

## Appendix 2

### Recommendations of the Royal Commission on Performing Rights 1933

That legislation be introduced having the following objects:

- (1) The establishment of a tribunal to determine disputes arising out of the performance in public of musical works and/or the use of records in public.
- (2) Providing that it shall be lawful for any person to perform in public a musical work or to use in public a record (the subject of the dispute), provided such person proves that he has paid or has tendered any charge and has complied with or has bona fide offered to comply with any terms and conditions imposed by such a tribunal.
- (3) Compelling the Australasian Performing Right Association from time to time to file at such place and in such form and within such time as may be prescribed lists of all musical works in respect of which authority is claimed to issue or grant performing licences or to collect fees and providing that the Australasian Performing Right Association shall not be entitled to collect any fees for licences for the performance of musical works which are not specified in such lists.
- (4) Compelling the filing of statements of all fees and charges which the Australasian Performing Right Association proposes from time to time to collect as compensation for the issue or grant of licences for the performance of musical work and providing for revision of these fees and charges.
- (5) Compelling the filing from time to time of accounts of the receipts and distribution of fees collected by the Australasian Performing Right Association and of accounts of fees received from the association and distributed by its members.

- (6) Providing that until the time prescribed for the filing of the original lists of musical works and the statements of charges has expired, the present rights of the Australasian Performing Right Association shall remain unimpaired.
- (7) Providing that the Australasian Performing Right Association shall lodge with the Minister within the time and in the form prescribed, security (in say the sum of £3000) to meet claims made upon the Australasian Performing Right Association for costs and other moneys payable by the Australasian Performing Right Association.
- (8) Providing a remedy in case of groundless threats of legal proceedings by the Australasian Performing Right Association, adopting with the necessary modifications , section 91A of the *Patents Act 1903–1921*.
- (9) Providing that a performing fee shall not be payable for the relay of any musical work by a broadcaster if the broadcaster has paid or tendered the performing fee due for the performance by the originating station.
- (10) Providing that (except where admission fees are collected or similar charges are made by the user of the receiving apparatus) there shall be no performing right in respect of the rediffusion of any musical working public if the broadcaster has been licensed by the owner of copyright to perform the musical work in question.
- (11) Providing that there shall be no fee or charge payable for the performance of any musical work in any place for religious, charitable, fraternal or educational purposes if the entire proceeds, after deducting the reasonable cost of presenting the same, are devoted exclusively to religious, charitable, fraternal or educational purposes or for the maintenance of the place where such performance is held.
- (12) Providing that there shall be no charge made for any performing right in a musical work where the performance is not directly for private profit.

- (13) Providing that there shall be no performing charge or fee for the broadcasting of musical works forming part of religious services.
- (14) Determining whether a performing fee can or cannot be lawfully claimed by the manufacturer for the use of a record in public.
- (15) This Commission further recommends that consideration should be given to the question whether the delegate of the Commonwealth of Australia to the next International Convention to be held at Brussels in 1935 should not be instructed again to press upon the convention the claims and interests of the public in connexion with the performance of musical works in public and the advisability of regulating and controlling the activities of such monopolies as the Australasian Performing Right Association and similar societies. It may also be suggested that the International Convention should be urged to recognise the power of Parliament in each country of the union to regulate and control societies such as these, if their activities be detrimental to the public.