

Austel recommended that the code be subject to the jurisdiction of the Telecommunications Industry Ombudsman so that the Ombudsman can receive and resolve complaints alleging breaches of the code

and, where applicable, recommend to Austel whether it should take action under the service provider's class licence for a breach of the service provider's obligation to observe the code.

We await with interest the results of Telecom's experiment in Wauchope.

*John Mackay is a solicitor at Blake Dawson Waldron*

# Copyright Convergence Group

---

## Bridget Godwin describes the Group's functions and Terms

---

### of Reference

---

**A** government initiative to establish the Copyright Convergence Group (the CCG) was announced by the Minister for Justice, Duncan Kerr, in October 1993. The Group was formed in January 1994. The Chair of CCG is Victoria Rubensohn, a communications consultant. The other members of the Group are Professor Mark Armstrong, chair of the ABC and director of the Centre for Media and Telecommunications Law and Policy, Peter Banki, Chairman of the Copyright Council of Australia and a partner at Phillips Fox, and Malcolm Colless, the General Manager for Corporate Development and a director of News Limited.

---

### Terms of Reference

---

**T**he CCG recently advertised for comments and contributions from members of the public and interested parties. The Terms of Reference for the Group were released by the Minister on 16 March 1994 and read as follows:

The Copyright Convergence Group is asked to consider, having regard to the fundamental changes which are occurring in the manner in which copyright materials are being used and the need to facilitate such uses while providing appropriate protection for copyright owners and creating a positive environment for the development of industry, and having regard to Australia's current international obligations and ongoing consideration in relevant international fora, the adequacy and appropriateness of protection under the *Copyright Act 1968* (the *Act*) for broadcasts and other electronic transmissions and the underlying copyright materials used in those transmissions, in particular:

- (i) the scope of the diffusion right granted to authors of original works (s.31), the makers of cinematograph films (s.86) and the operation of s.26 of the *Act* (references to subscribers to a diffusion service) and to what extent (if any) the rights of authors and makers of cinematograph films to control the electronic transmission of their works should be varied or extended;
- (ii) whether the owners of copyright in sound recordings, and television and sound broadcasts should have the same exclusive rights with respect to cable and other electronic transmissions as are currently afforded to authors of works and makers of cinematograph films and to what extent (if any) the rights of the owners of copyright in sound recordings and television and sound broadcasts to control the electronic transmission of those recordings and broadcasts should be varied or extended;
- (iii) whether copyright should subsist in electronic transmissions which are currently not the subject of protection under the *Act* and if so, the nature of any such copyright;
- (iv) the operation of s.199 of the *Act* (reception of broadcasts);
- (v) the need for regulation of the unauthorised use of secured or encoded transmissions;
- (vi) amendments which may be consequential on any of the above.

The Copyright Convergence Group intends to consult widely with a broad range of parties to assist them in developing their views. Part of this process is the opportunity to present written comments to the CCG. Contributions should be received by the Group by 22 April 1994. As is evident from the Terms of Reference the CCG is not undertaking a

complete review of all copyright principles. The CCG has been established to produce a concise list of specific proposals for legislative change which can be considered by the government for early implementation, and which are intended to address some of the more immediate problems arising in the *Copyright Act* as a result of technological convergence.

In addition to the process of written consultation, the CCG will be holding a seminar in early to mid June, which is intended to be a further opportunity for interested parties to comment on the work of the Group. The Group will be distributing an issues paper with some preliminary views on necessary amendments prior to the seminar, which will be held in Sydney.

The Copyright Convergence Group may be contacted by telephone on (02) 581 7417 or by facsimile on (02) 581 7778.

*Bridget Godwin, Co-ordinator, Copyright Convergence Group*