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**AUSTRALIAN  
INDEPENDENT  
RECORD LABELS  
ASSOCIATION**



## **ARIA, MIPI, AIR and AMRA Submission to the joint Standing Committee on Treaties in relations to Anti-Counterfeiting Trade Agreement – February 2012**

The organizations listed below, representing Australian recording artists, musicians, performers, composers, music publishers, record companies and music retailers, are grateful to the Committee for the opportunity to make a submission on Australia's accession to the Anti-Counterfeiting Trade Agreement (**ACTA**).

We wish to express our support for Australia's participation in the ACTA.

There is no doubt that the ACTA, combined with Australia's well developed IP laws including civil and criminal enforcement and Australian Customs seizure provisions, gives much needed support to Australia's creative industries; particularly the artists, musicians, music publishers, record companies and music retailers which we represent.

Intellectual property rights (**IPR**) infringement is a global problem and requires global solutions and it is critical for governments to unite with common goals and approaches under the auspices of an instrument, such as the ACTA, to address the problem.

The ACTA represents an important step for greater protection against counterfeiting and piracy and will assist to create a more secure trading environment for Australia's creative community and those who develop and support their talent.

Importantly, the ACTA gives each participating country freedom to determine the appropriate method of implementing the provisions of the Agreement within its own legal system and practice and Article 27 clearly articulates the importance of the fundamental principles of freedom of expression, fair process and privacy.

Article 27.2

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These procedures shall be implemented in a manner that avoids the creation of barriers to legitimate activities, including electronic commerce, and consistent with each Party's law, preserves fundamental principles such as freedom of expression, fair process and privacy.

The Australian music industry is committed to the innovation which is increasingly being applied to the digital environment. The digital landscape presents many exciting opportunities for the development of compelling commercial business models for labels large and small and for artists, songwriters and other participants in the value chain.

However, in circumstances where free illegal alternatives remain available around the world without effective sanctions, innovative distribution models may not be successfully cultivated or achieve their full potential.

With an estimate of 28 per cent of internet users globally accessing unauthorised services on a monthly basis,<sup>1</sup> it comes as little surprise that the incentive for the Australian music industry to invest in new artists, particularly Australian artists, and new business models to deliver legitimate content to Australian consumers, is severely undermined in circumstances where major and independent labels cannot capture the gains generated from their investments.

As we stated above, the digital landscape presents many exciting new opportunities for the development of compelling commercial music models, for labels — large and small — and for artists, songwriters and other participants in the value chain. However, as is acknowledged in *Australia's Digital Economy: Future Directions* paper and in the Plan.<sup>2</sup>

*...the internet and related technologies have also enabled illegal file sharing, file distribution from unlicensed internet sites and illegal copying. These are ongoing threats to the music industry.*

IPR protection is an essential tool to harness creativity and development in any economy. Australia cannot afford to ignore the significant threats posed by piracy. It is therefore critical that Australia participate in the ACTA to ensure that harmonious and effective enforcement of IPRs becomes a reality in key jurisdictions around the world. No country is an island in the fight against piracy.<sup>3</sup>

The countries participating in the ACTA share a common goal, namely to effectively combat piracy and counterfeiting. We note that an important aspect of the ACTA is the promotion of cooperation, information sharing and capacity building. Given the extent of music piracy in Australia and its trading partners and the significant negative impact of this activity, ARIA, MIPI, AIR and AMRA believe it is critical that Australia participate in the ACTA.

If you need further information, please contact Dan Rosen of ARIA or Vanessa Hutley of MIPI.

Yours sincerely,

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Dan Rosen  
**Chief Executive Officer**  
**ARIA**

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Vanessa Hutley  
**General Manager**  
**MIPI**

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Gavin Ward  
**Chairman**  
**AMRA**

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Nick O'Byrne  
**General Manager**  
**AIR**

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<sup>1</sup> IFPI Digital Music Report 2012 available at [www.ifpi.org](http://www.ifpi.org)

<sup>2</sup> Page 20.

<sup>3</sup> Guth, E Ambassador of the European Commission, Third Global Congress on Combating Counterfeiting and Piracy, Keynote Speech at Geneva, 20-31 January 2007.

## **Who we are**

### **Australian Independent Record Label Association (AIR)**

AIR is a non profit, non government association dedicated to supporting the growth and development of Australia's independent recording sector. AIR represents Australian owned record labels and independent artists based in Australia.

AIR's primary purpose is to foster an increasing marketplace for Australian independent music and assist in the long-term development, growth and success of Australia 's independent recording industry.

### **Australian Music Retailers Association (AMRA)**

The Australian Music Retailers Association is the industry body for recorded music retailers. It works to protect and further the interests of recorded music stores Australia-wide. AMRA works with ARIA to manage the Code of Practice for Recorded Music, AMRA members each year win ARIA Retailer of the Year Awards and AMRA members contribute data for the ARIA Chart. AMRA also stages Record Store Day Australia each autumn, an inclusive event for retailers whether they are members or not members to provide a day of store-based activities for music lovers.

### **Australian Recording Industry Association (ARIA) and Music Industry Piracy Investigations (MIPI)**

ARIA is the peak trade body for the Australian recorded music sector. We currently have over 100 members ranging from the local affiliates of the four multi-national recording labels to significant Australian independent labels through to a range of small to medium Australian recording labels. ARIA is also affiliated with the International Federation of the Phonographic Industry ("**IFPI**"), the international organisation representing the recorded music sector worldwide. IFPI collates information from around the world.

ARIA is also a stakeholder (along with Australasian Mechanical Copyright Owners' Society, AMCOS, representing the music publishers and songwriters) in Music Industry Piracy Investigations Pty Ltd (MIPI). As its name suggests, MIPI undertakes anti-piracy activities on behalf of the music industry broadly. Those activities include a significant number of educational initiatives designed to promote respect for creativity and copyright and educate the public on the financial harm done to the music industry through, relevantly, unchecked illegal file sharing of music.