770. J Pyke

Dear Commissioner

Since the late 1990s I have been a working musician, playing in a number of bands and, for the last ten years, recording and releasing material under my own name as a solo artist. I am also a PPCA Patron, advocating the rights of Australian artists.

As a songwriter and an artist who relies on copyrighted material in order to make a living, I am particularly interested in the ALRC’s review into copyright and the digital economy.

Several of the proposals coming out the ALRC’s Discussion Paper, such as the proposed ‘fair use’ exception, may affect the potential of artists to be fairly compensated for their work. I rely on copyright to ensure that I am paid for the use of songs I have written and recordings I have produced. As an artist, I use social media like Facebook and Twitter to interact with my fans and I also use YouTube to stream my music videos. These platforms provide me with a way to showcase and share my work to a larger audience. As a content creator, copyright law gives me the control to determine how I can make my work available to others and it also provides me with the right to determine whether I want to be able to make my work available for a fair fee or even make it available for free. ‘Fair use’ will undermine my right to do this. It takes away my choice and control.

From what I understand, ‘fair use’ is a part of the US copyright law and that is one of the reasons some people think it will be a good idea to import it into Australia. However, in my view, *fair use* is anything but *fair*.  It’s complex, provides little certainty for users about what they can use and how they can use it and it seems to open the door for litigation.

As a recording artist, I am currently signed to an independent, Australian record label that depends on *strong* and *clear* copyright laws in order to sustain its business and the livelihoods of the artists signed to it. There are many hard-working musicians who have sacrificed much in order to follow their artistic passions so as to enrich our country’s rich and proud musical landscape. However, the introduction of ‘fair use’ into our copyright law coupled with the broadening of so called “free use” exceptions and the imbalances in the law for sound recording creators will reduce the incentives for artists to create music as their opportunities to earn a living from being a musician will be greatly diminished.  It will also mean that those people who invest in musicians – whether large or small businesses, would be less likely to continue to invest in the development of new talent as the potential for returns just won’t be there.  Investing in new talent is a costly and uncertain proposition at the best of times – but the proposed reforms will make it an even *more* uncertain proposition. Those with aspirations of making a living from music should be able to pursue their art without fear of having to give up simply because they cannot afford to eat or pay the bills.

Looking ahead, I will soon be an unsigned artist, and will therefore own 100% of any future recordings I make. I am looking forward to having more control of my output, and where it is used, and under what circumstances. I worry greatly that the proposed changes will potentially open the doors to my work being used without my permission, and in ways that i do not approve of, which could in turn jeopardise the "brand" I've worked so hard to build.

When reviewing the exceptions in our copyright law, the ALRC should give thought to removing those parts of the law that undermine an artist’s ability to make a living and those parts which continue to perpetuate imbalances for sound recording creators. Australia has a National Cultural Policy and one of its goals is “*to strengthen the capacity of the cultural sector to contribute to national life, community wellbeing and the economy*”. Changing  our copyright law so that creators have less control and more of their work is available for free does not strengthen the cultural sector at all. Australia has always been a country that has produced musicians who can stand toe-to-toe with the best in the world. I urge the ALRC to consider the important role that Australian artists play in our society and I implore that the ALRC consider the impact that any changes to the copyright law will have on them when reviewing the current law.

Yours sincerely

Josh Pyke