COMMUNICATIONS LAW BULLETIN
The Official Publication of the Australian Communications Law Association (ACLA)
ISSN 0272-1301 Edited by John Mancy Vol 4 No 2 August 1984

Performers seek 'simple social justice' – Judge

Should performers have legal rights that give them some effective control over the exploitation of their performance? This question has assumed significance as a result of developments in communications technology which have radically changed the environment in which performers have to make their living.

The fixation and widespread dissemination of performances by means of records, films, broadcasting, cable and now satellites create a need for performing artists to have something analogous to property rights in their performance – some legal rights with which to negotiate for proper remuneration for subsequent uses of their recorded performance.

The issue was recently discussed at a conference at the Sydney Opera House organised by Actors Equity, the Musicians' Union and the Australian Copyright Council.

The conference was the first organised debate since the demise of the Commonwealth *Performers Copyright Bill* in 1974. Not surprisingly, therefore, this Bill was referred to in some length by a number of speakers including Peter Banki, executive officer of the ACC, who considered the substantive provisions of the Bill.

The thrust of the Bill would have granted to the performer, or his employer, a copyright of 20 years duration giving him or her control over fixation, transmission and broadcasting of live performances; and reproduction, transmission and broadcasting of fixed performances.

Despite some deficiencies in the 1974 Bill many speakers were adamant in their support of the copyright approach as a method of legislating for performers' rights. In opening the conference Mr. Justice Murphy referred to such legislation as "simple social justice" and this attitude was reflected in many of the speeches that followed.

Ironically, although a number of speakers represented the traditional opponents to property rights for performers, most speakers were sympathetic about the position of performers and drew attention to the challenges presented by the new technology and the inadequacies of the present system based on contract. Certainly, there was unanimity as to the valuable contribution of performers to their various industries.

Three international speakers were invited to the conference and gave a refreshing overview of the general policy of performers' protection and overseas initiatives. The fact that these were unclouded by the Australian particularities had its advantages and disadvantages, both of which were explored in the course of discussion.

John Morton, president of the International Federation of Musicians (FIM) answered some of the often raised objections to performers' protection, ranging from "feasibility" problems to "unfairness" to consumers. He also discussed the weaknesses of the United Kingdom legislation which adopts a penal approach creating offences for unauthorised dealings with performances, without giving

CONTINUED ON PAGE 6

IN THIS ISSUE

- Legal Rights for Performers – report on a conference at the Sydney Opera House, by Susan Bridge, Legal Officer of the Australian Copyright Council 4 CLB-5
- Freedom of Information – report on *News Corp. Ltd. v. NCSC [No. G312 of 1983] 4 CLB-7*
- Copyright issues relating to Satellite Dissemination of material and Signal Piracy – extract from paper by Peter Banki for Satellite Law Symposium in Sydney 4 CLB-8
- Books 4 CLB-11

Performers seek 'simple social justice' – Judge

FROM PAGE 5

the performer any civil remedy that characterises copyright legislation.

Rolf Rembe, secretary of the International Federation of Actors (FIA) criticised a narrow view of a copyright that gives intense attention to assisting authors and fails to recognise the creative contribution of actors and musicians, and generally emphasised the value to the consumer of legislation that rewards and therefore encourages creativity.

Edward Thompson, consultant to the International Federation of Phonogram and Videogram Producers (IFPI), proved that the record industry is not everywhere the opponent to performers' protection that some may have thought. Mr. Thompson treated the need to justify such legislation in an "advanced civilisation" as anomalous.

SURPRISING

Probably more surprising was the speech of Victoria Rubensohn, executive director of ARIA, who acknowledged the contribution of performers as essential to the record industry and supported the principle of legislation for the protection of performers. This conclusion was reached despite the fact that Ms. Rubensoh rejected many of the arguments for performers' rights, including the suggestion that performers were in an unequal bargaining position in their dealings with record companies.

The only spirited opposition to performers' protection came from Jane North, executive director of the Film and Television Production Association (FTPAA). Ms. North denied that giving performers legal rights with which to negotiate would increase their bargaining power. She also denied any need to bolster the bargaining power of actors because of the adequate protection afforded in contracts negotiated between Actors Equity and film and television producers.

