

The Director, Copyright Law Section
The Department of Communications and the Arts

By online submission

Review of the Copyright Online Infringement Amendment

AMPAL

The Australasian Music Publishers Association Limited (AMPAL) welcomes the opportunity to make this submission to the Department of Communications and the Arts' (the Department) review of the operation of the *Copyright Amendment (Online Infringement) Act 2015* (the Online Infringement Amendment).

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.

Online Infringement Amendment

AMPAL thanks the Government for recognising the need to address online copyright infringement and for implementing 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 correlating a reduction in copyright infringement in Australia with the introduction of the Online Infringement Amendment. AMPAL refers to the responses by Music Rights Australia to the questions raised in the consultation paper, and makes the following comments.

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. AMPAL also shares the concerns expressed by Music Rights Australia in relation to orders made by the Court on the issue of legal and compliance costs.

Despite those concerns, the Online Infringement Amendment is an important and measured step for Australia to combat the well-recognised and widespread harmful effects of online copyright infringement. Disruption of overseas online locations that distribute infringing material to Australian

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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 Guide¹ 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.

Finally, AMPAL endorses Music Rights Australia's recommendation that issues around online infringement generally are reviewed by the Department in eighteen months. The recent evidence regarding online infringement identified in the research presented to the Department 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.

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

Matthew O'Sullivan
General Manager

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¹ <http://www.digitalcontentguide.com.au> (last accessed 8 March 2018).