



ASSOCIATION OF HEADS OF INDEPENDENT SCHOOLS OF AUSTRALIA

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Intellectual Property Arrangements  
Productivity Commission  
GPO Box 1428  
CANBERRA CITY ACT 2601

Emailed to: [intellectual.property@pc.gov.au](mailto:intellectual.property@pc.gov.au)

### **Submission to the Productivity Commission's Inquiry into Australia's Intellectual Property Arrangements**

The Association of Heads of Independent Schools of Australia (AHISA) welcomes the Productivity Commission's inquiry into Australia's intellectual property system.

The purpose of this letter is to commend and endorse the submission made to the Commission by the Copyright Advisory Group (Schools) to the Council of Australian Governments' Education Council (CAG) and, in particular, its case for the introduction of a fair use exception and simplification and streamlining of existing statutory licences under the *Copyright Act 1968*.

As the CAG submission makes clear, current legislation adds to the complexity of the compliance burden on schools and teachers, creates an unfair cost burden for Australian schools in that they must pay to use resources freely available on the internet and unnecessarily complicates or restricts the uptake of digital technologies in Australian schools for both pedagogical and administrative purposes.

AHISA acknowledges the efficiencies of a statutory licensing scheme. However, as Australian classrooms expand beyond school boundaries and become more global and collaborative, as student learning becomes more inquiry- or project-based and is conducted 'anytime, anywhere', and as the teaching profession also becomes more collaborative through global professional learning networks, it is increasingly apparent that copyright laws affecting the access to and use of resources by schools in Australia require urgent revision. As the CAG submission states:

The existing educational copying regime is stifling the potential of educational delivery and knowledge sharing in the online environment. Far from facilitating education, it is imposing unnecessary transaction costs on teachers and has in-built structural disincentives against the uptake of digital technologies in Australian schools. . . There is an urgent need for copyright to be updated for the digital age. (Page 6)

The current ambiguity of copyright laws in relation to cloud-based applications for student learning activities and school administrative functions is of particular concern.

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### **Introduction of a fair use exception**

CAG makes a compelling case for the introduction of a fair use exception as a means to avoid 'retro-fitting' of legislation to technological advances and pedagogical innovation without eroding a legitimate return on investment to commercial content producers and other copyright owners.

In its 2014-15 Annual Report, the Copyright Agency notes that 74.8 per cent or \$101.06 million in copyright and/or licensing fees were collected from the education sector in the reporting period. Of this amount, \$61.75 million was collected from schools. CAG estimates that between \$5.58 million and \$6.88 million – roughly 10 per cent – of total payments collected from schools by the Copyright Agency in 2014 can be linked to otherwise freely available content, such as a tourist map (CAG submission, page 17). While this represents a very small per student cost, it is indicative of the counter-intuitive application of current copyright provisions to school education that complicates compliance. It is untenable that schools and teachers could potentially face prosecution for failure to comply with a law that has the effect of placing a cost on something that is otherwise free to access and use.

AHISA endorses CAG's position that a fair use exception will 'make life easier for teachers by replacing a set of technical and complex rules with simple, clear guidelines that can work with digital technologies', and that 'fair use will actually make it safer for teachers to use new technologies in the classroom'.

Yours sincerely,

**(Mrs) Karen Spiller**

AHISA National Chair 2015-17

Principal of St Aidan's Anglican Girls' School, Qld

Further inquiries may be addressed to AHISA's Chief Executive Officer, Ms Beth Blackwood,

#### **About AHISA**

The primary object of AHISA is to optimise the opportunity for the education and welfare of Australia's young people through the maintenance of collegiality and high standards of professional practice and conduct amongst its members.

The membership of AHISA Ltd comprises Principals of 420 independent schools with a collective enrolment of some 426,000 students, representing 11.7 per cent of total Australian school enrolments and 20 per cent of Australia's total Year 12 enrolment. AHISA's members lead a collective workforce of 36,460 teachers and 17,870 support staff.