Ms. North and Ms. Rubensohn suggested that performers in their own industries were not in a weak bargaining position. These assertions did not sit very easily with the paper delivered by Margaret Wallace, the Australia Council's policy officer, who drew attention to the finding of a recent Australia Council survey, which found that the average gross income from arts sources for musicians was $9,500 per annum, and $12,000 per annum for dancers and choreographers. Michael Crosby of Actors Equity noted the Individual Artists Inquiry's finding that even experienced actors earn on average less than $9,000 per annum from their art form.

A point on which Ms. Wallace and Ms. North agree was that copyright is no panacea for a bad contract.

Ms. Wallace saw a need to educate performers to insist on better contracts, and in this regard Tom Knapp, legal officer of the Australian Film Commission (AFC), said that the Commission favoured the use of standardised agreements approved by the interest groups concerned.

Michael Crosby and Don Cushion of the Musicians' Union took the view that rights for performers in the form of a copyright would enable them to achieve better contracts.

Don Cushion, in a lengthy address, said that despite some successes achieved by collective bargaining, musicians were disadvantaged because all they could sell was their personal services, and had no underlying property right to share in the products generated by those services. He and Crosby agreed that present contractual remedies were insufficient, and Crosby gave examples of the difficulties where contract alone governed performers' payments and their control over further uses of their performance. Contracts can only be enforced against the other contracting party and so give the performer no rights against bootleggers, for example.

VICTIMISATION

Even where the contract remedies were available many actors, rightly or wrongly, were discouraged in taking action against their employer for fear of victimisation, Mr. Crosby said. In this situation it would be preferable to have a copyright system enforced on behalf of individual performers by a collecting society. Mr. Crosby also referred to the great difficulties involved, legally and practically, in ensuring that small independent employers were bound by collective agreements operating in the industry.

An interesting feature of the conference overall was that the industry speakers tended to see copyright as a method of assisting performers to obtain adequate payments for each use made of their performance when commercialy exploited. For example, performers could hope to share in the fees paid by broadcasters to the owners of copyright in the material broadcast.

The performers themselves, however, (or so it appeared from the questions they asked) seemed more concerned with copyright as a means of maintaining some control over the fixation and presentation of their performances, to ensure that the quality and integrity of the performance were maintained. In a sense, they were requesting what is termed "moral rights" – the ability to prevent such things as alterations to the performance that might damage the performer's reputation.

MORAL RIGHTS

Whilst many of the examples cited (such as the unauthorised

CONTINUED ON PAGE 10

FREEDOM OF INFORMATION DECISION RELEASED BY FULL FEDERAL COURT

On 1st March, 1984, the Full Federal Court released its first decision concerning a case under the Freedom of Information Act. This was in the case of **News Corporation Limited -v- National Companies and Securities Commission** (unreported, No. G312 of 1983).

The proceedings arose out of an investigation by the National Companies and Securities Commission ("the NCSC") into transactions by News Limited in the shares of Thomas Nationwide Transport Limited. News Limited sought access to documents received and compiled pursuant to the investigation under the Freedom of Information Act 1982 ("the FOI Act"). The NCSC refused access to the documents and the News Limited appealed to the Administrative Appeal Tribunal.

The Tribunal had held that the documents were exempt from disclosure as section 47 of the **National Companies and Securities Commission Act 1979** (the "NCSC Act"), was an enactment of the kind referred to in section 38 of the FOI Act. Section 47 provides as follows:

(1) A document is an exempt document if it is, or is a copy of or of a part of, or contains an extract from:

(a) a document for the purposes of the Ministerial Council for Companies and Securities prepared by, or received by an agency or Minister from, a State or an authority of a State;

(b) a document the disclosure of which would disclose the deliberations or decisions of the Ministerial Council for Companies and Securities, other than a document by which a decision of that Council was officially published;

(c) a document furnished to the National Companies and Securities Commission by a State or an authority of a State and relating solely to the functions of the Commission in relation to the law of a State or the laws of 2 or more States; or

(d) a document, other than a document referred to in paragraph (c) that is in the possession of the National Companies and Securities Commission and relates solely to the exercise of the functions of that Commission under a law of a State or the laws of 2 or more States.

