

New Enforcement Measures– Infringement Notice Amendments

The *Copyright Regulations 1969* will be amended to include specific details of the infringement notice scheme that will apply to certain strict liability offences in the *Copyright Act 1968*. Under new sections 133B and 248SA in the Copyright Amendment Bill 2006, the Copyright Regulations may make provision enabling a person who is alleged to have committed these offences to pay a penalty to the Commonwealth as an alternative to prosecution. The penalty must equal one-fifth of the maximum fine that a court could impose on the person as a penalty for that offence (ie \$1320).

2. The infringement notice scheme arises from a range of amendments in the Bill to some of the offences in the Copyright Act that will provide police and prosecutors with a wider range of penalty options to pursue. A ‘tiered’ offences system will be included that will provide them with the option of charging a person with an indictable, summary or strict liability offence or issuing them with an infringement notice.

3. The infringement notice scheme will apply to the strict liability offences in Division V of Part V and Division 3 of Part XIA of the Bill (created from the current general piracy and performances offences in existing sections 132, 248P, 248Q and 248QA of the Copyright Act).

4. The regulations are currently being developed but will contain the following key features:

- The infringement notice penalty would be 12 penalty units (\$1320) for a natural person or 60 penalty units (\$6,660) for a body corporate. (This will be 1/5th of the maximum penalty for the strict liability offences, ie 60 penalty units for a natural person or 300 penalty units for a body corporate.
- The notices would be issued by officers of the Australian Federal Police and the State police services.
- The infringement notice could be issued where an officer had reasonable grounds to believe that a person has committed an offence that is subject to the scheme.
- Payment of the infringement notice would not be an admission by that person of any liability for the alleged commission of the offence or contravention.
- The notice could be withdrawn at any time before payment to allow the police to pursue the matter in court.