

## Terms of reference

On 30 July 1997 the Attorney-General, Hon Daryl Williams MP referred to the Committee the following matter:

- (1) The Committee is to inquire into and report on the collection of copyright royalties for licensing the playing of music in public by small businesses, in particular:
  - (a) the information provided to them by the organisations collecting those royalties on the law under which those organisations seek the royalties;
  - (b) whether the licences offered and the amounts of the royalties sought take sufficient account of the likely limit on the number of employees or customers of the small businesses who are able to enjoy or hear the playing of the music which is the subject of the licence and royalty collection;
  - (c) the desirability of amending the law to provide for a means to assess the difference in value to the copyright owners, if any, between the direct playing of recorded music in public (e.g., by compact disc or cassette player) and the indirect playing of recorded music in public by radio or TV broadcasts;
  - (d) whether it is desirable or practical to require that the collection of all royalties for the playing of music in public be done by one organisation on behalf of other organisations, where royalties are payable to more than one organisation representing different copyright owners;
  - (e) whether the present structure and constitution of the Copyright Tribunal is the most effective avenue for small businesses to seek review of the amount of the royalties being sought;
  - (f) the likely future technological or other developments in
    - (i) the playing of music in public; and
    - (ii) the methods to be employed by organisations collecting royalties for licensing such playing.

(2) In undertaking the inquiry and framing its recommendations, the Committee shall have regard to:

- (g) Australia's membership of international treaties and agreements, including, in particular, its obligations under:
- (h) the Berne Convention for the Protection of Literary and Artistic Works;
- (i) the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations;
- (j) the World Trade Organisation Agreement on Trade-Related Aspects of Intellectual Property Rights;
- (k) the possibility that Australia will accede to the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty concluded in Geneva in 1996;
- (l) the reference to the Copyright Law Review Committee so far on simplification of the Copyright Act;
- (m) the purpose of the Copyright Act and Australia's membership of international treaties in fostering the creation and performance of musical works and the enrichment of Australia's cultural heritage;
- (n) the fact that some composers and performers of music and producers of musical sound recordings are also operators of small businesses;
- (o) the relevant findings and recommendations contained in the *Review of Australian Copyright Collecting Societies* by Shane Simpson; and
- (p) any dispute resolution mechanisms established in relation to the licensing of the public performance right.