(2) This section has effect as if the Northern territory were a State.

The Tribunal also found that a corporation could have personal affairs as contemplated by section 12(2)(A) of the FOI ACT, in relation to the type of documents to which access could be provided pursuant to that Act.

A Full Federal Court consisting of Bowen C. J., St John and Fisher J. J., upheld both the appeal and the cross appeal. They said that Section 38 of the FOI Act expressly directed attention to the nature or quality of the information contained in documents, and not to the capacity of the person who had received the information. Section 47 of the NCSC Act was directed to the capacity of the person who received the information. Accordingly, section 47 was not one of the type of enactments referred to in section 38 of the FOI Act and the documents were not exempt from disclosure.

In relation to the cross appeal, the Full Court held that only natural persons could have "personal affairs", and corporations could not.

Robyn Durie

SATELLITES AND THE LAW ACLA SEMINAR

"Satellites and the Law" was the subject of a day seminar organised by the Australian Communications Law Association (ACLA) in Sydney's Sebel Town House on May 4, 1984. The speakers and their topics were as follows:

Mr. Graham Gosewinckel, managing director, Aussat Pty. Ltd. ...
"AUSSAT - AN INTRODUCTION AND UP-DATE"

Mr. David Jones, chairman, Australian Broadcasting Tribunal ...
"REGULATION OF THE USE OF SATELLITE PROGRAMME SERVICES BY BROADCASTERS"

Mr. David Major, marketing director, Aussat Pty. Ltd. ...
"SATELLITE TRANSPONDER LEASE CONTRACT"

Mr. Peter Banki, Australian Copyright Council* ...
"COPYRIGHT ISSUES RELATED TO SATELLITE DISSEMINATION OF MATERIAL AND SIGNAL PIRACY"

Mr. Henric Nicholas, QC ...
"DEFAMATION & PRIVACY"

Mr. Douglas Lindquist, Oak Systems of Aust. ...
"LEGAL ISSUES RELATING TO ENCODEMENT"

Mr. Malcolm Turnbull, Consolidated Press Holdings ...
"DIRECT BROADCASTING SATELLITE ISSUES"

Published papers of principal speakers and commentators now available from ACLA c/- Martin Cooper & Co., 13th Floor, 100 William Street, Kings Cross, N.S.W., 2011. Delegates who attended symposium $nil, ACLA members $35.00, non-members $45.00.

COPYRIGHT ISSUES RELATING TO SATELLITE

SATELLITE TRANSMISSION promises a great deal: benefits to users – because of the possibilities for fresh programming and other new services – and considerable attractions for entrepreneurs – because of prospective new markets. The advent of Australia's own domestic satellite clears the way for this potential to be fully realised. Arguably there will be a much wider dissemination of many more materials than has been possible until now.

In social policy terms, complex questions must be decided before the satellite can be used. These are now being considered in relation to program services by the Australian Broadcasting Tribunal. Ultimately, however, many of the issues will be resolved by the political process.

In terms of the policy of the satellite, the copyright issues will be among the least controversial. The copyright implications (the Tribunal is also considering these) are unlikely to create too many difficulties for the legislators. As far as I can see there are three main issues.

- Should there be a copyright in satellite transmissions, as there is for broadcasts under Section 91 of the **Copyright Act;**
- Should the transmission by satellite of material in which copyright subsists be an act comprised in the copyrights concerned; and
- If the answer to either of these questions is *yes* then how should these new rights or acts be characterised – as a broadcast, or as a new species of rights under the **Copyright Act.**

The hard issues in copyright are likely to be the practical problems confronting those who license programs distributed by signals transmitted via satellite. They will need to be especially vigilant in their legal relations with licensees and in general, in their arangements to market their programs.

The point is that copyright "know how" is bound to become increasingly important for program makers and marketing executives. Broadcasters, too, will need to be able to discriminate between particular copyright packages when they negotiate for rights to use programs.

I think that as technology becomes more sophisticated legal arrangements will need to be more precise. Legislation must provide a firm base for effective contracts; but it is the agreements themselves that have to properly define the forms of use the parties contemplate. the exception to this is the piracy of signals.

