

# Digital Agenda Review

Submissions are public and our survey continues

Thank you to all who have told us about the operation of the digital agenda amendments to the *Copyright Act* in their libraries and the problems that they have faced. Submissions to the Digital Agenda Review indicate that librarians will need to defend the limited access which their users have to copy without permission for the purposes of study and research. ALIA therefore urges those who have not participated in our online survey at <http://alia.org.au/advocacy/copyright/digital.agenda/survey/> to do so as soon as possible. Our arguments will not be accepted without evidence. The survey is particularly important for those librarians who have not been surveyed by the Australian Libraries Copyright Committee, but we appreciate input from all of our members.

The submissions to the review are posted on the Phillips Fox website at [http://www.phillipsfox.com/whats\\_on/Australia/DigitalAgenda/DigitalAgenda.asp](http://www.phillipsfox.com/whats_on/Australia/DigitalAgenda/DigitalAgenda.asp).

All submissions are influential in this important debate, but librarians may like to start with the submissions of ALIA, the Australian Libraries Copyright Committee, the Australian Digital Alliance, the National Library and the Rimmer submission, made by Dr Matthew Rimmer and Mr Ishtiaque Omar. Dr Rimmer lectures at the Australian Centre for Intellectual Property in Agriculture (CIPA), Faculty of Law, Australian National University and is a member of ALIA's copyright and intellectual property advisory group. Mr Omar is a researcher at ACIPA. Their submission criticises the digital agenda amendments in terms of the balance of interest between owners and users.

As a member of the Australian Libraries' Copyright Committee, ALIA supports all of the points made in the ALCC submission. Our response to the Review complements the ALCC submission.

Submissions to the review closed on 30 September although there are opportunities for supplementary submissions. Here are some of the points made by ALIA in the course of defending the importance of retaining the definition of libraries as 'non-profit' and of maintaining the library exceptions in ss49 and 50, the provisions which enable the copying of material for study and research and for resource-sharing. Many of the points made came from participants in our survey.

## Purchase of information

Libraries generally report ten to thirty per cent increases in the cost of purchasing digital material directly and under licence over the past two years. This money goes directly or through copyright collecting agencies to copyright owners and publishers.

## Interlibrary document delivery and resource sharing

At the same time as libraries are spending more money on print and electronic resources the level of library-to-library document delivery is falling.

## Licence restrictions

Many licences restrict the sharing of information to non-licensed users.

## Privately-funded non-profit libraries

Librarians in this sector should continue to have access to the library copying provisions, in order to deliver research and information services to the business, research and scientific communities and to share their specialist collections with the wider community

## Changing business models and technological solutions

Initially inexperienced in contract negotiation and sometimes outclassed by the bargaining power of publishers, librarians have not sought further regulatory protection. Instead they have developed relationships and negotiated strategies with copyright agencies and publishers and, where appropriate, some have formed consortia to support more effective outcomes.

The copying of digital information by library staff is limited by the test of commercial availability and price within a reasonable time frame. These restrictions provide publishers with opportunities to supply material in digital format to libraries.

Digital tracking of database use and the marketing of new digital services to domestic consumers, are making the digital publishing environment more secure for copyright owners who already benefit from the facility and cheapness of digital technology in the distribution of their product.

## Aims of the legislation

ALIA believes that the aims of the digital agenda amendments as they relate to the activities of libraries are being supported by the operation of the Act. Where the balance of interest has altered, it has been in favour of copyright owners, now supported by a complex and growing web of licensed uses paid for by libraries and by government. Any further amendment in favour of copyright owners may diminish present legitimate access by library users to copyright information.

## Copyright and contract

ALIA supports the implementation of the Copyright Law Review Committee's recommendation in its report *Copyright and contract*, that agreements which purport to exclude or modify copyright exceptions should not be enforceable.

This is a very brief summary of our submission. Future issues of *inCite* will contain further details of the debate on this issue, which is of vital importance to Australians. ■

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