

14 March 2008



Mr Barron
Ms Helen Daniels
Assistant Secretary
Copyright Law Branch
Attorney-General's Department
Robert Garran Offices
National Circuit
BARTON ACT 2600

COPYING PHOTOGRAPHS AND FILMS IN A DIFFERENT FORMAT FOR
PRIVATE USE
REVIEW OF SECTIONS 47J AND 110AA OF THE COPYRIGHT ACT 1968

Dear Helen

With apologies in the delay of our submission, we write largely in support of the submissions already provided by the Australian Copyright Council and Screenrights.

Consistent with our views relating to private use relating to music, we oppose provisions that allow people to produce, without payment, copies that copyright owners sell and license. As previously argued, we believe that the provisions are not compliant with Australia's international obligations, and have the real potential to interfere with the markets in which copyright owners currently participate.

APRA | AMCOS do support the idea that copyright owners should be encouraged to license the use of their works, particularly in circumstances where there is widespread use of large numbers of musical works – as is the case with private copying. Neither APRA nor AMCOS considers itself in a position to withhold a licence from any legitimate copyright consumer, where the use is within the mandate of the relevant society.

We argue that private copying exceptions should be repealed or be subject to equitable remuneration to copyright owners.

We see the greatest danger of the new provisions being the potential unintended scope of the provisions. We note that 110A does not include some of the ownership restrictions included in the more directly music related 109A, that is, the original content (videotape) does not need to be purchased by its owner and the copy is not restricted to being played on a recording device owned by the individual making the copy.

We support the view of the Copyright Council that 109A has potentially wider than intended operation, including that there is no restriction as to the number of copies that can be made for a device.

We respectfully urge the government to consider the interests of the owners of the copyright who are able to offer licences for private copying, by making the private copying exceptions subject to the test of commercial availability. This would ensure that copyright owners do not withhold licences on reasonable terms, but would enable them to be compensated for the use of their works.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Ormston', with a large loop at the beginning and a long horizontal stroke at the end.

DEAN ORMSTON
DIRECTOR, CORPORATE AFFAIRS & COMMUNICATION