

THE COPYRIGHT TRIBUNAL OF AUSTRALIA

A summary of its work from 1995 to 1999.¹

Tribunal No.	CT1/99	
Tribunal	Burchett J (President)	
Applicant(s)	Audio-Visual Copyright Society Limited (AVCS)	
Respondent(s)		
Application	Under s.153F Filed 22.1.99	
Facts	<p>The AVCS is seeking a declaration that it be a collecting society for the purposes of Division 2 Part VII of the Act in relation to the relevant copyright owners of the following classes of copyright material:</p> <ol style="list-style-type: none"> 1. A sound recording; or 2. A cinematograph film; or 3. A television or sound broadcast; or 4. A work that is included in a sound recording, a cinematograph film or a television or sound transmission <p>in respect of the application of the copyright to copying a transmission of a sound broadcast or a television broadcast including (to avoid doubt) a sound broadcast transmitted for a fee and a television transmission to subscribers to a diffusion service.</p>	
Results	Continuing – rival application by ARIA [<i>Australian Record Industry Association Ltd.</i>].	
Hearing	For the Applicant(s)	L W Docker, Solicitor
	For the Respondent(s)	Gilbert & Tobin
Citation		
Related Matters		

Tribunal No.	CT3/98	
Tribunal	Burchett J (President)	
Applicant(s)	Copyright Agency Ltd (CAL)	
Respondents		
Application	Under s.153F Filed 27.10.98	
Facts	This was an application by CAL to be declared the collecting society for the purposes of Division 2 Part VII in relation to government copying of a work and published edition of a work, other than a work or published edition included in a sound recording or a cinematograph film.	
Results	The Tribunal declared on 18.12.98 that CAL be the collecting society for the purposes of Division 2 Part VII in relation to government copies of works and published editions of works, other than works that are included in a sound recording, cinematograph film or a television or sound broadcast. Order entered 18.1.99 Cth Gazette No. GN 5 : 3 February 1999	
Hearing		
	For the Applicant(s)	
	For the Respondent(s)	
Citation		
Related Matters		

Tribunal No.	CT2/98	
Tribunal	Burchett J (President)	
Applicants	CAL	
Respondents	Queensland Department of Education & Ors	
Application	Under ss.135ZW and 153C Filed 4.9.98	

Facts	This is an application made by CAL to the Tribunal to determine a) amount of remuneration payable to CAL by “School Bodies” – which administer or represent primary and secondary schools (government, independent and catholic) in relation to Licensed Copying ; and b) the sampling system to be used for the purpose of assessing Licensed Copying.	
Results	Continuing	
Hearing		
	For the Applicant(s)	Banki Haddock Fiora
	For the Respondent(s)	Minter Ellison
Citation		
Related Matters		

Tribunal No.	CT1/98
Tribunal	Burchett J (President)
Applicants	Fair Fitness Music Association
Respondents	Phonographic Performance Company of Australia Limited (PPCA)
Application	Under s.157 Filed 29.1.99
Facts	The applicant association is disputing the current licence scheme with the PPCA, “Tariff V” , on the grounds that the new calculation of fees (increasing the amount payable for licences) is unreasonable. The applicant is requesting the Tribunal to assess and make an order as to the reasonableness of the calculation of fees under the Tariff V scheme.
Results	Continuing
Hearing	

	For the Applicant(s)	Evangelos Rizos
	For the Respondent(s)	Gilbert & Tobin
Citation		
Related Matters		

Tribunal No.	CT5/97	
Tribunal	Burchett J (President)	
Applicants	Audio Visual Copyright Society Limited (AVCS)	
Respondents	Australian Catholic University & Ors (the universities)	
Application	Under s.135J, <i>Regulation 23B Copyright Tribunal Regulations</i> Filed 18.12.97	
Facts	This matter was heard together with CT3/97	
Results	See CT3/97	
Hearing	See CT3/97	
	For the Applicant(s)	
	For the Respondent(s)	
Citation		
Related Matters	CT3/97, N112/99	