The provisions of the Copyright Act

The Act does not refer specifically to satellites or to distribution by satellite. It refers only to broadcasting.

"Broadcast" means broadcast by wireless telegraphy, and "broadcasting" has a corresponding meaning;

"Sound broadcast" means sounds broadcast otherwise than as part of a television broadcast;

"Television broadcast" means visual images broadcast by way of television, together with any sound broadcast for reception along with those images;

"Wireless telegraphy" means the emitting or receiving, otherwise than over a path that is provided by a material substance, of electromagnetic energy;

"Wireless telegraphy apparatus" means an appliance or apparatus for the purpose of transmitting or receiving sounds or visual images by means of wireless telegraphy.

These definitions appear in Section 10 (1) of the Act. In addition, Section 25 purports to define what is meant by "a broadcast", but what the provision actually does – in fact the combined effect of all of these provisions – is to explain the manner of broadcasting, rather than the meaning. "Broadcast" itself is not defined in the Act.

A number of commentators have suggested that a broadcast must be public; that is, capable of reaching the public at large. Point to multipoint transmissions therefore qualify as broadcasting, but point-to-point transmissions do not. If this is correct, then direct broadcast satellite transmissions would be covered by the meaning of "broadcast" in the **Copyright Act**, but the type of transmission commonly expected in the provision of satelite program services would not.

If one looks at the **Wireless Telegraphy Act** one finds that "broadcast program" is defined as meaning:

> ...matter intended for reception whether by means of a broadcast receiver or a television receiver.
>
> [Section 2(1)]

Whilst this appears to refer only to the substance of a broadcast; again, the suggestion is that broadcasting has an element of communication to the public.

The same is true of the Berne Convention – the prime copyright convention – in which broadcasting means telecommunication for reception by the public at large.

Obviously, some doubt exists as to whether point-to-point satellite transmissions amount to a broadcast within the meaning of that term in the Copyright Act.

This problem was recognised by the Whitford Committee – the 1977 United Kingdom committee to consider the law on copyright and designs. The Committee's report states that "... it is by no means clear that transmissions to satellites are broadcasts" within the meaning of the Act. [The U.K. Act is similar to the Australian Act with respect to satellites.] The Committee felt that this type of transmission should be protected in principle and recommended that "broadcasting" in the new **United Kingdom Copyright Act** should include the distribution by satellite of programs intended for public reception (with or without the intervention of a ground station.)

The United Kingdom Government has accepted the Committee's recommendation but has yet to legislate on the matter. [The Cable and Broadcasting Bill now before U.K. Parliament deals with some of these issues.]

As far as direct broadcast satellites are concerned, the United Kingdom Government regards broadcasting by this means "to be the same in principle,if not in degree, as broadcasting

by means of a terrestrial transmitter, and says that it should be protected as such.

In summary, the position under the present Act is as follows:

- DBS transmissions and most point-to-multi-point satellite transmission are protected as broadcasts. Copyright subsists in Australia in "Television broadcasts" made from a place in Australia, by:
  - (i) The Australian Broadcasting Commission;
  - (ia) The Special Broadcasting Service;
  - (ii) The holder of a licence for a television station; or
  - (iii) Any prescribed person, being a person who is, at the time when the broadcast is made, the holder of a wireless telegraphy licence.
- Point-to-point satellite transmissions probably do not "qualify" as broadcasts and are therefore not protected.

As mentioned earlier, there appear to be three main issues:

1. Should there be copyright protection for satellite transissions?

If we accept that these transmissions should be protected on policy grounds there seems to me to be no reason why they should not be accorded the same legislative protection as terrestrial transmission. In which case, the **Copyright Act** will need to be amended either to equate satellite transmissions to broadcasts, or to confer protection on satellite transmissions as a new species of copyright.

If the Government chooses the former - which in my view is the better alternative - at least two changes will be necessary:

- "Broadcast" in the **Copyright Act** will need to be amended to include transmissions ultimately intended to be communicated to the public (i.e., point-to-point transmissions).
- Satellite transmissions will have to be deemed by the Act to have been "made in Australia" where the transmission takes place from a satellite licensed in accordance with the appropriate legislation (e.g. the **Wireless Telegraphy Act 1906**).

