

Chapter 8

Future technological developments

Introduction

8.1 The terms of reference require the Committee to examine likely future technological developments in the playing of music in public and the methods used to license such playing. Very little evidence addressed this term of reference. That evidence which did address it indicated that while new technology was an issue for some rights, such as reproduction and diffusion, it is not something which is currently a priority in relation to public performance.

The internet

8.2 The Simpson Report commented on the huge potential to collect, transmit and receive music of good quality across the internet. It is possible to play and download music via the internet. The report commented on the ease with which material is available on the internet and the attitude that this material should be free.¹

8.3 According to APRA, the most relevant technological issue in the current context is the potential for new ways in which businesses will be able to access musical content to play in their premises.² It is APRA's

1 Simpson Report, chapter 35.

2 APRA, *Submissions*, p. S884.

view that the evolution of audio-streaming technology will result in the growth of niche-music background or foreground services which would be most likely delivered over the internet. APRA contends that the existing copyright law in relation to the performance right adopts a technology neutral approach that will be capable of dealing with these likely developments.

8.4 The PPCA considers that the key factors of technological development are the rapidly accelerating possibilities for digital recording, storage and delivery mechanisms such as on-line dissemination.³ While it anticipates that music recorded on CDs and CD ROM will continue to be sold, it envisages the distribution of recorded music to people over the internet and other networked services and the transmitted delivery of music to businesses for public performance use in that business.

8.5 Both APRA and the PPCA intend to license these activities under existing copyright law.

Copyright Reform and the Digital Agenda

8.6 The Committee notes the discussion paper 'Copyright Reform and the Digital Agenda' issued jointly by the Attorney-General and the Minister for Communications in July 1997. The discussion paper examines the way in which digital technology and the growth of computer networks has challenged the existing copyright framework.

3 PPCA, *Submissions*, p. S362.

The existing copyright regime does not enable copyright owners to control or be remunerated for the use of their work on-line.

8.7 The paper examines new World Intellectual Property Organisation (WIPO) treaties – the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty and the sorts of amendments which would be made to the Copyright Act in the event that Australia signs on to these treaties. These treaties create new rights to cater for the widespread availability of copyright material available on-line, most significantly, a new exclusive right of 'making available to the public'. The focus of the treaties and the discussion paper is on the potential for carriers, carriage service providers (including internet service providers) and content service providers to be made liable for the making available of copyright material on the internet. Causing the performance of music in public is not a central issue of these treaties.

Kevin Andrews MP
Chairman

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