

Productivity Commission, Inquiry into Australia's Intellectual Property Framework



Submission from: **National & State Libraries Australasia**
30 November 2015

Thank you for the opportunity to contribute to the Productivity Commission's review of Australia's intellectual property framework.

National & State Libraries Australasia (NSLA) supports the joint response submitted by the **Australian Digital Alliance (ADA)** and the **Australian Libraries Copyright Committee (ALCC)**. NSLA is a member of these two industry-wide organisations and represented on the board of the ALCC.

This submission addresses the discussion points in the Productivity Commission Issues Paper concerning copyright – particularly Part 4, pp.19-21.

1. In the *Leading Collaboration* Strategic Plan, NSLA states “Libraries represent the rights of library users, including fair access to information, open approaches to library data and copyright, opportunities for creative re-use and repurposing of materials, access to community spaces, and connections to informal and unstructured learning”.

NSLA supports changes to copyright in Australia to encourage innovation, investment and creativity. The copyright framework should strive to remove unnecessary barriers to access and use, to protect commercial and creative interests, and to address the issues of the digital environment.

As recommended in the ALRC's Digital Economy Review, NSLA supports: the introduction of a fair use exception; the streamlining and modernisation of educational exceptions and statutory licenses; and the free use of orphan works whether by a limitation of liability of by exception. NSLA also supports clarification of the law to ensure that contracts cannot overrule copyright exceptions.

2. As a peak body in the cultural sector in Australia, NSLA is part of the *Digital Access to Cultural Collections* initiative. The groups represented by this initiative are the peak bodies for the galleries, libraries, archives and museums of Australia. Our cultural institutions have a proud history of enabling access and use of the nation's history and cultural heritage and preserving it for future generations.

Together the peak bodies propose the updating of two parts of the Australian copyright framework to allow institutions to properly fulfil their mandates:

An end to perpetual copyright in unpublished works

Unpublished works in Australia are currently afforded copyright protection in perpetuity. This makes it difficult for cultural institutions to deal with archival collections including letters, diaries and business records. Harmonising the term for unpublished works to that of published works (70 years after the death of the author) would open access to millions of archival items held by our collecting institutions. It would also bring us into line with most other countries, including the UK, USA, Canada, New Zealand and those in the European Union.

Reform of preservation copying exceptions

Currently most libraries and archives can only make a preservation copy of a published work after the work has been lost, stolen, damaged or destroyed. The impossibility of making a copy of a work after its destruction leaves institutions with a choice between strict compliance with copyright law or making defensive copies to ensure the preservation of the collection. Even for key cultural institutions (which have a slightly more flexible exception) the restrictions on formats and number of copies rule out international best practice preservation strategies. It should not be an infringement of copyright for cultural institutions to make a use of a work if that use is for the purposes of preserving the work.

Please see the joint submission from the Australian Digital Alliance (ADA) and the Australian Libraries Copyright Committee (ALCC) for more detailed explanation, data and examples.

Dr Alex Byrne
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About NSLA

National & State Libraries Australasia (NSLA) is the active collaboration between the ten National, State and Territory libraries across Australia and New Zealand. We achieve more by working together, delivering greater value to our jurisdictions through collaboration.

During the 2014-2015 financial year:

- 12.3 million people visited our library buildings
- 24.4 million people visited our websites
- 12.6 million people visited our online catalogues
- 4,756 terabytes of digital collections were stored
- \$36 million was the total spend on collections
- \$4.9 billion was the asset value of our collections
- \$992 million was the asset value of our buildings/sites

Please note: Each of the ten NSLA member libraries works within different government jurisdictions. The National Library of New Zealand is part of the Department of Internal Affairs, a New Zealand government department. The views expressed in this letter should not be taken to reflect the views of the National Library of New Zealand nor of the New Zealand Government.