453. T Curnow

24th July 2013

Dear Australian Law Reform Commission,

I wish to make the following submission to the ALRC Review of Copyright and the Digital Economy– Education Statutory Licence Focus as a literary agent for Content Creators and as a Copyright Owner myself of my late father’s poetry.

In my case I represent some well known Australian and New Zealand writers and illustrators like Ruth Park, Pamela Allen, Kate Llewellyn who make a living out of creating unique work subject to copyright, as did my late father, the distinguished New Zealand poet and critic Allen Curnow from the 1930s-2001. He also worked as a journalist for 20 years. I have been a literary agent in Sydney for over 40 years and in the past have represented some of Australia’s finest writers over a range from novelists to playwrights to writers for children e.g. Patrick White, Ray Lawler, David Williamson, Donald Horne, D’Arcy Niland, Gabrielle Lord, Geoffrey Dutton, Peter Goldsworthy, Robin Klein, C.J. Koch,  Dame Mary Durack, David Malouf,  Patricia Wrightson, Don Dunstan, Nancy Wake, Anne Deveson, Tom Keneally, poets A.D. Hope and Rosemary Dobson and many others over a long career.*.*

They all write and develop work from nothing, using their own time, creative skills and knowledge and what is produced is their intellectual property and something of real value. They OWN the copyright in their original material and expect those who wish use it to pay for such usage anywhere in the world, in any language and via any platform be it in print form, digital, musical, dramatic or operatic.

The time and skill brought to the creation of any piece of writing and published work is not something produced to be given away free of charge. All creators whether they are writers, artists or even inventors expect payment and rely on that payment for income and to enable them to continue to create work which enriches and add to Australian culture, especially through the education system for primary to tertiary.

The educational usage of original material is fast becoming digitally driven and if future generations are to understand and respect the principles of copyright and the value of ideas and the imagination to expand their worlds, then this starts at the school and university level. If a *value* is not placed upon the access and usage of original ideas by statutory licensing then writing, reading, publishing, bookshops and the school library are all threatened to the detriment of Australia’s future.

Already the development of reading habits in schools is under attack and schools and teachers work hard to introduce students to a world beyond the freely available regurgitated material on the internet. My wife has been a NSW High School teacher and a teacher librarian for over 40 years so I have a clear idea of the trends in secondary schools at least. She still works two days a work as a teacher librarian at a girls’ high school and can see the changes the digital age has brought to the ways students behave and develop.

The statutory licences that the ALRC is recommending be repealed are extremely important to all writers whether alive or dead as their copyright subsists long after they have ceased writing and, of course, it continues to be part of Australia’s identity and the culture. If their work is copied and shared by teachers in the classroom, this applies especially to writers for children, novelists and poets, they quite rightly receive a copyright payment from the Copyright Agency Ltd set up by Government and from other affiliated collected agencies around the world. As a literary agent for writers and now copyright owner of my Dad’s poetic and critical work I am a member of many of these collecting agencies. Apart from CAL I am, for example, a member of APRA in Australia and New Zealand which collects income for use of poetry set to music and broadcast, for straight readings of classic Australian novels now delivered digitally and online for broadcast here and around the world. Often the sums collected are modest but not always and over time they amount to an exceedingly useful stream of income, especially as writers age.

These payments are recognition of the value of the material created, using the creators’ time, skill and experience and no one should have the right to use the work for free or without the expressed permission of the creators, the copyright owner or their appointed agent or collecting agency.

The existing system does work *very efficiently* with very little administrative requirement from me and in this digital age it is far easier to make such systems operate worldwide. For example, CAL has a reciprocal arrangement with the UK agency of ALCS which has been paying regular sum for the educational copying of my father’s work in the UK and Europe.

Should the change proposed be made, it would be extremely difficult for a creator or their agent to develop licensing arrangements, be able to track down breaches of their copyright, let alone afford the cost and time of prosecuting any such breaches. Most creators do not have the skills to administer what are often complex licensing arrangements in order to receive compensation.

A large percentage of writers are specialists in their own fields of writing or creativity and few have the expertise in the intricacies of copyright law in Australia or elsewhere, nor the time to pursue breaches. As a result most creators use agents and dealers who in turn liaise with these statutory agencies like CAL, APRA/AMCOS and their equivalents: ALCS in the UK, CLNZ in New Zealand and elsewhere in order to ensure that their work and copyright is protected and payments are made for usage.

I completely reject the repeal of the very effective and fair Australian educational statutory licence system. Such a recommendation is an attack on the fundamental rights of copyright and the right to receive payment for the use of unique material.

Yours sincerely,

Tim Curnow

Tim Curnow
Literary Agent & Consultant