

10 May 2013

Committee Secretary  
Senate Standing Committees on Environment and Communications  
PO Box 6100  
Parliament House  
Canberra ACT 2600

By email

Dear Committee Secretary,

Inquiry into the effectiveness of current regulatory arrangements in dealing with the simultaneous transmission of radio programs using the broadcasting services bands and the Internet ('simulcast')

We write in our capacity of Artist Representative Directors and Artist Patrons of the Phonographic Performance Company of Australia (PPCA).

PPCA is a not for profit collecting society established to issue blanket licences, on a non-exclusive basis, for the public use of sound recordings and music video clips. Further information on PPCA and each signatory is appended to this submission (Appendix A).

Our registered artists and record labels range from individual self managed artists and small labels through to world renowned artists and global record companies. PPCA's artists and labels rely on it to safeguard their rights, ensuring that they receive a fair return for the use of their music. It does this by licensing businesses to play recorded music in public, with the fees collected paid to the registered recording artists and record labels which have created the recordings.

PPCA has over 2,700 directly registered recording artists, and there are also thousands of recording artists who earn income from PPCA via their record label relationships. Attached at Appendix B is a sample list of registered artists, demonstrating the range of individuals represented by PPCA who support this submission.

For many years PPCA, on behalf of the Australian sound recording industry, has been lobbying for the removal of inequitable price restrictions contained in the Australian Copyright Act. These restrictions, contained in section 152 of the Act, were enacted in 1968 and remain in place today. Their impact is to restrict the amount of licence fees radio broadcasters can be asked to pay for their use of recordings in their broadcast programming. No such restriction applies to the price that can be set for the use of the songwriter's musical work, and the market rates currently paid to songwriters demonstrate the very real effect these legislative caps have on the capacity of sound recording artists to earn a fair return for their creative output.

These caps are an anachronism from a bygone era, and totally out of place in a modern economy. How can an arbitrary government price set in 1968 possibly be appropriate in 2013, given the enormous changes that have occurred in the sound recording and broadcast industries, and Australian society more broadly?

In no other competitive area of the Australian economy does the government set the price that is paid for goods or services exchanged between major businesses. This cap is economically irrational and completely out of step with the philosophy of a free market.

It is also out of kilter with new media platforms such as internet radio and music streaming applications as well as free to air and pay TV providers. They all play music videos and sounds recordings in their programs, all of which are subject to copyright fees negotiated as part of a normal commercial process.

Numerous reviews (including the 2001 Ergas Competition Review) have recommended the removal of the cap.

Given these circumstances we, on behalf of all of the artists we represent, ask the Committee not to now extend this inequitable situation into the developing digital market place. Any amendments which would result in the characterisation of radio programs simulcast over the internet as 'broadcasts' would have this adverse impact.

It is extraordinarily difficult to develop a sustainable career as a recording artist. This has been confirmed by Australia Council research (*Don't give up your day job: an economic study of professional artists in Australia*, published in 2003) which found that the average earnings of artists are low, and considerably less than other occupations that require similar or less periods of professional training and development.

We believe this situation continues today, and has been further exacerbated by the decline in the overall size of the music industry, which has been negatively impacted by the digitisation of music content over the last decade and the resulting free access to infringing copies of recordings.

In recent years we have seen positive developments in the digital music market place, with a range of innovative new licensed services on offer, allowing consumers to access millions of legitimate sound recordings. Changing regulations to allow traditional broadcasters to enter this market *at an arbitrary capped rate* would place them at an unfair advantage against those who are investing in sophisticated systems on digital platforms *but pay market rates* for the sound recordings they use.

In summary:

- The music industry is a high risk environment, and it is already difficult for Australian artists to make a reasonable living from their craft,
- In order to sustain investment in Australian artists and recordings it is necessary to have a strong framework of rights protection,
- Recording artists are already unfairly disadvantaged by the legislative caps placed on their potential earnings from radio, which prevent them from attaining a fair return for their work, and
- Any extension of this price protection for radio into the online environment, through the reclassification of internet streaming as 'broadcast' would not only worsen this already unfair treatment of recording artists, but also act as a disincentive to those who are investing in innovative digital business models by placing them at a competitive disadvantage to traditional radio broadcasters.

Consequently we urge the Committee not to recommend changes to the current regulatory regime for the simulcast of sound recordings over the internet.

Yours sincerely

**Bill Cullen**

**Clare Bowditch**

**Graeme Connors**

**Josh Pyke**

**Lindy Morrison, OAM**

**Paul Dempsey**

**Tim Levinson**

### ABOUT PPCA

PPCA is a non-profit collecting society that provides licences to Australian businesses to play recorded music in public. The net fees are distributed to record labels & registered Australian artists who create the recordings so they can continue to make music for us all to enjoy.