Tribunal No.	CT4/97	
Tribunal	Burchett J (President)	
Applicants	CAL	

Respondents	University of Adelaide & Ors	
Application	Under s.135ZN Filed 19.12.97	
Facts	<p>This matter concerns the rate of equitable remuneration payable to CAL by the universities for copying under Part VB. CAL claimed different rates for different <i>types</i> of copying:</p> <ul style="list-style-type: none"> • the basic claim was that the rate of 2 cents per page fixed by the Tribunal (Sheppard J) on 20 March 1985 in <i>Copyright Agency Ltd v Department of Education of New South Wales</i> should be raised from its present indexed equivalent of 3.562 cents per page to 10 cents per page; • 30 cents per page for artistic works and for print music; and • \$2.00 per slide for the copying of artistic works by means of slides. <p>CAL also claimed different rates based on the particular purpose or character of different kinds of copying:</p> <ul style="list-style-type: none"> • 15 cents per page for copying to be bound into “course packs” – these are anthologies or compilations of licensed copies which resemble books. 45 cents per page in the case of artistic works and music to be included in course packs; • same rate for copying by students in the “closed reserve” section of university libraries; and • \$2.00 per item for artistic and literary works and \$6.00 per item for musical works which can be digitally stored and accessed. 	
Results	<p>After a discussion of the principles involved in determining equitable remuneration, the Tribunal increased the basic rate of copying to 4 cents per page. The rate for course-pack copying has been fixed at 5 cents per page and 15 cents per page for copying artistic and musical works. Where artwork is copied onto a slide the amount will be \$1.00 per slide. All figures are subject to indexation with reference to the CPI.</p> <p>The Tribunal declined to fix special rates for copying which may be digitally stored and accessed, as well as copying in closed reserve.</p> <p>There is current argument in relation to the implementation of the Tribunal’s determinations. A stated case has been prepared for referral to the Federal Court in relation to digital copying.</p>	
Hearing	30 November, 1, 2, 3, 4, 7, 8, 9,10, 11, 14, 17, 18 December 1998	
	For the Applicant(s)	Mr D K Catterns QC instructed by Banki Haddock Fiora
	For the Respondent(s)	Mr J Campbell QC with Mr R Cobden instructed by Baker & McKenzie
Citation	[1999] A Copy T 1, 42 IPR 529	
Related Matters	This matter supersedes CT5/96 and CT6/96 as well as CT1-3/83	

Tribunal No.	CT3/97	
Tribunal	Burchett J (President)	
Applicants	University of Newcastle & Ors	
Respondents	AVCS	
Application	Under s.135J, <i>Regulation 23B Copyright Tribunal Regulations</i> Filed 18.12.97	
Facts	<ul style="list-style-type: none"> • This was an application to the Tribunal to determine the annual amount per student that is equitable remuneration payable by universities to the respondent under Part VA of the <i>Copyright Act</i> for making copies of sound broadcasts and television broadcasts. • It was also requested that the tribunal determine the appropriate method of sampling. 	
Results	<p>The Tribunal fixed the amount of equitable remuneration for copying broadcasts or transmissions under Part VA at \$5.50 per EFTSU* for 1998, to be indexed in accordance with the CPI for subsequent years. This is subject to any adjustment made between parties or ordered by the Tribunal.</p> <p>The Tribunal directed the AVCS to bring in short minutes of order to implement this determination</p> <p><i>*Equivalent Full-Time Student Unit : equivalent of a full-time student, whether there is in fact a full-time student or a sufficient number of part-time students equivalent to one full-time student.</i></p>	
Hearing	7, 8, 9, 14, 15, 17, 21, 22 September 1998	
	For the Universities	J Campbell QC with R Webb instructed by Baker & McKenzie
	For the AVCS	D K Catterns QC with N Manousaridis instructed by Mallesons Stephen Jaques
Citation	[1999] A Copy T 2	
Related Matters	CT5/97, N112/99	