2. Whether transmission by satellite should be an Act comprised in the copyright in works, films and records?

i.e. Whether owners of copyright should be able to control satellite transmissions of their material.

Under present law, "broadcasting" is clearly within their control. This covers broadcasts from Australian ground stations of materials received by transmissions from satellite and also covers direct satellite transmissions. The question remaining is whether it is also necessary for copyright owners to control the first "leg" - i.e., the transmission of material from the ground to the satellite.

There are those who argue that control of the down - or second - leg is sufficient. They say that since this leg constitutes a broadcast (within the meaning of that term in the Copyright Act) the owner of the copyright in what is "broadcast" will be able to bring an action for any unauthorised broadcast once the broadcast occurs. Therefore, it will be unnecessary to characterise the first leg as a broadcast, or, for that matter, any other act comprised in the copyright.

Now, it seems to me that this proposition should be rejected by owners of copyright in works and other broadcast subject-matter:

- It would be considerably easier for plaintiffs to obtain relief if they had an additional cause of action regarding the initial transmission to the satellite;
- It would be easier too to succeed in an action brought in the plaintiff's own jurisdiction, which he would be able to do if he has control over the first leg transmission. If he does not control this then he will have to rely on an action in the place or places of distribution - there may be distribution to a multiplicity of receivers.

Thus if the policy is to protect copyright owners from the unauthorised transmission of their material by satellite, in my view, protection should extend to both the up and down legs of the satellite transmission.

The last question for the legislator is:

3. How should satellite transmissions be described for copyright purposes?

In my opinion the answer to that is that if broadcasts generally are to be protected by copyright then satellite transmissions that are intended ulitmately to be communicated to the public should be similarly protected.

The copyright law presently regulates broadcasts made in Australia. The existing provisions enable copyright owners to control "re-broadcasting" and, in some cases, wired diffusion. The satellite transmission itself may not be an act comprised in the copyright, but the public ("non-wired") distribution of programs will constitute a broadcast. "Programs" in this context includes works and other copyright subject-matter: In particular, literary, musical, dramatic and artistic works, cinematograph films, television and sound broadcasts and sound recordings. The rights comprised in the copyright in these materials are set out in sections 31, 85, 86 and 87 of the Act. Each of these copyrights includes a broadcast right.

An alternative to copyright is a penal code regulating the piracy of satellite transmission.

If the Government decided to legislate along these lines it might consider it appropriate for the protection of broadcasts generally to be a matter of criminal jurisdiction. This would necessarily involve repealing existing provisions whereby broadcasts are protected copyright subject-matter.

I am not suggesting that broadcasting organisations should be denied the type of rights they presently enjoy under the **Copyright Act**, merely that the substance of these rights could be enjoyed under a new uniform code.

The piracy of program-carrying signals transmitted by satellite is

COPYRIGHT ISSUES RELATING TO SATELLITE DISSEMINATION OF MATERIAL AND SIGNAL PIRACY

regulated internationally by the so-called **Satellites Convention** - the convention relating to the distribution of program-carrying signals transmitted by satellite.

Eight States have ratified this convention: Austria, the Federal Republic of Germany, Italy, Kenya, Mexico, Morocco, Nicaragua and Yugoslavia.

Articles 2 (1) and 8 (2) state: "each contracting state undertakes to take adequate measures to prevent the distribution on or from its territory of any program-carrying signal by any distributor from whom the signal emitted to or passing through the satellite is not intended. This obligation shall apply where the originating organisation is a national of another contracting state and where the signal distributed is a derived signal".

The effect of these provisions is that contracting states can protect foreign transmissions made by an organisation constituted under the laws of a foreign country, or made from a place in that country - but not both.

The Convention applies only to encoded signals and only to signals carrying programs "emitted for the purpose of ultimate distribution" [definition of program, Article 1 (ii)]

CONVENTION

Section 184 (f) of the **Australian Copyright Act** states that the Act applies: "... in relation to television broadcasts and sound broadcasts made from places in that country by persons entitled under the law of that country to make such broadcasts in like manner as those provisions apply in relation to television broadcasts and sound broadcasts make from places in Australia by the Australian Broadcasting Commission, by the Special Broadcasting Service, by a holder of a licence for a television station, by a holder of a licence for a broadcasting station or by a person prescribed for the purposes of sub-paragraph 91 (a)(iii) of 91 (b)(iii)".