PPCA represents the interests of over 1200 sound recording copyright holders (record companies large and small, independent Australian labels, and some individual artists who have retained the rights in their own recordings), over 2,700 directly registered recording artists, and many thousands of artists who earn income from PPCA via their record label relationships.

As a not for profit, PPCA distributes its net licence fees each year to its stakeholder labels and registered Australian recording artists.

### Bill Cullen

Bill is the Managing Director of One Louder Entertainment, the management home to Paul Kelly, Sarah Blasko, Kate Miller-Heidke, and Ball Park Music.

He has been involved in the music business since leaving school, and did a long stretch working with Grant Thomas Management, working with acts such as Crowded House and The Rockmelons. A five year stint in London followed, where he worked with the legendary Pete Jenner (manager of Pink Floyd, The Clash, Billy Bragg etc.), before going on to co-manage New Zealand act OMC (How Bizarre) who went on to a number one single and gold album in the US. He returned to Australia in 1999, and established One Louder, and has since had gold plus success with Alex Lloyd, George, Amiel, Sarah Blasko, Kate Miller-Heidke, End Of Fashion and Paul Kelly.

### Clare Bowditch

Clare Bowditch is a singer, writer, and master story-teller, who first began performing in Melbourne pubs when she was sixteen. Six albums later, Clare has toured the country a million times and been awarded EG Best Female Artists (2011), Rolling Stone Woman of the Year for her Contribution to Culture (2010), YenYoung Woman of the Year (2008), and an ARIA Award for Best Female Artist (2006) plus half a dozen other ARIA nominations for her albums.

Clare currently presents an Australian Radio show on Qantas, she's hosted summer radio shows for Triple J and 774. She interviewed Prime Minister Julia Gillard two days before the 2010 election, and was the first musical guest ever to perform on Q & A. Clare has also had articles published by Rolling Stone and The Drum. In 2010, she was famously invited to fly on a private jet with Leonard Cohen, whilst support him for his month-long Australian tour. This is where she learnt the meaning of life. In 2012, Clare undertook her first acting role with Channel 10's Offspring, and released her fifth album 'The Winter I Chose Happiness'.

## **Graeme Connors**

Since entering the Australian music industry in 1973, Graeme Connors has had considerable experience in song writing, publishing, recording, label management, touring and concert promotion. He has been a recipient of many notable awards, including 3 ARIA Award Nominations and an ARIA Award win for Best Country Album for "The Road Less Travelled", 14 Golden Guitars from the Tamworth Country Music Festival as well as two APRA Awards in 1986 and 1990. Graeme was also awarded two PPCA Awards for Most Played Country Artist for the years 1997 and 1998.

With the exception of a four year term as Professional Manager of Rondor Music, a highlight of which included pitching "You're The Voice" to Ross Frazer for John Farnham, Graeme has experienced all the trials and triumphs of a working Artist. His catalogue includes 15 CD's (1 Platinum and 2 Gold sales status) and 2 DVD's with his most recent work "Still Walking" released in 2010.

## **Josh Pyke**

Josh Pyke is one of Australia's premier singer songwriters. Known for his ability to weave intelligent lyrics with warm melodies and quirky song structures, he is a modern-day storyteller whose evocative use of words and music places him in a league of his own. His breakthrough single was Middle of the Hill, which catapulted him into the limelight. The track appeared on his debut release entitled Feeding The Wolves. This was followed up with the 2007 release of his debut album Memories & Dust which hit the ARIA chart at #4. The Gold record was acclaimed by critics and fans alike. It took out three ARIA Awards, was nominated for a J Award and yielded several singles.

Its 2008 follow-up was Chimney's Afire, an album that firmly established Pyke at the forefront of music in Australia. Chimney's Afire debuted at #3 on the ARIA chart, won an ARIA Award and has also achieved Gold sales. Pyke recorded and produced most of the album himself.

After some major life changes, a renewed enthusiasm for songwriting manifested itself on Only Sparrows, an album full to bursting with the sound of an artist who has adopted a new approach to not only his music, but life in general.

## **Lindy Morrison**

Lindy Morrison has been a member of the PPCA Board, as a representative of registered Australian recording artists, since 1994.

Lindy toured the world as a drummer, with Zero (78 – 79), The Go-Betweens (80 – 89) and Cleopatra Wong, (1990 – 1993). Since 1993, Lindy has worked around Australia as the musical director or performer in shows, parades and festivals, and has led drum and music workshops with many diverse and varied community groups. She has been the musical director of the Junction House Band a group of musicians with intellectual disabilities since 1993.

Lindy has a Bachelor of Social Work and is the part time social worker for Support Act Ltd—the benevolent society for musicians and workers in the music industry. In 2009 she completed her Masters in Legal Studies at UNSW. Lindy has been a passionate advocate for artists' rights throughout her career, speaking at conferences and seminars on this topic. She teaches Music Business at Sydney Institute Ultimo.