Tribunal No.	CT2/97	
Tribunal	Burchett J (President)	
Applicant	K. I. Allanson	

Respondents	State of Queensland & Anor	
Application	Under s.183 Filed 27.3.97	
Facts	The applicant claimed copyright in “several original literary works together which comprise a strategy for a process to distribute products and services in a global trade environment” and that the Commonwealth had infringed this copyright. Various directions by the Tribunal designed to assist in rectifying defects in the claim were not complied with. On 24.12.97 the Commonwealth (2 nd respondent) took out a motion for dismissal on the ground that “no cause of action [was] disclosed by the amended application”.	
Results	The Tribunal held that the claim as it stood at the time the motion was heard could not succeed and accordingly the proceeding against the Commonwealth was dismissed with costs (the proceedings against the first respondent had already been abandoned).	
Hearing	1 June 1998	
	For the Applicant(s)	The applicant appeared in person
	For the Respondent(s)	G Rundle appeared for the 2 nd Respondent instructed by the Australian Government Solicitor.
Citation		
Related Matters		

Tribunal No.	CT1/97
Tribunal	Burchett J (President), Professors Ricketson and Pearce.
Applicants	Fair Fitness Music Association
Respondents	Australasian Performing Right Association (APRA)
Application	Under s.157 Filed 14 March 1997
Facts	The Fair Fitness Music Association requested the Tribunal to assess the reasonableness of calculation of licence fees under the current licence scheme applicable to the fitness industry using the copyright works of APRA. The relevant licence scheme had been approved by the Tribunal in March 1995.

Results	Not being satisfied that the application was well-founded, the Tribunal dismissed the application with no order as to costs.	
Hearing	15, 16, 17 and 18 June 1998	
	For the Applicant(s)	S Stretton
	For the Respondent(s)	D K Catterns QC for the Respondent instructed by Faulkner & Associates
Citation		
Related Matters	CT1/93	

Tribunal No.	CT6/96	
Tribunal	Lockhart J (Deputy President)	
Applicants	The Australian National University & Anor	
Respondents	CAL	
Application	Under s.135ZV Filed 12.7.96	
Facts	This was an application concerning the rate of equitable remuneration payable under Part VB by tertiary institutions making copies by electronic means, of literary works for storage in a database used for electronic library reserve	
Results	Superseded by CT4/97	
Hearing		
	For the Applicant(s)	
	For the Respondent(s)	
Citation		
Related Matters	CT5/96, CT4/97	

Tribunal No.	CT5/96	
Tribunal	Lockhart J (Deputy President)	
Applicants	CAL	
Respondents	The University of Adelaide & Ors	
Application	Under s.153C Filed 12.7.96	
Facts	<p>CAL requested that the Tribunal determine the amount of equitable remuneration payable to CAL by the universities for licensed copying under Part VB in digital as well as hard copy form. Secondly, the Tribunal was asked to determine the sampling system to be used for the purpose of assessing the number of copies made by the universities.</p> <p>A preliminary question to be determined was whether Part VB should be construed as allowing the universities to give separate remuneration notices for copying by different means and for different purposes. That is, whether it was possible to have sampling notices in some instances and records notices in others.</p>	
Results	<p>The Tribunal held</p> <p><i>“Once an educational institution decides to rely on the Pt VB scheme, then it gives a remuneration notice under s.135 ZU. That notice must specify whether equitable remuneration is to be assessed on the basis of a record system or a sampling system. In my opinion, the scheme is intended to be a blanket scheme covering the whole of an educational institution’s copying of the works of all relevant copyright owners under a statutory licence involving the particular collecting society.”</i></p> <p>Superseded by CT4/97</p>	
Hearing	6 June 1997	
	For the Applicant(s)	D K Catterns QC instructed by Banki Polambi Haddock and Fiora
	For the Respondent(s)	J J Spigelman QC with R Cobden instructed by Baker & McKenzie
Citation	(1997) AIPC 39,396; 38 IPR 633	
Related Matters	CT6/96, CT4/97	