In other words, the Act applies to "transmissions" both made from a foreign country and by a "competent" organisation. An amendment to the Act would therefore be a necessary precondition to ratifying the Convention.

The Satellites Convention would appear to provide the legal means for combatting signal piracy internationally, but I thing it would be unwise for the Government to ratify the Convention until such time as all the components of programs that might be transmitted are fully protected under Australian law.

At present, for example, there is inadequate protection for the performers of works comprised in transmissions. This should be guaranteed in the form of the minimum level of protection envisaged by the Rome Convention before the Government contemplates Australia's adherence to the **Satellites Convention**.

As I mentioned at the outset, satellite transmission may raise fresh considerations for licensing the use of copyright materials.

For example, it has always been necessary to specify accurately the territorial limits of copyright licences. However, the added technological capacity of transmission by satellite may make this an even more important feature of the drafting of agreements. I am sure it will become critical for film producers and music copyright owners, for instance, to develop clear definitions for the new territorial arrangements that satellite transmission makes posible.

Another feature of the drafting that might need to be clarified is the definition of the site of a broadcast or transmission. This can be significant in interpreting the scope of broadcasting contracts and, in particular, in difining the rights of the broadcaster or other transmitter - in the event that a satellite transmisson is deemed not to be a broadcast.

Other issues include:

- Defamation and privacy (discussed by Henric Nicholas in his paper); and
- Property law questions - which are not new but may perhaps become more involved than we have been used to in this field.

All in all, I think that the advent of satellites means a lot more to the consumer than it does to the copyright lawyer.

(Extracted from a paper by **Peter Banki, Executive Officer, Australian Copyright Council,** *for the Australian Communications Law Association's Satellite Law Symposium in Sydney, May 4, 1984.*

Further inquiries about papers delivered at this seminar may be directed to:

The Editor, John Mancy,
1/67 Phillip Street,
Sydney, 2000.
[DX 423 Sydney])

Performers seek 'simple social justice'

FROM PAGE 6

compilation of segments of film by third parties) could be prevented if performers were given a copyright, no present owner of copyright enjoys full moral rights in Australia.

Not even the Rome Convention which seeks to establish a minimum level of protection for performers (and record companies and broadcasters) is of assistance in the area of moral rights.

The Rome Convention, which was referred to by a number of speakers, obliges contracting states to give performers the "possibility of preventing" such acts as the unauthorised fixation and broadcasting of their live performances and may also provide for equitable remuneration for performers for secondary uses of recorded performances.

CONTINUED OVER

BOOKS IN BRIEF

DICTIONARY OF MASS MEDIA & COMMUNICATION
By Tracy Daniel Connors
(Longman)

This U.S. publication is of limited practical value in Australia. Leafing through, this reviewer found no entries for: beat up, back-pack, basket, copy-taster, crosshead, copy basket, drop edit, anytimer, grab, happy snap, hold up, h-and-j, inside page, in depth, intrusion, man-in-the-street, noddy, piece, re-jig, ringaround, splash, do-up, standfast, stone sub, stop press, taste, vox pop, write-off. window box, blockline [this list is not exhaustive].

Perhaps, an Australian supplement is in order?

AUTHORS AND PUBLISHERS – Agreements and Legal Aspects of Publishing
By Lazar Sarna
(Butterworths)

This slim Canadian publication is mainly of background value, but definitely is worth skimming through if you're on the author's side of a publishing agreement. It contains some examples of forms of publishing agreements, drafted by the author, with handy paragraph headings and commentaries providing a summary of the purpose and scheme of the various contracts.

THE LAW OF TORTS (6th edition)
By John G. Fleming
(Law Book Company)

As usual in the author's strongly individual style, it has the advantage of serving up to the general inquirer all the essentials of Defamation in just over 60 highly-readable pages.

