



Appendix F - Suggested amendments from ARIA and PPCA¹

Section 135ZZI

Insert the following additional definition:

“**appointing copyright owner**” means a relevant copyright owner, or its agent, who does not become a member of the relevant collecting society but who appoints the collecting society to collect amounts of equitable remuneration payable under section 135ZZM and account to it as if it was a member.

Section 135ZZT

Amend subsections (3) and (4) as follows:

- (3) The Attorney-General must not declare a body to be a collecting society unless:
 - (a) it is a company limited by guarantee or shares and incorporated under a law in force in a State or Territory relating to companies; and
 - (b) all persons who are included in a class of relevant copyright owners to be specified in the declaration, or their agents, are entitled, but not obliged, to become its members; and
 - (c) its rules prohibit the payment of dividends to its members; and

¹ Australian Record Industry Association and Phonographic Performance Company of Australia, correspondence to the Committee dated 8 November 1999.

- (d) its rules contain such other provisions as are prescribed, being provisions necessary to ensure that the interests of:
- (i) members of the collecting society who are relevant copyright owners, or their agents; or
 - (ii) appointing copyright owners
- are protected adequately, including, in particular, provisions about:
- (iii) the collection of amounts of equitable remuneration payable under section 135ZZM; and
 - (iv) the payment of the administrative costs of the collecting society out of amounts collected by it; and
 - (v) the distribution of amounts collected by the collecting society; and
 - (vi) the holding on trust by the collecting society of amounts for relevant copyright owners who are not its members or appointing copyright owners; and
 - (vii) access to records of the collecting society by its members or appointing by copyright owners.
- (4) If the Attorney-General has declared a body to be the collecting society for a specified class of copyright owners, the Attorney-General may refuse to declare another body to be the collecting society for that class of copyright owners unless satisfied that to do so would be in the interests of those copyright owners, having regard to the number of members and appointing copyright owners of the first-mentioned society, the scope of its activities and such other considerations as are relevant.

Section 135ZZU

This section should be amended as follows:

The Attorney-General may, by notice in the *Gazette*, revoke the declaration of a body as a collecting society if satisfied that the body:

- (a) is not functioning adequately as a collecting society; or

- (b) is not acting in accordance with its rules or in the best interests of those of its members who are relevant copyright owners, or their agents or appointing copyright owners; or
- (c) has altered its rules so that they no longer comply with paragraphs 135ZZT(3)(c) and (d); or
- (d) has refused or failed, without reasonable excuse, to comply with section 135ZZV to 135ZZW.