

31 July 2011

Mr James Burchett QC
Code Reviewer
Suite 704
4 Young Street
NEUTRAL BAY NSW 2089

Dear Mr Burchett

Copyright Collecting Societies Code of Conduct

The Australian Subscription Television and Radio Association (ASTRA) welcomes the invitation to provide comment on the Copyright Collecting Societies Code of Conduct.

ASTRA is the peak industry body for subscription television in Australia. ASTRA was formed in September 1997 when industry associations representing subscription television and radio platforms, narrowcasters and program providers came together to represent the new era in competition and consumer choice. ASTRA's membership includes the major subscription television operators, as well as channels that provide programming to these platforms.

Subscription television broadcasters retransmit commercial and national television broadcasting services pursuant to section 212 of the *Broadcasting Services Act 1992* and the statutory licence provisions under Part VC of the *Copyright Act 1968*. The Audio-Visual Copyright Society Limited (Screenrights) is the declared collecting society under Part VC for administering the broadcast retransmission licence. Subscription television broadcasters also have licensing agreements with APRA/AMCOS and the PPCA in relation to the use of musical works and recordings ('the Collecting Societies').

ASTRA makes the following comments in relation to selected relevant provisions in the Code of Conduct, in relation to dealings between the subscription television industry and these organisations.

In relation to dealings with ASTRA member licensees, ASTRA understands that the Collecting Societies treat licensees in accordance with clause 2.3(a) of the Code and are transparent in their dealing with licensees, although ASTRA members have noted outdated and inefficient record keeping procedures that can delay processes for licensing particular material.

ASTRA considers that the information available to subscription television broadcasters in relation to licences is generally appropriately comprehensible and understandable.

ASTRA provides the following suggestions for improvements to the Code:

1. Licence Fee Determination. In relation to licence fees (section 2.3), the collecting agencies should be taking additional factors into consideration for example:
 - i. the fees paid for comparable licences for copyright material; and
 - ii. the impact licence fees may have on a particular activity, use, or even business, so that legitimate use of copyright material is fostered, and not made uneconomical.

ASTRA suggests that amendments to this effect could be added to 2.3(d).

2. Reporting. There is no section in the Code on reporting requirements for licensees. Reporting is one of the more costly and time consuming obligations when licensing, especially in relation to music. ASTRA recommends that dealing between licensees and

Collecting Societies would be far more efficient and effective with a single repository where all comers could get up-to-date and accurate information on copyright material. ASTRA understand that the current system leads to incomplete copyright data which becomes difficult to track and coordinate across different Collecting Society databases. A more coordinated record-keeping system across Collecting Societies would enable more meaningful licensing negotiations, including in relation to suitable licence fees.

Please contact myself or Simon Curtis, Policy and Regulatory Affairs Manager, on (02) 9776 2684 if you wish to discuss further any of the above.

Yours sincerely

A handwritten signature in cursive script that reads "Petra Buchanan".

Petra Buchanan
CEO