

**To:** Productivity Commission  
Intellectual Property Arrangements

**From:** Janet Heffernan  
Owner and founder of  
The Heffernan Group

**Subject:** Response to the draft report of the  
Productivity Commission  
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The Heffernan Group is a very small business in the education sector that has written and published practice/trial mathematics exams for Year 11 and 12 students in Victoria for over 20 years. We have a very strong following from secondary schools. They consistently tell us that our papers provide a highly valuable resource for teachers and their senior secondary maths students.

We fall into that category of “participants currently benefitting from copyright protection” as described in your draft report on page 18.

The purpose of this submission is to express disappointment at the Commission’s recommendation that the current exception for *fair dealing* under the Copyright Act be replaced with the exception for *fair use*.

We believe that it is important that the Commission understands the effects that such a change will have at the grass roots level.

We foresee that some of the knock-on effects of these recommendations include

- an increase in our pricing to schools by about 40% to compensate for lost income stream
- a decrease in distribution to less well-off schools because of the price rise
- a decrease in our provision of material for schools because of the increase in time taken to monitor copyright infringements
- a cessation of the development of online student mathematics material which has been an innovation flowing on from our trial exam business

A central premise of the Commission’s argument for *fair use* over *fair dealing* is the way it can be facilitated by the law (page 18 of the draft report).

In effect the Commission argues for facilitating copyright by busy use of the courts. This move is extremely troubling, especially for a very small businesses like ours.

The Commission’s recommendation that the current exception for *fair dealing* under the Copyright Act be replaced with the exception for *fair use* may solve some issues with current copyright legislation but creates some very disturbing new ones.

Janet Heffernan