

Friday 3 June 2016

Intellectual Property Arrangements

Productivity Commission
GPO Box 1428
CANBERRA CITY ACT 2601

By email: intellectual.property@pc.gov.au

Dear Sir/Madam

**SUBMISSION ON THE INTELLECTUAL PROPERTY ARRANGEMENTS – PRODUCTIVITY COMMISSION
DRAFT REPORT (APRIL 2016)**

The Chamber of Arts and Culture of Western Australia (**Chamber**) wishes to comment on the Productivity Commission's "*Draft Report on Intellectual Property Arrangements*".

About the Chamber

The Chamber of Arts and Culture WA was established in 2010 and is the peak advocacy and promotion organisation for arts and culture in Western Australia. It is an apolitical and independent body, which believes that a vibrant and diverse arts and cultural sector is essential for economic, political and social well-being.

The Chamber makes regular submissions to government and other agencies regarding the benefits and value that greater support of arts and culture can bring to the community. It currently represents over 270 WA based arts and cultural organisations, artists and associate members. It is unique in this country for the breadth of its art form representation

A core tenet of the Chamber's mission and objectives is the belief that a vibrant and diverse arts and cultural scene is essential for economic, political and social well-being.

The Chamber's operations are currently focused around the following key objectives:

- To establish (with Government) a long term plan for cultural development in Western Australia
- To develop a compelling business case for increased investment in arts and culture by the private sector and public funding organizations
- Recognition of the benefits provided by arts and culture in Western Australia

Introduction

It is well recognised that a strong and effective intellectual property regime is an essential element in ensuring that arts, cultural and creative activity remains sustainable. The Chamber believes there is a strong link between this activity and innovation.

The Chamber recognises the need for an appropriate balance between ensuring that creative and innovative activity remains viable and the interests of those wishing to access or use the creative or innovative output of others.

The importance of increasingly rapid, broad innovation to our economy cannot be underestimated, and therefore an appropriate, fair and workable balance must be found between those who generate, create and invest in creative and innovative activity and those who then seek to use or build further upon it.

Submission

It is the Chamber's view that Australia's intellectual property arrangements must not unfairly impact on those who create, generate or invest in ideas, new approaches, methods or tools, challenge ways of thinking or propel or inspire other innovative work. These creative people are the fundamental drivers of economic and societal advancement and innovation. In many cases, they are individual artists or small to medium sized arts and culture organisations.

Intellectual property arrangements that could reduce the economic return to artists and innovators are likely to result in an incremental and possibly irreversible shift away from the incentives to drive or underpin creativity and innovation in this country.

There is a significant difference between our primary creators (artists or small-medium organisations) and larger intermediaries or others who seek to exploit creative output.

The Chamber is aware of submissions made by others relating to the specific effects and outcomes of the proposed intellectual property arrangements on artists or creatives.

In general terms, it is the Chamber's view that the proposed arrangements in the Draft Report appear to favour the needs of those wishing to use or build on intellectual, creative, artistic and innovative activity over those who create, generate or invest in them, and it is likely to be detrimental to the very viability of the arts, cultural and creative sectors.

For example, the proposed "fair use" regime increases the difficulty for arts or creative practitioners to properly defend their creative investment by placing the legal onus upon them to protect their intellectual property.

Similarly, significantly reduced copyright terms affect the longer-term investment returns to the artists for work that, in many cases, has taken years to create.

The Chamber urges the Commission to apply full and due consideration to submissions from arts, cultural and creative practitioners or organisations on the effect of proposed intellectual property arrangements on their viability and ability to generate new work. These represent a very real impact on Australia's economic, political and societal well-being, and risk undermining our ability to become a strong, resilient innovative nation.

An increased freedom to use or access creative or intellectual outputs favouring content users may offer some benefits. However there is a real possibility that the unintended consequences of such increased freedom will be the reduction of Australia's creative wealth.

The Chamber urges the Commission to recognise the long term importance of sustaining such wealth and to strive for a more effective balance between user and creator.

Further Information

Please contact Henry Boston on the contact details below if you would like to discuss any aspect of this submission.

Yours faithfully,

Henry Boston
Executive Director