

# Australian Copyright Council

---

3/245 Chalmers Street Redfern NSW 2016 Australia  
Tel: (02) 9318 1788

Fax: (02) 9698 3536

ACN 001 228 780  
email: cpright@copyright.net.au

Mr David Gonski  
Review of Commonwealth Assistance to the Film Industry  
GPO Box 2154  
Canberra ACT 2601

Fax: (06) 279 1688

11 November 1996

Dear Mr Gonski,

## **Review of Commonwealth Assistance to the Film Industry**

Our submission deals briefly with three aspects of the Review:

- a) assistance to the film industry provided by the Australian Copyright Council;
- b) developments in copyright affecting the film industry; and
- c) actions the Government could take in relation to copyright to assist the film industry.

### **a) Assistance to the film industry by Australian Copyright Council**

The Australian Copyright Council is an independent non profit organisation.

The Council receives about 46% of its budget from the Australia Council, and about 5% of its budget from the Australian Film Commission.

The Council's activities include:

- giving free legal advice about copyright and related areas of law;
- giving information about copyright;
- producing publications about copyright;
- conducting seminars and lecturing;
- research; and
- making submissions and representations about copyright policy.

In 1995, the Council dealt with about 12,000 enquiries. About 6% of requests for legal advice relate to film.

Publications relevant to the film industry include: *Film & Copyright*, and *Copyright for Multimedia Producers*.

Recent submissions and representations on issues which affect the film industry include:

- entitlement of owners of copyright in films to receive fair payment for retransmission of broadcasts;
- provisions in the draft copyright amendment bill, including the proposed “transmission right”, “moral rights”, amendments to the provisions allowing governments to copy audiovisual material, and amendments to the provisions allowing educational institutions to copy audiovisual material;
- response to recommendations in *Review of Australian Copyright Collecting Societies*;
- implications of the proposed rewrite of State stamp duties legislation; and
- provisions in proposed new treaties, including a “digital transmission” right and performers’ rights.

#### **b) Developments in copyright affecting the film industry**

Most of the current discussion about copyright policy relates to technological developments, particularly the effects of digitisation and delivery of copyright material over networks such as the Internet. Issues relevant to the film industry include:

- clearing rights to use of film footage in multimedia products;
- the extent of copyright protection of multimedia products;
- preventing unauthorised use of copyright material on the Internet and other computer networks; and
- systems to enable the paid use of copyright material on the Internet and other computer networks.

As the capacity of these networks increases, the possibilities for using them to distribute films will increase. The feasibility of doing this will be affected by the extent of unauthorised copying and distribution, and the mechanisms to ensure payment for use. There are policy issues involved (such as whether “browsing” should require the copyright owner’s licence), as well as technical issues (such as encoding material with identifiers and monitoring usage).

There are also developments relating to films distributed in more “traditional” ways, such as videocassette, cinema release and television broadcasting. These include:

- the implementation of the agreement on Trade Related Aspects of Intellectual Property (TRIPS) which forms part of the GATT, particularly in countries with high rates of film and video piracy; and
- introducing a more workable scheme to compensate owners of copyright in films copied by governments (this is part of the draft Copyright Amendment bill).

In addition, proposals to introduce further rights for creative contributors to films will affect the film industry. These include the Government’s promises to:

- introduce “moral rights” for copyright creators; and
- extend performers’ rights.

**c) Government actions to assist the film industry**

Actions the Government could take in relation to copyright to assist the film industry include:

- introducing a right to fair payment to owners of copyright whose films are retransmitted;
- introducing a scheme to compensate owners of copyright whose films are copied for “private use” (such as a levy on blank recording media);
- providing sufficient resources for the Copyright Law Review Committee to continue to review and make recommendations about updating the Copyright Act;
- giving a higher priority to responding to recommendations for copyright reform; and
- giving a higher priority to the introduction of legislation to implement the Government’s copyright policies.

We have enclosed with the confirmation copy of this letter some further information about the Copyright Council and its activities.

Yours sincerely,

Libby Baulch  
Executive Officer