

Dr Richard Chadwick
General Manager
Adjudication Branch
Australian Competition and Consumer Commission
23 Marcus Clark Street
Canberra ACT 2601

Dear Dr Chadwick

**Application for Authorisation by Communications Alliance Ltd
A91453**

Thank you for the opportunity to make a submission in relation to the Communications Alliance's application for authorisation.

The Australian Copyright Council is a not for profit organisation. Founded in 1968, we represent the peak bodies for professional artists and content creators working in Australia's creative industries and Australia's major copyright collecting societies.

Australian copyright industries make a significant contribution to the nation's economy. And yet, as a report we commissioned from PwC in 2012 indicates, many traditional copyright industries face challenges. One of those challenges comes from the rise in unauthorised copying. As PwC notes, "in this environment, there is a need for an appropriate regulatory model to support copyright businesses' innovation and sustainable growth". (PwC, *The Economic Contribution of Australia's Copyright Industries 1996-97-2010-11*, 2012, p 4).

The Australian Copyright Council welcomes the Communications Alliance's willingness to address the issue of online copyright infringement. We also support "follow the money" as one of the strategies for addressing online copyright infringement. However, we have some reservations about the proposal articulated in the Communications Alliance's application for authorisation.

1. Follow the Money as "the" solution

The Australian Copyright Council is on the record as being supportive of a range of strategies to address online copyright infringement. These include innovative business models to deliver content to consumers and education initiatives to address consumer attitudes (see, for example, our submission in response to the Online Infringement Discussion Paper <http://www.copyright.org.au/admin/cms-acc1/images/12994922015403f214a391a.pdf>). It also includes a "follow the money" approach. However, we believe that the existing legislative framework for addressing online copyright infringement is not operating as intended and that an "appropriate regulatory framework" in this instance, requires legislative amendment.

2. The Communications Alliance's Follow the Money scheme

As the Communications Alliance indicates in its application, work is being done by Music Rights Australia and the Audited Media Association of Australia to develop some Australian Digital Advertising Principles. We are aware that Music Rights Australia has provided the Commission with further information about this work as part of this consultation process. Given the work being done to develop principles that would apply across the board, we query the merit in the Communications Alliance developing a sector-specific scheme.

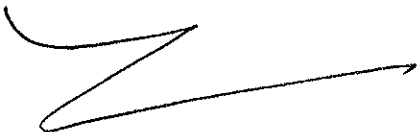
Furthermore, we note the specific issues that Music Rights Australia has raised about the workability of the scheme put forward by the Communications Alliance.

3. Authorisation

Finally, and most relevantly, we think that that the application for authorisation filed by the Communications Alliance lacks sufficient detail for the Commission to be in a position to decide whether or not to authorise the proposed arrangement, scheme or understanding. In our view, the information provided is insufficient for stakeholders participating in this consultation process to provide an in-depth analysis of the public benefits or otherwise of the proposal. Likewise, in our submission, the material currently before the Commission is not adequate for it to satisfy itself of the likely effect of the conduct in relation to which authorisation is sought. The Commission's own request for further information dated 10 September 2014 would tend to support this view.

In conclusion, the Australian Copyright Council welcomes the Communications Alliance's support for a "follow the money" approach to address online copyright infringement. As the Commission is aware, online advertising raises a broad range of issues apart from copyright. The Australian Copyright Council encourages the Communications Alliance to work with other stakeholders to develop a holistic "follow the money" scheme. We also encourage the Communications Alliance to work with other stakeholders on other strategies for addressing online copyright infringement. Crucially, this includes developing an industry code of conduct to address online copyright infringement as envisaged by the *Copyright Act 1968*. The Australian Copyright Council stands ready to work with the Communications Alliance, the Government and other stakeholders to achieve this goal.

Please do not hesitate to contact us, if we can be of any further assistance.



Fiona Phillips

Executive Director