**DRAFT**

**Copyright and the Digital Economy**

### **Submission by the Australian Government Libraries Information Network in response to the**

### **Australian Law Reform Commission’s Discussion Paper July 2013**

The Australian Government Libraries Information Network (AGLIN) welcomes the opportunity to make this submission in response to the Discussion Paper.

We endorse the submission prepared in response to the Discussion Paper by the ADA/ALCC.  AGLIN is a member of the ALCC and the ADA/ALCC submission deals in depth with issues of great relevance for AGLIN.

## **About AGLIN**

AGLIN is the peak body for government libraries. AGLIN is an independent association of Australian Government public sector information services, and is not endorsed or funded by the Australian Government.

AGLIN represents and supports the interests of its members in the delivery of information services to Australian Government organizations by:

1. representing the interests and concerns of member libraries and information services in wider government forums
2. developing and implementing co-operative schemes and resource sharing activities among Australian Government libraries and information services
3. serving as a forum to consider and reach consensus on issues and policies which affect Australian Government libraries and information services
4. promoting improved access, research, development and management of Australian Government libraries and information services.
5. developing a capacity for the provision of expert advisory services to its members and other organisations as appropriate, in such areas as:
* cost effective procurement of library materials, systems and other services
* guidelines and standards for library management in strategic planning, and
* performance measurement, staff development and training, marketing of library services and other matters.
1. fostering and facilitating the dissemination of Australian Government publications to the wider community by:
* ensuring appropriate bibliographical control is achieved for all publications of Australian Government agencies
* supporting the maintenance of library deposit arrangements for all Australian Government agency publications, and
* promoting the use of appropriate commercial distribution arrangements.

AGLIN held a meeting on copyright on 24 July at the National Library of Australia to give members an opportunity to provide input to a submission. Their overwhelming concern was the government statutory licence.

## **AGLIN strongly agrees with the repeal of the government statutory licences**

AGLIN strongly agrees with the ALRC proposal that government uses should be considered under a general fair use exception, and that ‘public administration’ should be one of the illustrative purposes listed in the fair use provision. AGLIN also agrees with the replacement of s183 *Copyright Act* government statutory licenses with voluntary licensing.

Australian Government agencies are required to release copyright public sector information under [Creative Commons](http://creativecommons.org/licenses/by/3.0/au/) by licence or other open content licences, wherever possible. This is in line with recommendations of [Government 2.0 Taskforce Report](http://www.finance.gov.au/publications/govresponse20report/index.html).

As a result, as one member reported, their organisation releases at least 95% of all its information under a Creative Commons Attribution 3.0 Australia Licence. It does not want or expect to get cheques from the Copyright Agency for other organisations using its material which has been made freely available. The organisation has requested that the Copyright Agency does not send them any payment but it still receives sporadic payments. The last cheque for over $3000 was for ‘school hardcopy’, presumably under the educational statutory licence.

Another member reported that their library paid subscription fees for both hardcopy and electronic journals and also for databases. There is very little copying done of books or journals that they do not already pay for. They feel they are being severely overcharged for the service. They are charged an amount per full time equivalent (FTE) employee yet up to half of their staff do not access or copy copyrighted materials. Commonwealth Government agencies pay (in the last bill) $21.56 per FTE but we understand that State Government agencies pay a lot less per FTE.

Yet another member, this time from IP Australia, said they would like to do away with the digital exclusion from the government statutory licence. That is, they must send material by post or fax, but not email attachments, because while their users generally do what IP Australia says, they really do not understand *why* they have to.

AGLIN’s members would be happy to share some examples in confidence with the ALRC should the Commission be interested. However for various reasons we are unable at this time to detail them publicly in our submission.

Move to Inbox

Fetching mail...

More

All

None

Read

Unread

Starred

Unstarred

**1**–**1** of **1**

 

 

Fetching mail...

More

All

None

Read

Unread

Starred

Unstarred

**1**–**50** of **164**

 

 

Move to Inbox

Fetching mail...

More

All

None

Read

Unread

Starred

Unstarred

**1**–**18** of **18**

 

 

**Areas of specific concern in the Discussion Paper**

These are two proposals to repeal sections of the Copyright Act

### **Proposal 14-3(b) copying for members of Parliament**

AGLIN supports the submission byone of its members,theParliamentary Library, (the parliamentary library copyright infringement exceptions) that sections 48A and 104A should be retained. The Discussion Paper proposes that copying by parliamentary libraries would generally fall within a more general fair use exception. Fair use is a flexible concept to be determined on a case by case basis. By contrast, the parliamentary library exceptions provide certainty with no need for a case by case assessment of the facts.

Parliamentary libraries adjust their hours to be longest when parliament is sitting so on call information can be provided to parliaments. The existing exception enables parliamentary libraries to fulfil their core public service mission of providing parliamentarians with unlimited and timely access to quality information and research.

Without these exceptions, parliamentary libraries would be compromised in their capacity to respond to confidential, time critical requests, to provide access to critical information and to monitor developments in the print and electronic media.

The protection afforded by sections 48A and 104 is broad. The phrase ‘anything done’ encompasses printing, downloading, saving to disk, e-mailing and long term electronic storage. Should a general and broad fair use exception be adopted, then it would be appropriate to retain a specific exception for parliamentary libraries.

### **The repeal of section 200AB**

ALRC has proposed the repeal of section 200AB. However it had considerable benefits for disabled people requiring assistance in libraries. The Australian Public Service (APS) wants to make it attractive for people with disability to work in the APS. The APS is also under an obligation to make sure that employees with disability are given a ‘fair go’ and have access to the same opportunities as other people without disability. The *Disability Discrimination Act 1992* requires employers to make reasonable adjustments so a person with disability does not have difficulty in employment. Common types of reasonable adjustment can include: providing documents to a person with visual impairment in text format rather than as scanned images.

## **In conclusion**

AGLIN joins with the ALCC and ADA in congratulating the ALRC on their major proposals; the introduction of fair use and the repeal of the statutory licences. They will mean that Government Libraries can fulfil their mission in a modern and changing world.

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