



Committee Secretary
Senate Standing Committees on Environment and Communications
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Canberra ACT 2600

By online submission

Inquiry into the Copyright Amendment (Online Infringement) Bill 2018

AMPAL

The Australasian Music Publishers' Association Limited (AMPAL) welcomes the opportunity to make this submission to the Environment and Communications Legislation Committee inquiry into the Copyright Amendment (Online Infringement) Bill 2018 (the **Bill**).

AMPAL is the trade association for Australian and New Zealand music publishers. Our members include large multi-national companies as well as many small businesses. AMPAL's members represent the overwhelming majority of economically significant musical works enjoyed by Australians.

Music publishers invest in songwriters across all genres of music. They play a critical role in nurturing and commercially exploiting their writers' musical works and providing returns to songwriters. AMPAL and our members also recognise the immense cultural and artistic significance of the works that music publishers represent.

AMPAL members are affiliated with Music Rights Australia and we endorse its submission.

Copyright Amendment (Online Infringement) Bill 2018

AMPAL thanks the Government for recognising the need to address online copyright infringement and for implementing the Copyright Amendment (*Online Infringement Act*) 2015 (the **Online Infringement Amendment**). Copyright infringement has a corrosive influence on the creative community. The Online Infringement Amendment has provided an important remedy for copyright owners to protect their rights and to help reduce online copyright infringement, and AMPAL welcomes the research conducted for the Department of Communications and the Arts correlating a reduction in copyright infringement in Australia with the introduction of the Online Infringement Amendment.¹ AMPAL refers to the submission by Music Rights Australia and supports the Bill as currently drafted for the reasons outlined by Music Rights Australia, and makes the following further comments.

While the Online Infringement Amendment was an important and measured step for Australia to combat the well-recognised and widespread harmful effects of online copyright infringement, the Bill introduces welcome improvements to the Online Infringement Amendment. Disruption of

¹ <https://www.communications.gov.au/have-your-say/review-copyright-online-infringement-amendment> (last accessed 16 November 2018).

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overseas online locations that distribute infringing material to Australian consumers has positive implications for legitimate, licensed services and for all rights holders. The music industry has been innovative in the digital age, and music publishers have comprehensively demonstrated their flexibility in licensing new music services to allow a broad range of legal services to flourish. The Digital Content Guide² sets out the range of these services.

AMPAL submits that there is no 'silver bullet' to eliminate online copyright infringement, but that it is incumbent on government to have a legislative framework that clearly establishes the rights of copyright owners and the protections available. The Online Infringement Amendment will continue to be an important mechanism in that regard, and the Bill will improve the operation of the Online Infringement Amendment, while maintaining the high evidentiary threshold that Applicants must meet in bringing any section 115A cases. AMPAL members are also members of the Australasian Performing Right Association Ltd, the second applicant in the case of *Universal Music Australia Pty Limited v TPG Internet Pty Ltd* [2017] FCA 435. We refer to the comments of Music Rights Australia on the experience of the applicants in that case.

The introduction of the Online Infringement Amendment was the product of widespread public consultation, and the Department of Communications and the Arts has this year also conducted an extensive and public review of the Online Infringement Amendment. AMPAL contributed to both consultations, and it is clear that the views of carriage service providers and online search engine providers have also been addressed in the drafting of the new Bill, as detailed by Music Rights Australia.

AMPAL also submits that the recent evidence regarding online infringement identified in the research presented to the Department of Communications and the Arts is encouraging, but the United Kingdom experience with website-blocking laws reveals that there needs to be sustained action against online infringement over a period of time to confirm that positive trends are evident. AMPAL submits that the website-blocking provisions established under the Online Infringement Amendment are one part of an important ongoing dialogue around online infringement.

AMPAL supports the Bill as currently drafted, and urges the Committee to recommend that the Bill is passed unamended by the Senate.

Please contact me if we can be of any further assistance.

Matthew O'Sullivan
General Manager

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² <http://www.digitalcontentguide.com.au> (last accessed 16 November 2018).