Submission to Standing Committee on Employment, Education and Training: Inquiry into innovation and creativity: workforce for the new economy

January 2017
INTRODUCTION
This inquiry is underpinned by recognition that innovation and creativity are key to Australia’s economic future.

The World Economic Forum recently reported a study that ranked Australia the most creative country in the world.1

Intellectual property is widely recognised as a facilitator of innovation and creativity. It enables the development and commercialisation of clever ideas by enabling return on investment in production, marketing and distribution.

The 2016 report on Australia’s innovation system from the Chief Economist of the Department of Industry2 sets out findings on the role of intellectual property (IP) in the Australian innovation system, including:

- investment in IP and other forms of intangible capital have been shown to facilitate business growth and spur productivity improvements
- businesses that innovate ten or more times per year are almost twice as likely to use some type of IP protection compared to businesses that innovate less than three times a year
- innovative exports are twice as likely to invest in IP compared to non-innovative exports
- improving IP protection and enforcement in destination countries increases Australia’s exports to those countries
- there is a significant correlation between IP Protection, R&D (research and development), and new-to-market innovation around the world

Australia’s copyright industries contribute billions to the Australian economy and provide employment for a significant proportion of Australia’s workforce.3

SUMMARY OF SUBMISSION
The Standing Committee on Employment, Education and Training has been asked to report on ‘matters that ensure Australia’s tertiary system can meet the needs of a future labour force focused on innovation and creativity’.

We address three issues:

1. the importance of a well-functioning copyright system to future Australian innovation and creativity;
2. teaching students about managing rights in creative output; and
3. Australia’s copyright arrangements for ensuring Australian students have easy access to the content they need for learning.

1 https://agenda.weforum.org/2015/10/most-creative-countries-in-the-world. The study was from the Martin Prosperity Institute and is available at http://martinprosperity.org/media/Global-Creativity-Index-2015.pdf.
ABOUT COPYRIGHT AGENCY
Copyright Agency is a not-for-profit copyright management organisation that manages copyright licensing arrangements for writers, artists and publishers. It collects and distributes more than $100m a year in copyright fees and royalties. It is affiliated with similar organisations in other countries, enabling the licensed use of content from other countries in Australia, and revenue to Australian creators from the use of their content in other countries.

IMPORTANCE OF A WELL-FUNCTIONING COPYRIGHT SYSTEM
Australia has a world class copyright system that provides both an environment for innovation and creativity to flourish and efficient mechanisms for use of content for socially desirable purposes such as education and research.

While it is widely acknowledged that there are areas in which the system could be improved, these improvements can be developed and implemented in an orderly way through processes guided by the government to reach consensus proposals for change. A good example is an amendment bill that the government has undertaken to introduce this year, which would implement consensus improvements to benefit the education sector, libraries and people with disabilities (including in connection with their education and research).

Some, such as the Productivity Commission in a recent report, say that because Australia is a net importer we should dilute the system that fosters Australian creativity and innovation. That view is not shared by others, including government experts in intellectual property, industry and trade.

TEACHING STUDENTS ABOUT MANAGING RIGHTS IN CREATIVE OUTPUTS
If students entering the workforce are to make a living from their creative outputs, they need to know about the revenue potential of those outputs and how to manage IP rights.

There are a range of resources available – including information sheets and guides from the Australian Copyright Council, and resources from IP Australia and the Department of Industry – but no coordinated program for equipping new entrants to the workforce with awareness of the role of IP in their working lives. A coordinated and better resourced program would help to ensure that the training and skills acquired in tertiary education are applied effectively in the workplace.

COPYRIGHT LICENSING FOR THE EDUCATION SECTOR
Australia’s copyright system facilitates education outcomes in tertiary institutions, including via the licensing arrangements managed by Copyright Agency that enable copying and sharing of content to meet students’ needs.

Copyright Agency is appointed by the Australian Government to manage a statutory licence that enables Australia’s education institutions to copy and share, for educational purposes, any text and images, from any source, in any format, from anywhere in the world. The licence means that

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4 Copyright Agency and Viscopy are separate legal entities, but Copyright Agency manages all Viscopy services under a services agreement.
5 copyright.org.au
teachers and lecturers can focus on teaching without having to worry about copyright compliance, and can select the content that best meets the needs of their students.

The licence was first introduced in 1980, but was extended in 2000 specifically to cover digital content and use, including the use of content from the internet. The licence has been successfully applied to new technologies in education such as electronic whiteboards, tablets and learning management systems. It allows the copying and sharing of content via Massive Open Online Courses (MOOCs).

Education institutions compensate writers, artists and publishers for the copying and sharing of their works via copyright fees that are paid to, and distributed by, Copyright Agency. Copyright Agency enters into fixed term, fixed fee arrangements that are negotiated with education sector representatives. In the rare circumstance that agreement cannot be reached, fees and other licence conditions can be set by the Copyright Tribunal.7

A small sample of teachers and lecturers provide information each year about their copying and sharing of content in reliance on the statutory licence. This information is taken into account, together with a range of other factors, in the negotiation of the fixed-fee agreements. It is also used to assist Copyright Agency to distribute the copyright fees to writers, artists and publishers.

The agreements are not ‘pay-per-use’, and not everything done in reliance on the statutory licence is monitored, let alone ‘remunerable’ (e.g. technical and incidental copies). The value of the licence is in the content ‘consumed’ by students in ways that that would otherwise require copyright clearances, and the additional choice it provides teachers and students for sources of content.

Copyright fees are distributed to content creators, and contribute to the production of new education resources for Australian students.

Detailed information about the operation of the statutory licence is contained in Copyright Agency’s annual reports, which are provided to the Minister and tabled in Parliament.

Copyright Agency recently worked closely with education sector representatives and Screenrights, at the invitation of the Government, to develop a joint proposal to simplify and streamline the statutory licence framework. That joint proposal covers all digital content and uses, and enables greater flexibility for developing arrangements for new forms of content dissemination and delivery of education. The Government has undertaken to introduce amendments to implement that proposal in 2017.8

Copyright Agency has also offered to work with universities to develop simple practical solutions for issues such as publication of student theses containing third party content.

7 The last Tribunal rate-setting determination for schools was in 2002, and for universities in 1999. The fees for TAFE and other education institutions have been resolved by negotiation and agreement.
8 https://www.communications.gov.au/have-your-say/updating-australias-copyright-laws