

12 December 2012

The Executive Director
Australian Law Commission
GPO Box 3708
Sydney NSW 2001

For the attention of Ms Sabina Wynn, by email: sabina.wynn@alrc.gov.au

Dear Ms Wynn,

Submission in response to Issues Paper: Copyright and the Digital Economy

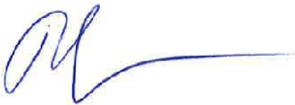
We make the following submissions in response to this Issues Paper:

1. Open source contributions to software utilities are a rapidly growing contributor to innovation in the digital economy. The scope of copyright protection and exceptions must evolve to facilitate that critical path.
2. REA Group's publishing sites make extensive use of Application Program Interfaces (APIs) for syndication and development purposes. The terms of use we impose on third party's use of those APIs are not always sufficient to deter misuse. It is highly desirable that copyright rules properly supplement those contract-based rights.
3. We believe recent case law has applied an unduly narrow interpretation of copyright protection for databases and compilations. There appears to have been unduly heavy emphasis on a requirement for the exercise of human labour. We consider there has been insufficient weight given to recognition of originality of method of compilation of database. This has relevance to Questions 5 and 6 in the Issues Paper (relating to the impact of copyright law on cloud computing) and questions 25 through 27 (relating to data mining and exceptions to copyright protection).
4. Cloud computing is a major new source of major economic efficiency for the digital sector. We believe that cloud technologies should be encouraged by the Australian regulatory system, including Federal copyright legislation. If copyright in databases continues to be construed narrowly by the judiciary, then in the absence of legislative change we anticipate disincentives to the use outsourced cloud providers. The most obvious disincentive would anticipated difficulties in preventing unauthorised third party use of data following a data security leak by a cloud provider.

5. REA Group places great commercial value on the analytical insights to the property market provided by its proprietary and licensed data. REA Group enters strategic licence agreements with partners for the further commercialisation of those analytics. If copyright protection is not adequately extended to databases compiled using a required element of originality, such that third party data mining of those databases is restricted, then commercial licence agreements in favour of authorised third parties would be frustrated.

Please do not hesitate to contact me should you have any questions regarding above.

Yours sincerely,



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REA Group

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