



## The Australian Digital Alliance

The Australian Digital Alliance (ADA) is a non-profit coalition of public and private sector interests. The ADA was formed to promote balanced copyright law by providing an effective voice for the public interest perspective in debates about copyright reform.

The ADA works closely with its sister organisation, the Australian Libraries Copyright Committee (ALCC). The ALCC is the main consultative body and policy forum for the discussion of copyright issues affecting Australian libraries. It develops policy and advocates action to support the role of libraries as information providers and preservers. ALIA is a member of both the ADA and the ALCC.

### The need for balanced copyright law

The objective of copyright law is to reward creation and encourage continued innovation. Copyright law does this by preventing people from 'free-riding' by using copyright material without payment. However, this copyright protection also costs society by limiting access to information. Copyright owners have a financial incentive to restrict the dissemination of their works and hamper the creation of new works. This conflict necessitates striking a balance between the competing interests of copyright owners and copyright users. Copyright law aims to achieve this balance by limiting the scope and strength of copyright protection through the duration of its grant, the rights granted, exemptions, and statutory licenses.

The ADA strongly advocates the need for a more appropriately weighted balance between providing appropriate incentives for creativity against reasonable and equitable access to knowledge. The ADA is guided by the following principles:

- Support of balanced copyright and related laws that advance the interests of society as a whole;
- That the protection of rights must not supersede the wider public interest in the advancement of learning, innovation, research, and knowledge;
- Support of appropriate and flexible compulsory licensing schemes and licenses that ensure guaranteed access for fair payment;
- Support of clear limitations in liability for copyright infringement, which are set in circumstances where compliance cannot be practically or reasonably enforced;
- That copyright protection only extends to expressions and does not cover facts, ideas, procedures, methods of operation, or mathematical concepts;
- Opposition to laws that would give rights holders the power to use technological or contractual measures to distort the balance of rights set out in the copyright law.

### Recent achievements

The ADA plays an important role in advocating for balanced copyright law and positioned itself as a key player in recent copyright developments.

#### *IceTV and Channel Nine*

Channel Nine sued IceTV for copyright infringement after IceTV used parts of Channel Nine's program schedules for its electronic program guide.

The ADA was granted leave by the High Court of Australia to intervene as a 'friend of the court'. The ADA's submissions outlined the importance of public interest considerations and the implications that the case could have on copyright users.

The High Court found in favour of IceTV, with the joint judgment of Gummow, Hayne, and Heydon making explicit reference to the ADA's submissions. The decision was a real win for copyright users and the public interest. Further, it highlights the ADA's crucial

role as a proponent of a balanced approach to copyright. The High Court recognised the importance of maintaining a robust public domain which facilitates the use, re-use, and transformation of materials to produce innovative new works.

#### *A User's Guide to the Flexible Dealing Provision*

Together with the ALCC, the ADA produced a handbook on the flexible dealing provision of the Copyright Act (section 200AB). The handbook outlines how the provision operates and provides a wide range of examples to assist libraries, archives, galleries, and educational institutions to take advantage of the provision and use copyright materials.

The formal launch of the handbook was attended by ADA members, senior public servants, and other copyright figures. The ADA capitalised on the interest generated by the launch to pursue its agenda and discuss upcoming copyright developments and priorities.

The handbook can be downloaded from the ADA's website at <http://www.digital.org.au/news.htm#FDH>.

#### *Submissions*

The ADA made a number of submissions that influenced the direction taken by government decision makers. Of particular note are submissions to:

- Department of Broadband, Communications and the Digital Economy in response to the consultation paper: Digital Economy Future Directions;
- Productivity Commission in response to the issues paper: Copyright Restrictions on the Parallel Importation of Books;
- Department of Foreign Affairs and Trade in response to the negotiation of the proposed Anti-Counterfeiting Trade Agreement;
- Australia 2020 forum, under three topics: Education, the Economy, and Creativity;
- Attorney-General's Department in response to the issues paper: Copying Photographs and Films in a Different Format for Private Use.

### Role of the ADA/ALCC Copyright Adviser

The ADA and ALCC jointly fund a copyright adviser position. The copyright adviser progresses the ADA's agenda and principles by:

- Researching issues and developments in the Australian copyright landscape, including information regulation, and software management;
- Providing members with an analysis of any changes that have the potential to impact on their activities;
- Liaising with the staff of appropriate Ministers and government departments;
- Drafting legal and policy submissions to government on copyright reform issues;
- Monitoring the progress of proposed changes to Commonwealth copyright legislation, and any other relevant legislation and regulation.

The ADA relies on the support of its members to fund the copyright adviser position and to enable continued engagement in high profile and high yield activities, such as the High Court intervention in the IceTV case.

All documents referred to in this article are available on the ADA's website at <http://www.digital.org.au/>.

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