Tribunal No.	CT4/96
Tribunal	Lockhart J (Deputy President)

Applicants	Marine Engineering & Generator Services Pty Limited	
Respondents	State of Queensland (Queensland Fire Service)	
Application	Under s.183 Filed 18.6.96	
Facts	The Fire Service reproduced and distributed the “generator test and maintenance log” – a checklist for the maintenance of generators which had been produced by the applicant.	
Results	The Tribunal having found that the applicant had not granted a right to the respondent to reproduce and distribute the generator test and maintenance log, fixed the terms for copying at the sum of \$3,900 payable within 21 days of this order.	
Hearing	7 March 19997	
	For the Applicant(s)	C Moore instructed by Cleary & Lee
	For the Respondent(s)	D Mullins instructed by Crown Law
Citation	38 IPR 422	
Related Matters		

Tribunal No.	CT3/96	
Tribunal	Sheppard J (President)	
Applicants	Harold Thomas	
Respondents	Commonwealth of Australia	
Application	Under s.183 Filed 8.3.96	
Facts	Alleged use by the respondent of artistic work created by the applicant, namely the Aboriginal Flag. In order to avoid doubt over the jurisdiction of the Tribunal to determine the issue of ownership, the applicant commenced proceedings in the Federal Court, seeking a declaration that he owned the copyright in the flag.	

Results	<p>The Tribunal held:</p> <ol style="list-style-type: none"> 1. It be declared that : <ol style="list-style-type: none"> a) Harold J Thomas is the author of the artistic work being the design for the flag described in Schedule 1 to the proclamation dated 27 June 1995 under s.5 of the <i>Flags Act 1953</i> and published in the Commonwealth of Australia Gazette No. S259 of 14 July 1995, such flag being known as “the Aboriginal flag (“the artistic work”); and b) Harold J Thomas is the owner of the copyright subsisting in the said artistic work. 2. Leave be reserved to the applicant to make application for the further relief sought in his amended application filed on 1 August 1996 provided that any such application is made on or before 23 April 1997. Such application may be made by notifying it to the associate to Sheppard J and to the respondents to the application on or before 23 April 1997 	
Hearing	2, 3, 24, 25 July 1996 and 11, 2 December 1996	
	For the Applicant(s)	C R Golvan instructed by North Australia Aboriginal Legal Aid Service
	For the Respondent(s)	I C Robertson 23 – 24 July instructed by Johnston Withers H A Abbott 11-12 December instructed by Steven M Clark Pty Ltd
Citation	37 IPR 207	
Related Matters		

Tribunal No.	CT2/96
Tribunal	Sheppard J (President)
Applicants	G. S. Technology Pty Limited
Respondents	State of Queensland
Application	Under s.183 Filed 22.2.96
Facts	Alleged copying of drawings and exploiting of water meter assemblies by Brisbane City Council

Results	Applicant withdrew application on 9 September 1996	
Hearing		
	For the Applicant(s)	
	For the Respondent(s)	
Citation		
Related Matters		

Tribunal No.	CT1/96	
Tribunal	Sheppard J (President)	
Applicants	EMI Music Australia & Ors	
Respondents	Federation of Australian Commercial Television Stations	
Application	Under s.152(2) Filed 19.2.96	
Facts	Proposed licence agreement under which commercial television stations may broadcast sound recording of material owned by the applicant association	
Results	<p>Case stated to Full Federal Court (NG 577/96). The question to be determined was whether the broadcasting of the films in question by the commercial television licensees constituted a broadcasting of a sound recording which was contained in the sound-track of the film. The Full Court (by majority) answered in the negative.</p> <p>On appeal to the High Court it was held by majority (Gaudron Gummow and Hayne JJ) that there was a broadcast of each of the sound recordings in question when the film into the sound-track of which it was incorporated was broadcast.</p> <p>The matter is continuing in the Copyright Tribunal before Burchett J (President). It has also been re-titled <i>PPCA v FACTS</i>.</p>	
Hearing		
	For the Applicant(s)	Gilbert & Tobin
	For the Respondent(s)	Boyd House & Partners

