



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



**HOUSE OF REPRESENTATIVES**

**COMMITTEES**

**Legal and Constitutional Affairs Committee**

**Report**

**SPEECH**

**Monday, 1 June 1998**

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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## SPEECH

**Date** Monday, 1 June 1998  
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**Questioner**  
**Speaker** Andrews, Kevin, MP

**Source** House  
**Proof** No  
**Responder**  
**Question No.**

**Mr ANDREWS** (Menzies) (12.49 pm)—On behalf of the Standing Committee on Legal and Constitutional Affairs, I present the committee's report on its inquiry into copyright, music and small business entitled *Don't stop the music*, together with the minutes of proceedings and evidence received by the committee.

Ordered that the report be printed.

**Mr ANDREWS**—Most people have the view that music heard over the radio is free to air and they can listen to it in their homes, offices and businesses without paying a fee. Many people also have the view that once they have purchased a CD or a tape they have the right to play it wherever and whenever they choose. These commonly held presumptions were challenged recently when small businesses around the country received correspondence asking them to pay licence fees for using music in their businesses. These businesses were playing music on CD, cassette players or the radio. Correspondence had been sent by copyright collecting societies. These particular societies, APRA, the Australian Performing Rights Association, and PPCA, the Phonographic Performance Company of Australia, collect royalties in the form of licence fees from people causing the public performance of music. These royalties are then distributed to their members, the copyright owners.

The committee was asked to conduct an inquiry into copyright music and small business after many industry associations, members of parliament and government departments had received complaints from small business people about the licensing activities of copyright collecting societies. This inquiry examined the complex bundle of rights which exist in music. The committee heard the perspective of users of music as well as the creators.

The committee received evidence from people who operated hairdressing salons, corner stores, doctors, dentists, hotels, restaurants and many other small businesses, all concerned about being asked to pay a licence fee to play background music. Of greatest concern was the charging of a fee in order to listen to the radio. For many, the radio was there to provide entertainment and vital information to staff. It was not a device being used to attract or entertain customers. The committee also heard evidence from composers and musicians who emphasised the practical and philosophical importance of the royalties they received for the use of their work. They argued that small business operators benefit from using their music and should pay for that benefit.

The committee was advised that the collection of royalties for the public performance of music by APRA and the PPCA was consistent with Australian law and international treaties to which Australia is a party. The committee has tried to strike a fair balance between the music industry and small business interests. The committee believes it has developed practical recommendations which alleviate the concerns of small business without breaching Australia's international trade obligations.

As a result of the committee's inquiry, APRA has now agreed to introduce changes to its licensing scheme so that small businesses playing the radio solely for the benefit of staff will no longer have to pay a licence fee. APRA will issue complimentary licences to businesses with fewer than 20 staff who are listening to the radio or television where the music is not intended to be heard by customers of the business or by the general public. The committee believes that this will address the more pressing concerns of small businesses. The committee has been pleased to have been a catalyst for this voluntary solution. Using legislation to force such restrictions in APRA's licensing activities may not have been possible because of our international commitment and could have invited resistance, inflexibility and even litigation. The committee believes that APRA's support for the system will ensure that it will be implemented far more quickly and effectively than a legislative scheme.

Some examples of the circumstances in which a complimentary licence will be issued—APRA have provided these circumstances to the committee and they are set out in the report—are: a family-run milk bar or corner store which has a radio or television behind the counter; in the back room of a composite shop or dwelling where the volume is such that customers may hear music in the public access areas, but the intention is to entertain staff during quiet trading periods; a real estate agent's office where the receptionist has a radio on the desk—while the performance is audible to customers, the radio is for the receptionist's own enjoyment—and a cafe playing a radio in the staff-only food preparation area. These examples and others are set out in the committee's report.

The committee believes that these recommendations will go some way towards improving the situation for small businesses in their dealings with copyright collecting societies. The committee is pleased it was able to negotiate with APRA before finalising its recommendation with respect to the use of radio by small businesses. This will be a significant gain for small businesses, and it demonstrates the potential of the parliamentary committee system to play an important role in bringing practical compromises to the Australian people.

In concluding, I wish to thank the committee secretary, Claressa Surtees, and our researcher, Natalie James, for their contributions to this inquiry and the report. I commend the report to the House.