614.\_org\_ William Angliss Institute

**From:** ALRC [<mailto:web@alrc.gov.au>]   
**Sent:** Wednesday, 31 July 2013 10:48 AM  
**To:** Marie-Claire Muir  
**Subject:** Online submission to DP79

Submitted on Wednesday, July 31, 2013 - 10:47

Submitted by user: Sharon Stewart

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I wish this submission to be treated as:

Public

If you are making this submission on behalf of an organisation, please provide the name:

If you are submitting as an individual, please leave this field blank.William Angliss Institute

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Proposal 4-1:

Agree

Proposal 4-2:

Agree to parts A, B and C. Believe there should be a special mention within the fairness factors regarding educational use, such as there is in the United States Fair Use legislation. Illustrative purposes should have a large listing within education so that smaller educational institutes that don't have large legal services at their disposal have a large range of examples to examine and compare within thier own circumstances.

Proposal 4-3:

Agree with all sections of this proposal.

Proposal 4-4:

Agree with all sections of this proposal.

Question 4-1:

Question 4-2:

Agree that the exceptions should be repealed as their are too many exceptions and they are not relevant to the way information is received and disseminated within the digital information age. The Fair Use legistlation allows for a far wider scope within the digital information age.

Proposal 6-1:

Agree. Licences should be negotiated voluntarily if individuals and institutions wish to access copyright material beyond the Fair Use legislation.

Question 6-1:

If the statutory licences are repealed I hope that the fairness factors listed within the Fair Use legislation would cover the needs of government and educational institutions. We do not want to be removing licences and replacing them with new ones. The idea of Fair Use is so that we do not have to look at numerous licences and exclusions and we are not limited by digital informaiton changes that may take place in the future.

Proposal 7-1:

Agreed.

Proposal 7-2:

Agree that the exceptions in points a -f should be repealled.

Proposal 7-3:

If Fair Use is not enacted new Fair Dealing exceptions will have to be put in place to protect the needs of educational and government institutions.

Proposal 7-4:

Fairness factors must be considered when encacting any new Fair Dealing exceptions and should be encacted when enacting any existing Fair Dealing exceptions.

Proposal 8-1:

Agree. Non-consumptive is needed as an illustrative purpose in the Fair Use exception as commercially Australia is being held back by the current copyright restrictions.

Proposal 8-2:

Yes the exceptions listed under points a-e should be repealed if Fair Use is enacted and non-consumtive use is listed as an illustrative purpose.

Proposal 8-3:

Agreed if Fair Use is not enacted then the Copyright Act needs to be ammended to include non-consumptive use so that commercially Australia is not put at an international disadvantage.

Proposal 9-1:

Agree.

Proposal 9-2:

Agrred.

Proposal 9-3:

Agreed. However if Fair Use in not enacted then new exceptions will have to be put into place under Fair Dealing so that Australia is up to date in the digital information age.

Proposal 9-4:

Agreed.

Proposal 9-5:

Agreed.

Proposal 10-1:

Agreed.

Proposal 10-2:

Agreed.

Proposal 10-3:

Agreed.

Proposal 11-1:

Agreed.

Proposal 11-2:

Agreed. Hopefully within the new Fair Use exception there will be no need to have extra exceptions for libraries and archives. Hopefully there will be enough illustrative purposes to cover library and archive exceptions.

Proposal 11-3:

Agreed. A clearer Fair Dealing exception should be enacted that is easier to use and more widely known about.

Question 11-1:

I agree that voluntary extednded collective licensing should be facilitated to deal with mass digitzation projects, however the licenses should not be contrary to the Copyright Act; wheather it is has a Fair Dealing exception or a Fair Use exception. There may also be a need for public institutions to be protected from exorbitant private interests in regard to these licenses, if unreasonable costs and anti- competitive practices come into place in this specialised area. An example of this can be seen in the unsatisfactory contracts within section 17 of this document.

Proposal 11-4:

Agreed as long as the fairness factors come into consideration.

Proposal 11-5:

Agree that the sections illustrated in points a-e should be repealed if the new preservation copying exception is enacted.

Proposal 11-6:

This should come under the fairness factors.

Proposal 11-7:

Really like this section as it is keeping up with the digitization of information.

Proposal 12-1:

Agree.

Proposal 12-2:

Agree. This is really needed so that the plethora of information that has been locked away can be released to the public.

Proposal 12-3:

Agreed. Same as above.

Proposal 13-1:

Agreed.

Proposal 13-2:

Agreed. The current Fair Dealing exceptions are not in-line with the digital age.

Proposal 13-3:

Agreed.

Proposal 14-1:

Agreed.

Proposal 14-2:

Agreed.

Proposal 14-3:

Agreed. Should come under Fair Use.

Proposal 15-1:

Agreed. Outdated in the digital age.

Proposal 15-2:

Do not want to go back to statutory licences. Should come under Fair Use.

Question 15-1:

Proposal 15-3:

Question 15-2:

Proposal 16-1:

Should come under Fair Use. If the exceptions are retained they need to take into consideration digitization. Will be really hard to have hard parameters in this area as digitization is continuously changing the boundaries. Fair Use is much more flexible.

Question 16-1:

Agree with points a and c. Don't agree with point b as the public is not going to differentiate between on demand programs and internet accessible programs.

Proposal 16-2:

Agree.

Question 16-2:

Believe that the caps should be repealed under 152(8) and 152(11) and that contracts should be negotiated if information consumers wish to copy above the Fair Use legislation.

Question 16-3:

Agree.

Proposal 17-1:

Agree that contracts that exclude or limit the operations of the Copyright Act and its exceptions should have no effect. The limitations on contracting out should apply to the exceptions for libraries, archives and ***educational institutions***. I have put in the educational institutions as we are finding it more and more difficult to share information with staff due to the limitations of the contracts put forward by digital subscription services.

Additional comments?:

Believe moving to Fair Use would make copyright a lot more up to date within the digital age as long as the fairness factors are taken into consideration.

File 1:

File 2:

The results of this submission may be viewed at:

<http://www.alrc.gov.au/node/5296/submission/4922>