Citation	
Related Matters	

Tribunal No.	CT2/95	
Tribunal	Burchett J (President), Professor Pearce and Angela Bowne	
Applicants	APRA	
Respondents	Federation of Australian Radio Broadcasters	
Application	Under s.154 Filed 7.12.95	
Facts	APRA has proposed a new licence scheme for the broadcasting of musical and literary works by commercial radio stations under the <i>Broadcasting Services Act 1992</i> (Cth). The Tribunal has been requested to make orders confirming or varying the proposed licence scheme.	
Results	The decision is currently reserved.	
Hearing	7, 8, 9, 12, 13, 14, 21 and 22 June 1999	
	For the Applicant(s)	D K Catterns QC instructed by Banki Haddock Fiora.
	For the Respondent(s)	M J Slattery QC with M Ellicott instructed by Boyd House & Partners
Citation		
Related Matters		

Tribunal No.	CT1/95	
Tribunal	Sheppard J (President)	
Applicants	Seven Dimensions Pty Limited	

Respondents	State of New South Wales	
Application	Under s.183 Filed 1.12.95	
Facts	Alleged copying by Police Service of New South Wales of applicant's video on sexual harassment	
Results	<ol style="list-style-type: none"> 1. The Tribunal fixed the terms for the copying for the service of the State of New South Wales of the applicant's video on sexual harassment at a payment by the State to the applicant of \$5,000 such amount to be paid to the applicant within fourteen days 2. The Tribunal ordered the State of New South Wales to pay to the applicant two-thirds of its costs of the application, such costs, in default of agreement, to be taxed by the Secretary to the Tribunal in accordance with the highest scale of costs applicable to actions brought in the Federal court of Australia. 	
Hearing	6 May 1996	
	For the Applicant(s)	D B Studdy
	For the Respondent(s)	M M Macrossan
Citation		
Related Matters		

Tribunal No.	CT45-73/94
Tribunal	
Applicants	Audio-Visual Copyright Society Ltd
Respondents	Dept of Education & Ors.
Application	Application under s.135J filed on 18.7.94
Facts	This matter is also current. This is an application by the Audio-Visual Copyright Society Ltd for the determination by the Tribunal under Parts VA and VB of the Act of the annual amount payable by the NSW Department of Education for the copies of broadcasts made by it, or by educational institutions.

Results	Orders made by consent on 15 May 1997 in relation to rates of equitable remuneration for the making of copies of television broadcasts. Leave was granted to the parties to apply to have these orders varied.	
Hearing		
	For the Applicant(s)	
	For the Respondent(s)	
Citation		
Related Matters		

Tribunal No.	CT2/93	
Tribunal		
Applicants	APRA	
Respondents	Federal of Australian Commercial Television Stations (“FACTS”) and Tasmanian Television Ltd & ors.	
Application	APRA filed the reference under ss.154 on 10.9.93. Related applications were subsequently filed by FACTS under s.157(4) and numerous commercial stations under s.157(2).	
Facts	This matter is still current. The reference, filed by APRA, and related applications filed by FACTS and the various commercial stations, concern a new licence scheme proposed by APRA. In essence, it is a dispute concerning the rate payable under the new scheme.	
Results	Consent orders made on 3 March 1995, pursuant to s.160 varying the licence scheme which is the subject of the Reference. The scheme would continue subject to further order or interim order by the Tribunal.	
Hearing	7.10.84 and 3.3.95 to date.	
	For the Applicant(s)	
	For the Respondent(s)	
Citation		
Related Matters	CT3/93 and CT1-44/94	

