

Association of Artists Managers
Meg (Margaret) Williams
230 Crown St
Darlinghurst NSW 2010

8 August 2013

Professor Jill McKeough
Commissioner
Australian Law Reform Commission
GPO Box 3708
SYDNEY NSW 2001

To Whom It May Concern;

The Association of Artist Managers (AAM) brings together the industry's leading music managers, providing a peak body to address the issues facing managers and their artists. The AAM represents managers at every level of their career. The current board of directors, of whom this document is signed by, represent some of Australia's most important and relevant artists today including Sarah Blasko, Paul Kelly, Bob Evans, PVT and the Rubens, to name a few.

We are writing on behalf of our members in response to the Australian Law Reform Commission's Discussion Paper, *Copyright and the Digital Economy* in order to give you the artist perspective on some of the proposals and questions put forward by the Commission. In particular, we thank the Commission for recognizing the need to assess the inequitable caps which are imposed on the fees which the wealthy Australian radio industry pays for the broadcast of sound recordings, which has a direct impact on the ability of recording artists receive fair and reasonable income from the use of their recorded performances. We support the repeal of both caps under section 125 of the Copyright Act.

The AAM is a fairly lean organisation, and does not have the internal resources to respond in detail to all proposals and questions contained within the Discussion Paper. However, we firmly believe that this is a useful and important inquiry into issues directly impacting our members and the artists we represent, and are keen to participate in the process.

We have reviewed the submissions of the Phonographic Performance Company of Australia (PPCA), [the Australasian Performing Right Association Limited (APRA)] and the Australian Recording Industry Association (ARIA), and are pleased to confirm our support for the content of those submissions.

AAM members are involved in supporting creators, and helping them to develop sustainable careers. Although, in recent years, the digital environment has provided enormous opportunities for artists to

connect and interact with their fans, it has also been a vehicle for the widespread dissemination of unauthorised content. This has severely impacted the earnings of the recording industry as a whole, and has a resulting and significant impact on the earnings of artists. Despite this our clients have enabled the use of their work on digital platforms, and music consumers can now access millions of sound recordings across a wide range of authorised innovative services of varying degrees of sophistication and commensurate price points.

As Australia Council research has demonstrated (*Don't give up your day job: an economic study of professional artists in Australia*, published in 2003) the average earnings of artists are low, and considerably less than other occupations requiring similar periods of professional training. In our experience this situation remains the same today.

If artists are to continue to create, and produce the quality content modern digital services rely upon, they need the protection of a robust copyright law to provide certainty, protection and a basis for investment in these inherently high-risk endeavours.

We have seen no evidence to support the need for additional exceptions or statutory licences in the current market, and do not believe that the current framework has in any way stifled innovation.

We would also be very troubled by any changes that would lessen the creator's control over the use of their material. The individuals we represent are passionate about their work. The nature of the creative process often encourages, or is enhanced by, collaboration and artists frequently work with others, sharing ideas and elements of their work. However, there are already licensing models in place to support this, and we would oppose any proposals to diminish the artists right to approve the context of subsequent use. Many artists are sensitive to the association of their material with particular causes or issues, and would not want the integrity of their creation compromised.

In summary:

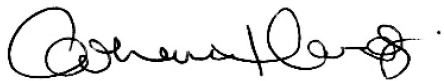
- We wholeheartedly support the repeal of the artificial and inequitable caps imposed by section 152 of the Copyright Act. Australian artists are entitled to register directly with the PCCA to directly receive 50% of income paid by radio broadcasters for the broadcast of their recordings and the caps amount to a subsidisation of the wealthy Australian radio industry by Australian recording artists.
- We support the PCCA's submission that internet simulcasting must be treated consistently with international copyright law and commercial practice, so that the Australian radio industry must

negotiate with rights holders in relation to a fair and reasonable fee for the separate simulcasting of their broadcasts.

- In our view, a case has not been made out for the adoption of an open-ended fair use regime in Australia.
- Rather than extend the existing broadcasting exceptions, we feel that these are best left for voluntary licensing by rights holders, which is already the case with the wide number of digital music services currently available in Australia. Also, we believe that the current section 199(2) free use exception is inequitable and restricts the ability of Australian performing artists to earn income from the commercial use of their recordings in a wide range of businesses.

Thank you for the opportunity to participate in this important review. We will monitor its progress with a great deal of interest.

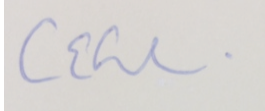
Regards,
The AAM Board of Directors



Catherine Haridy (Chairperson)



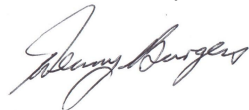
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