SUBMISSION TO THE ALRC REVIEW OF COPYRIGHT AND THE DIGITAL ECONOMY

* I am writing this submission as both a writer and a publisher. I have also worked in universities teaching creative writing which has involved the copying of materials for course use. I am also a trained primary school teacher (Dip T (P)) 1972. My experience in the publishing industry extends to at least 37 years. My intellectual property rights are vitally important to me. I joined Copyright Agency in 1991. As a writer I have benefited from my membership of Copyright Agency, having received income on a number of my books. On one occasion I received a very significant sum that allowed me more writing time. As a publisher, I am keenly aware that Spinifex titles are used in courses, but if Copyright Agency did not exist or if the basis of collection were to be changed, as is proposed in the ALRC Review of Copyright and the Digital Economy, it is highly unlikely that our publishing house or the writers we publish would receive much of this money.
* The ALRC’s recommendation to repeal the statutory licences is a huge step backwards to the time before Copyright Agency. This is particularly so for the education and government sectors. As the publisher at a small press, and as a writer with many books published through independent presses, such a repeal is an attack on my intellectual property rights. My reason for saying this is that as a niche publisher, it is highly unlikely that a school or government department would see the need to contact us since we pose little threat via litigation. In the event that they do, were we to have a sudden increase in contacts from schools or government departments, we would either not have the personnel or time to deal with such approaches, or we would have to employ an additional person to handle them and thereby erode our income. The current scheme works very effectively and offers a reasonable fee to content creators without imposing unsustainable additional costs. As a writer, I think the most likely outcome is **almost total loss of this income stream**. Since writers are incredibly underpaid already, it is likely to reduce the time available for me to create new works.
* The system currently in place at Copyright Agency is that of a ‘statutory licence’. The way this works means that teachers do not have to carry an additional administrative burden of seeking individual permissions and negotiating licences. And as teachers are already overstretched time-wise, this is significant. Furthermore, monitoring for infringements and enforcement costs is probably out of the financial range for an independent press. I am familiar with the fees charged by lawyers, and I cannot see how we can possibly:

a) monitor the infringements (we have no time to visit schools for this purpose – and imagine the outcry from teachers if hundreds of publishers began to do so);   
b) bear the burden of cost both in time and money to enforce licences.

* As a writer, my work is not available for free – unless I specifically give permission such as for the cause of social justice. The education system, however, is not a charity and as they pay for gardening, health services, building maintenance and administration, you would think that the core project of paying for educational content would be a given. For these reasons I do not give permission for my work to be copied and shared for free.
* As a publisher, the fees that are paid for the use of material in courses is a reasonable recompense for the use made of them. The 2012 rate stands at $16.93 per student and given the current arrangement this will decrease over the next three years. The copyright fee of $60M for over 3.5 million school students represents approximately 0.1% of that cost. (i.e. one tenth of 1%) or less than 10 cents per school day per student.
* Based on the Gonksi Report, depending on the sector, it costs between $10,000 and $13,600 per year to educate a school student (excluding capital expenditure): the copyright fee of $60M for over 3.5 million school students represents approximately 0.1% of that cost. (i.e. one tenth of 1%) or less than 10 cents per school day per student.
* This is not a high cost for materials central to the education of students. I have also been very impressed with the way in which Copyright Agency has kept abreast of changes in the technical area and have watched with interest how it has become more streamlined, fair and effective over the years.
* Australian content is world class. As a writer, my books have been translated into German and Spanish and released in English in India. I have been a finalist in a US-based award for my poetry. In addition, my books sell well into NZ, USA, Canada and the UK. Books are also the basis of other art forms. My own work is currently being turned into a film script, while previous works have been turned into songs and theatrical productions as well as being produced as full-length radio broadcasts.
* As a publisher, Spinifex’s works have been translated into 20-plus languages; they have been produced as musicals and theatre performances. All of these are the foundation for value adding and contributing to the overall economic value.
* Australian authors deserve to be paid for their work and publishers for their innovation. It should have bi-partisan political support since writers should be considered workers and workers deserve fair recompense for their labour. On the other hand the small and medium sized businesses that comprise the majority of publishers in Australia should be properly paid for their business acumen and the intellectual property they turn into a marketable work.
* Since the most likely outcome for myself is reduced income – both as a writer and a publisher – and that this is the likely outcome for other underpaid colleagues in the creative industries, Australia’s educational, cultural and critical thinking content for students will be stifled. It will mean short lives for small and independent publishers and writers in frustration will take their work overseas. The only foreseeable winners in this will be lawyers called upon to prosecute infringements of copyright for large players (the others will simply go out of business).
* In the last decade publishing has changed out of recognition. When Spinifex entered the eBook market in 2006, digital was still a very small part of the market, but this is now a considerable growth sector and multiple online formats will be increasingly important in educational settings. While we keep a close eye on infringements and send out take down notices when we find them, we cannot watch the entire educational and government sectors. Nor are they very likely to take much notice of a small independent publisher. **Digital does not equal free.** All the same costs go into producing a digital version. It still needs to be written, edited, typeset, designed, checked for introduced errors and have metadata applied. Finally the eBooks need to be uploaded to eRetailers. Legal costs also enter the arena in ensuring that digital distributors, retailers and libraries sell into correct territories. To add one more administrative layer will prove to be the straw that breaks the small publisher’s back. We are already groaning with the overwork (that is an international experience).
* The copyright industries in Australia generate billions of dollars. Indeed, in 2011, $100 billion was generated.[[1]](#footnote-1) This amounts to (7% of GDP), accounted for more than $7 billion in exports (3% of all exports) and employed almost one million people (8% of the nation’s workforce).
* As a creative producer of content for this industry, I have found the current statutory licensing system to be fair, to generate important returns for work produced and a recognition of the significance of intellectual property in creating wealth. This wealth does not last for one football game or a season, often the wealth continues to be generated for decades as Australians find ways of seeing themselves reflected in the works of those who produce the cultural content in books.
* On behalf of independent publishers and authors, I request that you not repeal the statutory licences as they fairly remunerate content creators for the sharing of those works. I am more than happy for schools and others to use my work providing they pay for it as they would any other product or service. The outcome if the repeal were to go ahead will be the individualisation of permission. This works for the strong, the large, the multinational and the mainstream. It does not offer fair recompense for the independent, the small, the cutting edge, the niche (authors and independent publishers) which are the intellectual seed banks of the mainstream. Quality and diversity will shrink and Australia will lose its cultural edge.
* Dr Susan Hawthorne
* Publisher, Spinifex Press
* English Language Co-ordinator, International Alliance of Independent Publishers, Paris
* Former Committee Member, APA Independent Publishers Committee (2011-13)
* Member, Small Press Network
* Author of 11 books, editor of 10 anthologies (1985-present)
* Literature Resident, BR Whiting Studio, Rome, funded by the Australia Council for the Arts (2013-14)
* Member ASA, FAW, Melbourne Poets Union, Poetry Australia
* Adjunct Professor, Writing Program, James Cook University, Townsville

1. PwC report *The Economic Contribution of Australia’s Copyright Industries 1996-97 to 2010-2011* [↑](#footnote-ref-1)