Tribunal No.	CT1/92	
Tribunal	Sheppard J (President)	
Applicants	APRA	
Respondents	Australian Broadcasting Corporation	
Application	Reference under s.156 filed on 30.3.92	
Facts	This was a reference by APRA for an order confirming or varying a new licence scheme proposed by it to replace the licence scheme which was confirmed by the Tribunal in 1985 in matter CT 2/81.	
Results	The matter was settled on terms confidential to the parties.	
Hearing	1.11.93	
	For the Applicant(s)	
	For the Respondent(s)	
Citation		
Related Matters		

Tribunal No.	CT1/93	
Tribunal	Sheppard J (President), Dr J Scutt, Ms M Barron	
Applicants	APRA	
Respondents	Fitness Industry Confederation of Australia, Victorian Fitness Industry Association, Registered Clubs Association of New South Wales, YMCA, Quality Health and Fitness Centres.	
Application	APRA filed the reference under s.154 on 21.5.93.	

Facts	This was a reference by APRA for approval of a proposed licence scheme relating to the performance of musical works within APRA's repertoire used to accompany fitness, health and/or aerobic exercise classes.	
Results	The Tribunal affirmed the proposed scheme and reasons for decision were handed down on 15 March 1995.	
Hearing	3 and 15 March 1995.	
	For the Applicant(s)	DK Catterns QC
	For the Respondent(s)	O Trembath, B Boon
Citation		
Related Matters		

Tribunal No.	CT1/91
Tribunal	Sheppard J (President), Prof. S Ricketson, A Horton
Applicants	APRA
Respondents	Australian Hotels Association, Registered Clubs Association of NSW and Nightclub Owners Association of Victoria Inc.
Application	Under s.154
Facts	This was a reference brought by APRA in respect of a new licence scheme for the public performance of musical works at commercial premises for the purpose of accompanying dancing. The existing rate was calculated on the basis of the holding capacity of the premises and the number of functions held. The new rate proposed by APRA would be calculated on the number of people who paid admission (the "box office" approach.)
Results	<p>The Tribunal confirmed the licence scheme and held:-</p> <p>The Tribunal has jurisdiction to confirm the licence scheme so that it will have general application and not only bind the parties to the reference.</p> <p>Confirmation of the scheme by the Tribunal does not prevent the parties reaching their own arrangements.</p> <p>The value of the public performance right is a substantial, though not determinative, factor in assessing the reasonableness of the licence fee.</p>

	<p>Other factors may also be relevant.</p> <p>The box office approach has a solid basis as a measure of the value of copyright.</p>	
Hearing	7,8,9 December 1992	
	For the Applicant(s)	DK Catterns QC
	For the Respondent(s)	(1&2) DM Yates, (3) Mr P Dwyer
Citation	Reference by Australasian Performing Right Association Ltd Under s.154 of the <i>Copyright Act 1968</i> 25 IPR 257.	
Related Matters		

Tribunal No.	CT2/90	
Tribunal		
Applicants	Gradient Modelling Pty Ltd	
Respondents	(1) National Parks and Wildlife Service (NSW), (2) Dept. of Conservation and Environment (VIC)	
Application	This was an application under s.183(5) of the Act, filed 13.11.90.	
Facts	It was an application for a determination in respect of the alleged use by the respondents of the computer software FIREPLAN, copyright in which was owned by the applicant.	
Results	The matter was settled between the parties. On 5 July 1991, consent orders were filed dismissing the proceedings.	
Hearing	Heard 11.12.90, 1-5 July 1991.	
	For the Applicant(s)	Mr S Kessell in person
	For the Respondent(s)	(1) Ms AJ Bowne, (2) Mr C Colman
Citation	Not reported.	
Related Matters		

