Response to call for evidence by the Independent Review of Intellectual Property and Growth

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What rights are you primarily interested in?  
Copyright

How do you interact with IP rights?  
Manage, license out

What type of respondent are you?  
Interest group/organisation
Response to call for evidence by the Independent Review of Intellectual Property and Growth

The Independent Review of Intellectual Property and Growth is seeking information about how copyright law in the UK compares with that in other countries. In this brief submission, we provide some information about the operation of copyright law in Australia in relation to issues identified in the Review’s Call for Evidence.

About Copyright Agency Limited

Copyright Agency Limited (CAL) is an Australian non-profit rights management company. It collects, and distributes to rightsholders, copyright fees and royalties for the use of text and images, including uses of digital content. CAL is a company limited by guarantee whose members are rightsholders, including writers, artists and publishers.

CAL has agreements with similar organisations in other countries, such as Copyright Licensing Agency (CLA) in the UK, that enable it to collect and distribute copyright payments for Australian works used overseas, and for foreign works used in Australia.

CAL was appointed by the Australian Attorney-General in 1990 to manage the statutory licence in the Copyright Act for educational use of text and images (educational statutory licence), and by the Copyright Tribunal in 1998 to manage the statutory licence for government use of text and images (government statutory licence). These statutory licences allow uses of content without a copyright clearance provided fair payment is made to rightsholders.

CAL also licenses its members’ works, and those of members of its overseas counterparts, for use by corporations, local governments and others. To date, this has mostly been through ‘blanket’ licences covering a range of repertoire, but CAL’s transactional licensing services (clearances for individual works) will increase as a result of new services CAL is now able to offer.

Economic contribution of copyright-based industries in Australia

In 2008, the Australian Copyright Council commissioned PricewaterhouseCoopers (PwC) to report on the contribution to the Australian economy of copyright-based industries. The findings in PwC’s report, Making the intangible tangible: the economic contribution of Australia’s copyright industries, include that in 2006–07 Australia’s copyright industries:

- employed more than 837,000 people (8 percent of the nation’s workforce) – up 21 percent since 1996;
- generated $97.7 billion in economic activity (10.3 percent of GDP) – up 66 percent since 1996; and
accounted for $6.8 billion in exports (4.1 percent of all exports) – up 6.3 percent since 1996.¹

Other studies on the economic implications of copyright in Australia include the following studies published by the Centre for Copyright Studies:


**Effect of educational statutory licence on education and publishing**

The educational statutory licence was introduced to enable unfettered use of content for education, while compensating rightsholders for their lost opportunity to license educational use on their chosen terms.

Both the education sector and the publishing sector have since developed to incorporate the statutory licence into the ways they operate.

Because of the statutory licence, educational institutions can choose to purchase resources directly from publishers, or to compile customised resources from a variety of sources.

**Fair use**

Australian copyright law includes fair dealing provisions similar to those in UK copyright law. In 2005, the Australian government conducted an inquiry into whether Australia should introduce fair use provisions similar to those in US copyright law.³ The government decided not to introduce fair use provisions, but, as an outcome of the inquiry, the Copyright Act was amended in 2006 to introduce some new exceptions to infringement. These included exceptions allowing fair dealing for the purposes of parody or satire, and a ‘flexible dealing’ exception based on the three-step test in international treaties applicable to cultural institutions, educational institutions and people with a print disability, intended to supplement specific statutory licences and exceptions applying to those interest groups.

There is information available from the Australian Copyright Council about the consideration of fair use in the Australian context, and about the 2006 amendments to the Copyright Act.⁴

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³ The issues paper and submissions are available at www.ag.gov.au/www/agd/ags.nsf/Page/Publications_Copyright-ReviewofFairUseExeption-May2005
⁴ This includes the Council’s information sheets ‘Access to Copyright Material in Australia & the US’, Fair use: some myths and misconceptions, and Copyright Amendment Act 2006 available at www.copyright.org.au and archive.copyright.org.au, and its publication Fair use: issues and perspectives.
Unauthorised use of online content

The issue of unauthorised use of online content is under active consideration in Australia, partly as a result of litigation between owners of copyright in films and an internet service provider. In a recent speech, the Australian Attorney-General referred to the need for an industry-wide solution, recent discussions between content owners and internet industry representatives, and the government’s openness to participate in discussions through a suitably qualified person to mediate.

The Attorney-General also referred in his speech to two recent studies on the impact of online piracy on the economy.

Further information about copyright and collective management in Australia

CAL is happy to provide the Review with further information about copyright and collective management in Australia that may be useful for its inquiry.

Libby Baulch
Policy Director

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