

BOOKS IN BRIEF

CONSUMER PROTECTION LAW IN AUSTRALIA (2nd Edition)

By J.L. Goldring and L.W. Maher
(Butterworths)

The 2nd edition of this first Australian textbook exclusively devoted to consumer law is mainly of interest to communications lawyers through its detailed treatment of Section 52 of the Trade Practices Act which, as the authors point out, reaches well beyond existing State curbs on false and misleading advertising. Also noteworthy are the sections on defences available to printers, publishers and advertising agents under the Trade Practices Act (S.85(3)), remedial advertising orders (S.80A) and general restrictions on advertising of availability of credit (S.125 Consumer Credit Acts 1981 (NSW) and (Vic.); S.54 in SA counterpart legislation).

The potential of (S.6(3)) the Trade Practices Act to extend the operation of the "unfair practices" (Part V Div 1) sections to the electronic media is briefly mentioned in the observation that, given the wide powers of the Commonwealth Parliament to regulate the use of . . . airwaves, "there is no reason to imagine that the Courts will strike down a provision which purports to prevent the use of communications facilities in a manner which is misleading or deceptive"

TRADE PRACTICES AND CONSUMER PROTECTION (3rd Edition)

By G.G. Taperell, R.B. Vermeesch & D.J. Harland
(Butterworths)

Heavier fare for lay readers than Goldring & Maher (above) but accessible nevertheless to determined marketing specialists, wary advertising agents and worried journalists (see, for example, 3 CLB-1).

BROADCASTING LAW AND POLICY IN AUSTRALIA

By Mark Armstrong
(Butterworths)

Indispensable guide to radio and TV law.

AUDIOVISUAL COPYRIGHT & TAPE ROYALTIES

FROM PAGE 27

speaking, the surveys were thought likely to over-estimate lost sales though no quantitative measure of the overestimate could be provided.

Not many independent checks of the Reark results are currently available though AAVTA (Australian Audio Video Tape Association) has provided some confidential figures for sales of blank tapes.

The draft IAC report estimates sales of blank and pre-recorded audio tapes at about 37.5-45 and 22.5 million hours per year, respectively.

Some information is available from foreign surveys: for example Jim Keon's analysis of the results of surveys in Canada, U.K. and U.S.A. (Audio and Video Home Taping: Impact on Copyright Payments, Consumer and Corporate Affairs Canada, 1982) and the IFPI figures published in 'Copyright' (WIPO, July-August 1982, p. 227). The latter article contains information from surveys in other countries indicating over 80% use of blank tape for

recording copyright materials and indicating that most persons record on a tape at least twice. These accord with the corresponding Reark figures.

3.2 Royalty on Blank Audio Tape or Equipment

Home taping generally infringes copyright in both the music and the sound recording (though not the broadcast) under the existing law, but the law is clearly unenforceable.

Further, although they have no copyright as such in their performances, home taping also affects the income of the recording artists which depends on record sales. These groups propose that a royalty be levied on blank audio tape which could be distributed to them in lieu of royalties from sales of records.

The alternative possibility of a royalty on recording equipment is not being pressed by those groups because it would cause a substantial increase in equipment price which could reduce sales and be strongly opposed by consumers and manufacturers.

It would also not reflect the level

of use of the equipment by any particular owner. A levy on tape, however, would spread payments out over a period of time and, on the assumption that those who buy more tapes do more recording, be more equitable as between different users.

Collection of such a levy at the point of manufacture or importation seems feasible and efficient. The principle of distribution on the basis of surveys of broadcasts, record sales, etc. has been well established by the performing right societies.

Objections to the royalty proposal come from the importers and manufacturers of tapes and equipment. One would expect, however, that a small royalty such as would not greatly affect sales would not be strongly opposed provided the collection mechanism was not a burden. The supplementary Reark Survey indicated that the mean retail prices paid for C60 and C90 cassettes were \$2.59 and \$3.27 respectively, and that small increases in these prices would only cause small sales reductions.

Typeset by QMS Pty. Ltd. Printed by Planet Press Pty. Ltd.