

Copyright Law and Policy Section
Department of Communications and the Arts
GPO Box 2154
Canberra ACT 2600

By email: copyright@communications.gov.au

Friday, 12 February 2016

Dear Copyright Law and Policy Section

Copyright Amendment (Disability Access and Other Measures) Bill 2016

University Art Museums Australia fully support the following submission on the Copyright Amendment (Disability Access and Other Measures) Bill 2016 outlined below.

We strongly support the proposed changes, which update a number of provisions of the Act that are currently onerous or unworkable. The simplification objectives of the Bill are particularly welcome and will assist in achieving a more efficient, effective and adaptable copyright regime for the benefit of creators, publishers, holding institutions and users.

In particular, we support the Bill's move to:

- simplify and expand current disability provisions, particularly the replacement of s200AB with a new fair dealing provision and current disability statutory licences with one exception for institutions to provide access by persons with a disability;
- replace the current preservation copying exceptions for libraries and archives with simplified specific exceptions that are uniform across all materials, do not restrict format or number of copies, and apply to all activities necessary for preservation;
- simplify and modernise the Part VA and Part VB educational statutory licences by consolidating them and removing onerous administrative requirements that undermine the ability of parties to negotiate suitable and flexible solutions for licence management;
- expand the ISP safe harbour regime to include other service providers, including libraries and archives, educational institutions, institutions assisting those with a disability and online services such as Facebook and YouTube;
- end perpetual copyright in unpublished works and offer some guidance on the use of orphan works where the author is unknown.

There are, however, several concerns collectively GLAM members have, which if addressed will enhance and strengthen the proposed Bill. GLAM members support:

- Extending the preservation copying amendment provisions to include all library and archives collections that form part of an institution with collections not available to

the public, regardless of whether public or privately held, are covered under the new Act. This will allow all library and archive institutions to preserve at-risk collections in advance of loss, and avoid potential impacts to future research and investigation work involving non-public institutions, including university libraries, charitable organisations, etc. (point 15 and question 4 of the Guiding Questions).

- Changing the responsibility from the Library/Archives/Cultural Institution to the user of an electronic preservation/research copy not to use the material in a manner that infringes copyright (113H(2)(d), 113J(2)(d) and 113M(2)(d)). This would maintain consistency with other parts of the Copyright Act where the burden is on the user of the copyright material to not breach copyright, and not on the agent that makes it available. The current proposed amendments place a considerable burden and expense on institutions to ensure digitised versions of records cannot be further copied and communicated to the public.
- Amending the term of protection for unpublished works by generally “unknown authors” to cover “orphan works” where the author is not generally known and/or cannot be identified from their name alone. This will address the issue of copying ‘orphan works’ in collections held by Governments as records/archives, such as those that include letters, submissions and reports from members of the public, where the author is named but, as an ordinary member of the community, that person or their heirs are not able to be identified or traced.

With these concerns addressed the Bill will be further strengthened and Copyright Laws in Australia greatly improved.

These amendments are important and long overdue and will provide significant benefits for copyright users in Australia, including libraries, galleries, museums and archives, and their clients, educational institutions and the disability and technology sectors.

Please do not hesitate to contact me for further information on any aspect of this letter.
Yours sincerely



Professor Ted Snell AM CitWA
Chair, UAMA