ARIA

ADVANCING THE INTERESTS OF THE AUSTRALIAN RECORD INDUSTRY

22 April 2004

The Secretary
Senate Select Committee on the Free Trade Agreement
between Australia and the United States of America
Suite S1.30.1
The Senate
Parliament House
Canberra ACT 2600

Dear Sir/Madam

The Australian Record Industry Association Limited (ARIA) is a trade association representing the interests of the Australian music recording industry. It has over 100 members including the local affiliates of the major international labels (BMG, EMI, Sony, Warners, and Universal), large Australian record companies (Festival Mushroom and Shock) through to small independent labels. ARIA's members own or control the copyright for Australia in nearly all sound recordings commercially released in Australia.

ARIA welcomes the opportunity to record its views on the proposed Free Trade Agreement (FTA) between Australia and the US. Our members have a particular interest in Chapter 17 of the Agreement, dealing with Intellectual Property Rights.

ARIA supports the early introduction of legislation to allow the commencement of the FTA. In general terms we believe that introduction of the FTA sets high standards of protection for copyright and other forms of intellectual property.

We believe that a number of measures have the potential to be particularly valuable in the protection of copyright in sound recordings. At a global level, the international music industry is operating in a rapidly changing environment, where technological change is creating both significant opportunities and challenges. The Australian market is no exception to this, and reforms that seek to strengthen and streamline copyright protection are to be welcomed. Key features of the intellectual property chapter of the FTA relevant to the interests of ARIA's members include:

Australia's accession to the WIPO Copyright Treaty (1996) and WIPO Performances and Phonographs Treaty (1996)

ARIA supports the ratification of these treaties as soon as possible. We note that the detailed arrangements for the creation of a new performers' right have not been made public. We are therefore unable to comment on how this new right will affect the current

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arrangements between recording artists and record companies or the operations of existing collection societies.

Copyright term extension to 70 years

ARIA supports the extension of copyright:

- This measure brings Australian law into line with other jurisdictions;
- The investment risk profile of the recording industry has changed significantly in recent years with the advent of internet file sharing and CD burning as well as increasing CD piracy;
- The record industry is in the early stages of online marketing of sound recordings. This provides the opportunity to increase the availability of a much broader range of recordings including early or obscure material.

There are a number of other measures that are similarly welcomed by ARIA because they will significantly enhance the ability of copyright owners to enforce their rights more effectively:

- Improved copyright protections for temporary copies of all forms of reproductions including electronically stored copies;
- Improved anti-circumvention measures;
- Improved rights management information provisions;
- More effective enforcement of IP rights and improved public information concerning these measures.

ARIA will very carefully scrutinise the legislative measures that are proposed by the Government for the implementation of the FTA obligations. As appropriate, ARIA will engage with the relevant departmental officials to provide our views on these matters.

ARIA would be happy to expand on any specific issues to the committee if required. We appreciate the opportunity to comment on the FTA.

Yours sincerely

Stephen Peach
CEO