Our concern is that in a digital environment, in the day and age of User Generated Content and with the proposed "fair dealing" exceptions given in the Discussion Paper, this type of use could potentially fall within the scope of "non consumptive" or even "personal and domestic" and we as copyright owners would be precluded from protecting our works and that of the song writers we represent and the inherent message unless we are prepared to be overly litigious.***

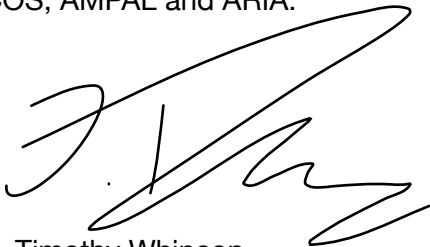
The suggested proposals in the discussion paper and the 'broad and flexible' approach to "fair dealing" will clearly bring about a flood of litigation and tie up the courts with determining the extent to which such "fair dealing" will apply.

One of the greatest concerns around the discussion paper remains that there is significant lack of detail in relation to how the proposed reforms will actually help encourage creativity in a digital economy. The reality is that many provisions of the current Act may need to be amended to ensure adequate technological neutral approaches, however, the suggested repealing of many of the provisions is an overreaction and will create more uncertainty around the law than currently exists.

We support the submissions of APRA|AMCOS, AMPAL and ARIA.

Kind regards

  
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