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**Submission: Response to Intellectual Property Arrangements
Productivity Commission Issues Paper, October 2015**

“How should the balance be struck between creators and consumers in the digital era? What role can fair dealing and/or fair use provisions play in striking a better balance?”

This submission focuses on what a change in the definition of ‘fair dealing’ or ‘fair use’ provisions for the protection of copyright in works and its potential impact on Cambridge University Press Australia and its approximately 100 employees.

Cambridge University Press Australia has been locally publishing the works of Australian authors for over 40 years. Our main line of business is resources for students and teachers at secondary schools that meet the requirements of National and State curriculums. These published resources range from traditional textbooks increasingly to online interactive resources including innovative new features such as formative test and assessment and reporting engines.

Authors of these works are in the vast majority highly experienced Australian teachers and teacher trainers who spend many hours of their free time passing on their best practice in this way. Our role is to curate their work, align it to curriculum and make it available to schools, students and teachers at an affordable price. Copyright of these works that we produce generally rests with these Australian teachers, licensed to us for publishing and distribution.

New curriculums place an increasing demand from schools on publishers for up to date, innovative, comprehensive solutions for their classrooms. In the case of Cambridge University Press Australia we have invested heavily in locally developing platforms that enhance the learning experience for students through video,

interactive activities, guided walk-throughs, instant feedback and educational games. For teachers we have developed task management and test creation functionality, class and school management and reporting functions and self-marking capabilities.

Canada introduced new 'fair dealing' guidelines in 2012 that redefined what copying is allowable without compensation to creators and their publishers. In its June 2015 paper, *Economic Impacts of the Canadian Educational Sector's Fair Dealing Guidelines* Price Waterhouse Cooper states:

"Our Assessment finds that, since implementation of the Fair Dealing Guidelines, the educational publishing industry in Canada has been subject to a significant negative impact. Licensing income is substantially reduced. Revenues from sales are experiencing an accelerated decline. These declines, we believe, will accelerate further, causing adverse structural change in an industry already weakened by numerous other negative developments in the educational content market.

Application of the Guidelines significantly compromises the ability of educational publishers to publish original materials and meet varied academic needs. Indeed, we expect that over time, the publishing of new content for K-12 schools in Canada will for the most part disappear, and the quality of the content used by school students will thereby decline. As for post-secondary institutions, we expect that the publishing of materials will be rationalized and consolidated to focus only on certain segments of the market. Specialty subjects will be underserved in favour of high-enrolment subjects, with a corresponding decline in the availability of Canadian content. Many small- and medium-size publishers that currently serve this market will be forced out of it in search of more profitable publishing areas. This development will lead to lower competition, less content diversity, and higher prices for what is produced. In short, fewer works will be developed by Canadian content producers, both creators and publishers."

Since the introduction of the 'fair dealing' guidelines in Canada, Oxford University Press withdrew from the market, Nelson, the largest pre-2012 publisher, declared a form of bankruptcy, local publishers such as Emond have ceased publishing and McGraw Hill and Pearson have scaled back. Protection of IP and adequate and fair compensation for copying are a significant factor in making local publishing for local school curriculums a viable proposition.

If Australia were to introduce similar fair dealing guidelines to those introduced in Canada, significant harm could be caused to educational publishing in Australia as the incentives for authors, creators and publishers to invest in and develop new solutions becomes financially unviable. Schools may in the long run have to make do with materials imported from elsewhere that fall short of meeting local curriculum requirements. Students will learn with resources not created for purpose and teachers' workloads will be substantially increased.

Cambridge University Press Australia along with other educational publishers in Australia are highly innovative organisations that provide employment for some of Australia's most creative citizens. Little of the world leading innovation that enhances the classroom experience, personalizes learning and speeds up the feedback and reporting to students (and parents) could have happened without protection of IP and the compensation authors and publishers receive for copying through the statutory licence. And it is this innovation that is the envy of the world and, increasingly, an export opportunity. For example: Cambridge Australia's homegrown online mathematics resource *HOTmaths* has recently been or is currently being adapted for schools in the UK, India, South Africa and the USA.

The world's first copyright act in England was entitled "An Act for the Encouragement of Learning" and its aim was to incentivize the creation of learned and useful books. Over more than three hundred years, copyright and fair dealing have proven incredibly good at doing just that, to the benefit of everyone. We believe that "fair dealing" provisions are an important and fair part of the copyright ecosystem and whilst we disagree with the premise of the question asked (which implies that you believe the current regime is unfair) we understand why the Australian Government is keen to ensure that fair means fair. All we would ask is that in your search for fairness, you consider all parts of the educational content value chain, from authors and creators, to printers and publishers as well as our highly skilled employees. We also urge you to study the Canadian experience carefully and to take neither the quality and quantity of supply of content, nor the breadth, reach and scale of Australia's innovative publishing industry for granted.

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Price Waterhouse Cooper *Economic Impacts of the Canadian Educational Sector's Fair Dealing Guidelines*, June 2015
http://www.accesscopyright.ca/media/94983/access_copyright_report.pdf