Tribunal No.	CT1/90	
Tribunal	Sheppard J (President)	
Applicants	BMG Arista Ariola Ltd, Mushroom Music P/L, Australasian Mechanical Copyright Owners' Society Ltd.	
Respondents	Australian Tape Manufacturers Association P/L, Australian Federation of Consumer Organisation Inc. & Australian Consumers Association Inc.	
Application	The application was filed on 30.1.90. The proceedings were stayed in December 1992, pending the High Court decision as to the validity of Part VC of the Copyright Act. The application was subsequently dismissed after the High Court declared Part VC unconstitutional and therefore invalid in <i>Australian Tape Manufacturers Association Ltd v The Commonwealth of Australia</i> (1993) 25 IPR 1.	
Facts	The applicants had sought a determination of the amount payable under Part V of the Act by way of royalty on blank tapes.	
Results	On 10.15.93 orders were made dismissing the application.	
Hearing	Numerous directions hearings.	
	For the Applicant(s)	(Alternatively) PW Gray, DK Catterns QC
	For the Respondent(s)	(1R) AJL Bannon, (AMCOS), Mr Odgers, (ACA) Mr R Westcombe, (AFCOA) P Cashman.
Citation	Not reported.	
Related Matters		

Tribunal No.	CT1/89	
Tribunal		
Applicants	Copyright Agency Ltd	
Respondents	ANU, UNSW, University of Queensland, UTS.	

Application	Under s.53B filed 13.10.89
Facts	This was an application for the determination of equitable remuneration to be paid to the copyright owners for copies of their works made by the respondent universities.
Results	Consent orders were made on 4.2.91 and the application was dismissed.
Hearing	
	For the Applicant(s)
	For the Respondent(s)
Citation	Not reported.
Related Matters	

Tribunal No.	CT2/87
Tribunal	Sheppard J (President), A Horton, Prof. S Ricketson
Applicants	MCM Networking Pty Ltd
Respondents	Festival Records Pty Ltd
Application	Under s.157(3) filed on 29.4.87.
Facts	These were applications for orders specifying the charges and/or conditions under which a licence should be granted to the applicant for the making of copies of sound recordings.
Results	Held (inter alia): The Tribunal only has jurisdiction to determine what is a reasonable royalty rate pursuant to s.157(3)(b) if the applicant establishes that the rate demanded by the respondent is unreasonable. The Tribunal must first decide what is a reasonable rate - criteria relevant to deciding reasonableness.

	Supplementary Decision (26.10.89) on meaning of “gross Income”. Supplementary Decision (17.11.89) on costs.	
Hearing	18 August, 26 October, 17 November 1989	
	For the Applicant(s)	
	For the Respondent(s)	
Citation	Re Applications by MCM Networking Pty Ltd and ors. 25 IPR 597	
Related Matters	CT 3/87, CT 4/87	

Tribunal No.	CT1/87	
Tribunal		
Applicants	MCM Networking Pty Ltd	
Respondents	Festival Records P/L	
Application	Under s.107(3) filed on 24.4.87	
Facts	This was an application for determination of remuneration payable for the copying of sound recordings to form part of radio broadcasts.	
Results	Application withdrawn 24.6.87	
Hearing		
	For the Applicant(s)	
	For the Respondent(s)	
Citation	Not reported.	
Related Matters		

Tribunal No.	CT1-3/83	
Tribunal		
Applicants	Applications by Copyright Agency Ltd	
Respondents	(1) NSW Dept of Education, (2) Macquarie University, (3) NSW Institute of Technology.	
Application	Under s.149A and s.53B filed on 22.8.83	
Facts	Application for the determination of remuneration payable for copies of literary works made by the respondent educational institutions.	
Results	Orders were made on 20.3.85 in each matter, determining the amounts payable by the respondents for the copies of works referred to in the application.	
Hearing	Total of 21 hearing days.	
	For the Applicant(s)	DK Catterns
	For the Respondent(s)	(1) WM Gummow, (2) SD Robb, (3) J Spigelman
	(Heard together with CT1-12/84)	
Citation	<i>Copyright Agency Ltd v Dept. of Education of NSW & ors</i> 80 FLR 332, 59 ALR 172, 4 IPR 5.	
Related Matters	CT 1-12/84	

