

12 February 2007

Mr John Laughlin
Adjudication Branch, Canberra
Australian Competition and Consumer Commission

By Email: john.laughlin@acc.gov.au

Dear Mr Laughlin

Copyright licensing and collecting societies: a guide for copyright licensees

We refer to the Australian Competition and Consumer Commission ('ACCC's') draft guide to copyright licensing and collecting societies titled 'Copyright licensing and collecting societies: a guide for copyright licensees' ('Guide'). ASTRA appreciates the opportunity to comment upon the Guide.

ASTRA represents the interests of subscription television broadcasters and channels. A complete list of ASTRA's members is available at www.astra.org.au/members.asp.

ASTRA and its members have had extensive experience working with copyright collecting societies, having negotiated a number of industry agreements with the Australasian Performing Right Association concerning the right of communication of musical works; and having appeared before the Copyright Tribunal by application of the Audio-Visual Copyright Society Ltd concerning the issue of 'equitable remuneration' for underlying copyright holders in retransmitted free-to-air broadcasts on subscription television services.

Having reviewed the Guide, ASTRA has concerns about the content of section 8 titled 'Remuneration for the use of copyright material' and it's our view that the current drafting should be re-considered.

Detailed consideration of the appropriate aspects to be taken account in assessing the market for copyright material has been undertaken by NERA Economic Consulting in its report titled '*Remuneration for the use of copyright material – comment on the ACCC draft guidelines*', a copy of which is attached to this correspondence. ASTRA has read and endorses the comment in this report.

In particular, the analysis should consider the demand side of the market and include adequate consideration of the willingness of (potential) licensees to pay for copyright material. As currently drafted, the principles in relation to pricing effectively ignore the Copyright Tribunal's 'notional bargain' approach.

Please do not hesitate to contact me should ASTRA be able to provide further information or comment.

Yours sincerely

A handwritten signature in black ink that reads "Debra Richards". The signature is fluid and cursive, with the first name "Debra" being more prominent than the last name "Richards".

Debra Richards
Executive Director

