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
         April 2016

27 May 2016

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 Commissions 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