REPORTS OF PATENT CASES
Edited by Michael Fysh
(Lawyers Bookshop Press – Brisbane)

For the specialist only, at $7,450.00 for the set of the Reports of Patent Cases, 1884-1982.

EQUITY DOCTRINES & REMEDIES (2nd edition)
By R. P. Meagher Q.C., W. M. C. Gummow & J. R. F. Lehane

It is nine years since the 1st edition, and of major interest to those of us involved in the communications law field are the developments in Confidential Information (subsequently rewritten and Passing-Off (a new chapter).

[Reviews in Brief by **John Mancy**, Barrister]

Twenty-six states have ratified the Convention, and Edward Thompson indicated that ten or twelve states intended to join soon. Australia has not ratified the Convention and cannot because it has no domestic legislation to protect performers - even to the minimum level required - despite the fact that its Copyright Act gives the other beneficiaries (record companies and broadcasters) protection well in excess of the Convention standards.

In the environment of the present debate, it was unfortunate that there were no speakers representing traditional copyright owners, such as authors and composers. In the past these groups have tended to oppose copyright for performers, arguing that the effect of creating new classes of rights' holders is generally to "devalue" the rights of traditional copyright owners. This has been said to result in reduced payments to authors - the so-called "cake theory" which has been repeatedly challenged at international meetings.

It seems to me that not only is this fear unwarranted, but it is also outweighed by the advantages to traditional owners if performers are brought into the copyright fold. Performers would become the natural allies of authors, artists and composers in many crucial areas of copyright law reform - particularly in the movement for moral rights legislation and in schemes (such as the proposed royalty on blank tape) designed to meet the impact of new technologies. These, of course, affect performers just as they affect present copyright owners. Many of the performers present at the conference, and their powerful unions, would make valuable and articulate lobbyists for moral rights and law reform generally if their skills were recognised by the Copyright Act.

Susan Bridge
Legal Officer
Australian Copyright Council

Australian Communications Law Association

The ACLA is concerned to bring together those interested in the law in areas affecting communications such as broadcasting law, defamation, copyright, film, telecommunications, advertising, contempt of court, freedom of information, entertainment, privacy and censorship. Our current membership includes lawyers and others from commercial, national and public broadcasting, film groups, newspapers, private practice, law reform commissions, universities and elsewhere.

We recognise that the success of our Association depends on associating informally and freely with all those interested throughout Australia. We publish material from widely differing standpoints. The total independence of the Association, which includes people with a diversity of political and business connections, will continue to be jealously guarded.

We have no permanent secretariat and we do not maintain a routine of activities. Functions are organised to suit the needs of the community and the interests of members. Our activities have included seminars on overseas broadcasting law, commercial television licence renewals, defamation, cable and STV, and copyright. We have held luncheons for Ministers and Shadow Ministers for Communications, the Commonwealth Attorney-General, the Chairman of the ABC and Telecom, the Secretary of the ATEA, the Chief Film Censor and the ABT Chairman. The **Communications Law Bulletin** is Australia's specialist journal for the areas mentioned above. Our membership directory provides a means of contact between those interested in particular areas of communications law and policy. ACLA executive committees are based in Sydney and Melbourne.

APPLICATION FOR MEMBERSHIP OR C L B SUBSCRIPTION

Please send this form and your cheque to the secretary of the Sydney Executive. Please underline any of the following information which you do not wish to be included in our membership directory, which is published only to fellow members.

Name: .....

Address: .....

Telephone: ..... DX (if any) .....

Principal Areas of Interest .....

Please tick the appropriate box below:

☐ I apply for membership of the A C L A and enclose the annual fee of $25.00. This includes on year's supscription to the **Communications Law Bulletin** in either case.

☐ I apply for one year's subscription to the C L B and enclose $25.00 (individual) or $50.00 (firms, organisations). Firms and organisations may receive extra copies at $2.00 each. For example, $54.00 subscription secures three copies of each issue for one year.

☐ I apply for membership of the A C L A without the benefit of a C L B subscription, and enclose the annual fee of $10.00.

.....
(signature)

Sydney address: P. BANKI
Australian Copyright Council,
22 Alfred Street,
Milsons Point, N.S.W., 2061.