

with fraudulent reception of transmissions is (as under the UK *Copyright and Designs Act* (1988)), to target manufacturers and suppliers of equipment used by home viewers. This includes the right to seize pirate decoders.

3. **Private Contractual Arrangements**
Copyright Owners would be advised to obtain a clear grant of rights unfettered by the existing exemptions, which would allow them to obtain payment for broadcast and diffusion of films. Copyright Owners also may wish to include in any licensing agreement a provision which obliges the provider of the satellite transmission to restrict access to the signal to the intended audience so as to protect the interests of the owners of Copyright in the programme material.

4. **Collection System for Royalties**
The introduction of a system to facilitate the distribution and collection of royalties based on the additional revenue generated from the creation of new rights. There are two mechanisms which may be considered:

- (a) contractual negotiations and collective administration of the rights negotiated therein;
- (b) a statutory licensing system with remuneration as agreed or failing that as determined by the Copyright Tribunal or other competent authorities.

In reviewing current Australian Copyright legislation, it is apparent that Copyright Owners are not adequately protected, nor immune from loss of revenue due to unauthorised reception of their programs.

A number of options for reform are canvassed in this commentary. They are a necessary step in reconciling developments in technology with the rights of Copyright Owners to receive satisfactory remuneration for use of their work.

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World Review

A survey of some recent International developments

WARC

The World Administrative Radio Conference (WARC 92) was held at Torremolinos, Spain, until 3 March 1992.

The conference was attended by over 1400 delegates from 127 member states of the International Telecommunications Union. The key decisions made at the conference included:

- The allocation of 1.5 GigaHertz for digital audio broadcasting. This motion, sponsored by Australia and Canada, succeeded despite opposition from the USA, Japan, the Commonwealth of Independent States and much of the EC. The allocation paves the way for the early introduction of DAB.
- Spectrum was allocated for future public land mobile telecommunications systems (FPLMTS) and Aeronautical Public Correspondence. FPLMTS will provide mobile telephone and data services with regional and international roaming. Aeronautical Public Correspondence will allow the provision of public telecommunications services to passengers on commercial airline flights.
- An allocation was also made for low earth orbit satellites providing telecommunications services. Low earth orbit satellites have the advantage of much lower launch costs than geostationary satellites.

Cable Regulation

In early 1992 the US Senate overwhelming passed a new Cable Regulation Bill which, if enacted, will impose a detailed regulatory regime on the cable television industry. The features of the Bill included:

- Detailed regulation of the subscriber rates offered by cable television;
- A must carry obligation imposed on cable operators, under which a local commercial television station could opt to force a cable operator to carry its signal free of charge;
- New ownership limits, which would empower the FCC to impose reasonable audience reach limits on cable operators.

Amendments to the Bill have been

moved in the House, which will reduce the impact of its provisions. Even if the Bill is eventually passed, President Bush may veto it, as he is opposed to any fresh regulation of the cable industry.

Copyright in the EC

The BBC applied to the Court of First Instance of the European Communities to annul a decision of the Commission that the BBC had infringed Article 86 of the EC Treaty by refusing to license the publication of its advance weekly listings for TV and radio programmes in Ireland and Northern Ireland for publications and sale in a comprehensive weekly TV guide. Article 86 prohibits abuse by one or more undertakings of a dominant position within the common market insofar as it may affect trade between Member States. The Court of First Instance dismissed the BBC's application, holding that the BBC had breached Article 86. The Court rejected the BBC's argument that it had merely been protecting the specific subject matter of its copyright in such programme listings, noting that the EC Treaty did not allow the protection of intellectual property to constitute a means of arbitrary discrimination or disguised restriction on trade between Member States.

Papua New Guinea

On 4 March 1992 the Papua New Guinea Parliament passed the *Radio-communications (Amendment) Act* 1992. The legislation provides for the regulation of satellite broadcasting in Papua New Guinea, which previously was unregulated. PNG currently receives a range of satellite transmitted broadcasting services. It is expected that the legislation will be used to impose program classification standards on those services, some of which appear to be broadcasting programs which would not be approved by the Censorship Board. The legislation becomes effective on the date of gazettal.

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