



Australian Libraries Copyright Committee

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*Review of the
Extension of Legal Deposit*

**Submission of the
Australian Libraries Copyright Committee**

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Submitted by email: legaldeposit@dbcde.gov.au

1. Introduction

This submission is made on behalf of the Australian Libraries' Copyright Committee (ALCC).

The ALCC is the main consultative body and policy forum for the discussion of copyright issues affecting Australian libraries and archives. It is a cross-sectoral committee which represents the following organisations:

- National and State Libraries Australasia
- National Archives of Australia
- The Council of Australasian Archives and Records Authorities
- The Australian Society of Archivists
- Australian Library and Information Association
- Council of Australian University Librarians
- Australian Government Libraries Information Network
- National Library of Australia

The ALCC considers the impact of copyright law reform on Australian libraries and archives and provides advice to the Federal Government on how to maintain a balance between reasonable access to creative works for copyright users on the one hand and an incentive for copyright creators and owners on the other.

The ALCC thanks the Attorney General's Department and the Department of Broadband, Communications and the Digital Economy for the opportunity to comment on the 2007 Discussion Paper on the Extension of Legal Deposit (the **Discussion Paper**).

The ALCC endorses in full the comments and recommendations contained in the submission of the National Library of Australia (NLA). We reiterate some of the points made in the NLA submission below.

2. Expansion of the Current Scheme

Technological developments such as widespread use of the computers, the internet, and even older developments such as television and film have lead to the development of myriad materials of cultural and historical significance to Australia. The Discussion Paper notes that:

Legal deposit may not effectively serve its purpose of building a broad national collection of culturally significant material because materials such as films, sound recordings and web material do not come within the scheme.¹

The ALCC agrees that the legal deposit provisions are well overdue to be updated so that they include a range of media and materials. As noted in their submission, although the NLA has for some time been collecting far more materials than those included in the legal deposit provisions, their ability to collect materials is limited by the fact that they need to purchase the material, or obtain the permission of the

¹ At paragraph 3.

copyright owners in order to collect the material themselves (for example via web harvests). As a result, there is inevitably a range of culturally valuable material that can not be collected and preserved, and made accessible to people for important purposes like research and study.

The ALCC strongly agrees with the NLA's position that the legal deposit provisions should be extended to include hardcopy and online electronic materials, as well as audiovisual materials.

The ALCC also agrees that in order to enable the NLA to preserve electronic materials, it is necessary to amend existing preservation provisions in the Copyright Act 1968. Sections 51A and 51B require a library to purchase the work if it is commercially available, rather than make a preservation copy. These provisions are problematic when dealing with electronic material, as a second copy in the same format may become useless in years to come, due to technological obsolescence. Even when material is still commercially available in one format, libraries need clear provision for making preservation copies in other formats.

3. Preservation and Access

Legal deposit is not simply about the preservation of culturally significant materials, but about ensuring that these materials are accessible to the general public. The expansion of the legal deposit scheme to electronic materials requires consideration of whether library users have access to these materials in the same way they have access to traditional types of legal deposit material. The ALCC agrees with the NLA's submission that at a minimum access to electronic materials should be in line with the copyright exceptions (for example the exception for research and study).

We also agree with the NLA's submission that where material has been freely available to the public at the time of publication, the NLA should be able to provide users with free online access. Specific provisions are necessary to enable this.

4. Technological Protection Measures (TPMs)

The presence of digital locks or TPMs on electronic materials can hinder the ability to preserve material, as well as access the content. The ALCC agrees with the NLA's submission that electronic materials must be provided to the NLA free of any TPMs.

5. Technological Neutrality

The ALCC agrees with the NLA's submission that, as far as possible, amendments to the legal deposit scheme should, as far as possible, be technology and format neutral. This is obviously a particularly important issue when dealing with electronic materials.

6. Conclusion

The new Federal Government has made a number of policy commitments under the banner of the 'Education Revolution'. The ALCC believes that a key feature of an education revolution is the availability of information and knowledge. A key aspect of the education revolution should therefore be to ensure that the NLA has the right to collect, preserve, and make accessible, the full spectrum of historically and culturally significant materials.

The ALCC thanks the Attorney General's Department and the Department of Broadband, Communications and the Digital Economy for the opportunity comment on this Discussion Paper.

Please contact us should you have any further queries or would like further information.

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