Tribunal No.	CT2/81	
Tribunal	Sheppard J (President), A Horton	
Applicants	APRA	
Respondents	Australian Broadcasting Corporation	

Application	Under s.154 filed on 17.2.81	
Facts	This was a reference for the approval of a proposed licence scheme for the broadcasting by the Australian Broadcasting Commission of musical works. The ABC had previously by agreement paid a rate being a sum calculated in pence per head of population. Under the new agreement, the licence fee was a percentage of ABC expenditure related to musical broadcasting.	
Results	<p>The Tribunal confirmed the proposed scheme with certain variations to it. It held (inter alia):-</p> <p>s.154(4) did not empower the Tribunal to substitute a new scheme if it considered the proposed scheme totally unreasonable.</p> <p>There was evidence of a worldwide acceptance of a percentage of revenue being an appropriate measure of the value of public performance and broadcasting rights.</p> <p>Other factors may also be taken into account.</p>	
Hearing	20-23, 27-30 May, 14, 17-21 June, 6 December 1985.	
	For the Applicant(s)	RJ Ellicott QC and DK Catterns
	For the Respondent(s)	CJ Bannon QC and JJ Garnsey
Citation	Reference by Australasian Performing Right Association Ltd; Re Australian Broadcasting Corporation 5 IPR 449	
Related Matters		

Tribunal No.	CT1/81
Tribunal	Lockhart J (Deputy President)
Applicants	Australasian Performing Right Association (“APRA”)
Respondents	Special Broadcasting Service
Application	Under s.154 filed 6.2.81
Facts	This was a reference for the approval of a proposed licence scheme for the broadcasting by the Special Broadcasting Service of musical works in APRA’s repertoire.

Results	Terms of Settlement were filed on 28.3.83. The Tribunal approved the licence subject to the variations made to it in the Short Minutes of Order dated 28.10.83.	
Hearing	Numerous directions hearings.	
	For the Applicant(s)	Mr Shore/Mr Marks
	For the Respondent(s)	Mr Gardiner/ WM Gummow
Citation	No reported.	
Related Matters		

Tribunal No.	CT1/80	
Tribunal		
Applicants	WEA Records P/L, CBS Records Australia Ltd, EMI Records (Australia) Ltd, Festival Records P/L, Polygram Records P/L.	
Respondents		
Application	Under s.152(2) filed 15.9.80	
Facts	This was an application for an order determining, or providing means to determine, the amount payable by the respondent broadcasters for the broadcast of certain sound recordings.	
Results	<p>The Tribunal determined the amount payable. The Tribunal gave reasons for its decision and held, (inter alia):</p> <p>The amount payable was best expressed as a percentage of gross earning attributable to the use of the sound recordings, representing fair and reasonable remuneration to the copyright owner.</p> <p>It was not necessary to prove strictly copyright in every recording.</p> <p>The amount should represent what could have been reasonably charged for a licence in the circumstances, had the parties been willing to negotiate.</p>	
Hearing	Heard on 13-15, 18-22, 25-27 October, 1-4, 8-11 November 1982, 17 May 1983.	
	For the Applicant(s)	PG Hely QC and DK Catterns
	For the Respondent(s)	LJ Priestly QC, WM Gummow

Citation	<i>WEA Records Pty Ltd & ors v Stereo FM Ltd</i> 1 IPR 6, 48 ALR 91, 78 FLR 268.
Related Matters	CT2/80 - Application by 2 Day FM & ors filed 3.10.80 under s.152(2)

¹ The Committee would like to thank Ms Jenny Quy and Ms Alison Silink for their work in compiling the information presented in this table.