### **Paul Dempsey (Something For Kate)**

Paul Dempsey is best known as the principal songwriter, lead singer and guitarist of Something For Kate, one of the most respected and successful Australian bands to emerge over the past decade.

Renowned for his unique, cerebral lyrics and his multi-layered story telling skills, Dempsey's staggeringly powerful live performances have also become the stuff of legend. During his schedule with Something for Kate Dempsey, a multi-instrumentalist has also consistently produced records for other artists while also performing and touring internationally as a solo artist.

Having released five platinum and gold albums to date with Something for Kate, selling approximately half a million records, amassing 13 ARIA nominations, taking out multiple Music Industry Critics Award for Best Male vocalist, Rolling Stone awards for best band, best album & best male vocalist along with countless sold out tours with everyone from David Bowie to Death Cab for Cutie, Paul Dempsey then released his first solo album in 2009.

A departure from his work with Something for Kate, the album, *Everything is True* was released to an overwhelming response, debuting in the top 5 on the ARIA Charts and achieving beyond gold status.

Playing every instrument on the album himself, the album was co-produced by Dempsey winning the ARIA Award for Best Engineering.

### **Tim Levinson (Urthboy, The Herd)**

Tim Levinson is known predominantly as a lyricist, with his career in music beginning with nursery rhymes and graffiti. His first band was a live 6 piece called Explanetary; he has since gone on to write five albums with The Herd and three solo albums under the Urthboy moniker. Over the course of 10 years he's played at every major Australian festival and a number of International festivals, and consequently has a strong loyal following.

The only hip hop artist to have been nominated for the Australian Music Prize twice, Tim has also won AIR Awards, received nominations for ARIA Awards and had multiple entries in the Triple J Hottest 100. Adding to his creative career, he runs Elephant Traks, an independent music business specialising in management, touring and record label work. Elephant Traks has artists such as Horrorshow, Hermitude, The Herd and Sietta among its 70 releases to date.

## APPENDIX B

Below is a sample list of registered artists, demonstrating the range of individuals represented by PPCA who support this submission.

Adam Weston (Birds of Tokyo, Sons of Rico, Fire Starter Music & Distribution)	Leroy Bressington
Alex Lloyd	Liesel Karlsson-Ward
Amber Lawrence	Lior Attar (Lior)
Amiel	Little Birdy
Anthony Floyd (Things of Stone & Wood, The Black Sorrows)	Mark McEntee (Divinyls )
Audrey Auld	Max Sharaam
Barry Francis	MGF
Hilltop Hoods	Marcia Hines
Bob Sedergreen	Mia Dyson
Brin Hinchcliff	Michael den Elzen
Caitlin Harnett	Michael Waters (Hunters & Collectors)
Candice Alley	Mick Hamilton
Casey Donovan	Missy Higgins
Cec Condon	Nathan Hudson (Faker)
Christine Anu	Nicholas Everitt
Cog	Olivia Newton John
Cold Chisel	Paul Dempsey
Dan Brodie	Paul Kelly
Daniel Brooks	Paul Mac
Dave Gray (Rocket Science)	Paul Wheeler (The Aztecs)
Dave Miller	Paul Woseen (The Screaming Jets)
David Briggs (Little River Band)	Persian Rugs
Dean Manning (Leonardo's Bride, Holidays On Ice)	Peter Gifford (Midnight Oil)
Dianna Corcoran	Peter Koppes (The Church)
Dinah Lee	Powderfinger
Doug Ashdown	Rob Hirst (Midnight Oil, Ghostwriters, Backsliders, Angry Tradesmen, Hirst & Greene)
Emmanuelle Mailau	Ross Wilson (Daddy Cool, Mondo Rock)
End of Fashion	Russell Morris
Eskimo Joe	Sarah Blasko
Faker	Shannon Noll
Fiona Horne	Simon Leach (Little Birdy)
Gary Shearston	Silverchair
George	Spiderbait
Greg Macainsh (Skyhooks)	Stephanie Ashworth (Something For Kate)
Greg O'Connor (Boom Crash Opera)	Tania Kernaghan
Grinspoon	The Cat Empire
Guy Sebastian	The Dissociatives
Gyroscope	The Living End
Hoodoo Gurus	The Sleepy Jackson
Ian Moss	Thirsty Merc
James Black	Tim Freedman
Jed Kurzel	Tim Harding
Jeff Burstin (Jo Jo Zep & The Falcons, The Black Sorrows, Vika & Linda)	Tracy McDonald
Jim Elliot (The Cruel Sea)	Tracy Coster
Jim Keays (Masters Apprentices)	Troy Cassar-Daley
Jimmy Barnes	Wally De Backer (Gotye, The Basics)
John Swan	Wayne Duncan (Daddy Cool)
John Williamson	
Kasey Chambers	
Kate Miller-Heidke	
Lanier Johnston ( Lanie Lane)	