

Association of Parliamentary Libraries of Australasia (APLA)

Submission regarding 2007 Discussion Paper on the Extension of Legal Deposit in the Copyright Act 1968 (Cth)

Introduction:

Members of Parliament need access to appropriate information as a component of the democratic process. The provision of timely, accurate, up-to-date and relevant information is critical in maintaining the legislative function of the Parliament. Parliamentary Libraries are responsible for providing factual and independent responses on a confidential basis to Members and their core clients. They assist Members with their roles of scrutiny of government, developing policy, and maintaining awareness of current developments as well as the monitoring the accountability of the Executive and informing the government.

The collections of the National Library via Libraries Australia are available for all parliamentary libraries in Australia to use to augment their own collections to support Members of parliament and their respective parliaments.

As publishing is now consistently provided through the Internet or in other electronic formats, APLA would support that electronic publications should be included in legal deposit provisions for all deposit libraries, including the National Library.

Having information available in a timely fashion is (and electronic format and internet technology provide for this) is extremely important in the context of provision of service by parliamentary libraries to members of parliament and their staff.

Issue 1:

Should the legal deposit scheme be extended to audiovisual and electronic materials and if so how should such materials be defined (including the quality of legal deposit materials such as the 'best copy')?

Response to Issue 1:

The Commonwealth Legal deposit Scheme should be extended to audiovisual and electronic materials. In some states such as Queensland, South Australia and the Northern Territory the definition in their respective state legislation already covers audiovisual and electronic material.

The National Library and other legal deposit libraries should be able to obtain material directly by copying it from the internet at a specified site or by requiring publishers to provide material in an electronic format.

Issue 2:

Should an extended legal deposit scheme be in the *Copyright Act 1968* or is a separate piece of legislation more appropriate?

Response to Issue 2:

There is no need to have a separate piece of commonwealth legislation.

In all states and territories the legal deposit scheme is addressed in their particular state or territory legislation. In NSW, Qld and SA this legal deposit extends to the Parliamentary Libraries of those states.

Issue 3:

How many copies of published material should a publisher be required to deposit under an extended legal deposit scheme?

Response to Issue 3:

One copy should be deposited to the National Library under the Commonwealth scheme, in addition to those copies required under the various state and territory legislation for state libraries and parliamentary libraries.

Issue 4:

Should the existing requirement that material be deposited at the publisher's expense continue to apply under an extended legal deposit scheme?

Response to Issue 4:

APLA does not support any change to the current regime where legal deposit material is lodged at the publisher's expense. With extension to electronic this could become cost free, if sites were nominated where copies could be downloaded.

Issue 5:

Should there be a role for other organisations in addition to the NLA and NFSA to act as repositories for material under an extended legal deposit scheme?

Response to Issue 5:

APLA recommends that in addition to any collecting institutions covered by Commonwealth legislation, the state libraries and other organisations covered by existing legislation including Qld, NSW and SA parliamentary libraries should continue to be repositories.

Issue 6:

How might duplication of material collected by legal deposit agencies be avoided? For example, should publishers be required to deposit relevant material with more than one institution?

Response to Issue 6:

In the interests of collection and preservation of Australian material and timely delivery to users, duplication is acceptable.

Issue 7:

Should an extended legal deposit scheme apply to electronic versions of printed material?

Response to Issue 7:

For efficiency purposes an electronic version of printed material should be deposited by preference, in order to make works available in repositories, including the national repository, state and parliamentary libraries as appropriate, in a timely fashion through internet technology.

Issue 8:

What other material should an extended legal deposit scheme apply to?

Response to Issue 8:

Should apply to all published material including that published on websites. Format or location is of no consequence as the principle at stake is whether the material is published or not.

Issue 9:

Should an extended legal deposit scheme apply to broadcasts? If so should this be limited to any particular types of material? Should the scheme apply to internet material hosted in Australia?

Response to Issue 9:

The extension should apply to broadcasted material including internet material hosted in Australia.

Issue 10:

Should an extended legal deposit scheme apply to internet material hosted outside Australia and in what situations?

Response to Issue 10:

If material is hosted outside of Australia, would be difficult to enforce its deposit, even though it may be relevant to Australian collections.

Issue 11:

What approach, comprehensive, selective or hybrid, should be used for collection of materials under an extended legal deposit scheme? Should 'significance', say to Australian audiences, be the basis of any extension of legal deposit? Should online and offline material be treated differently and if so, on what basis?

Response to Issue 11:

The legal deposit requirement should be immutable, however retention, based on significance, should be up to the receiving library.

There should be no difference between treating online or offline material.

Issue 12:

In light of the existing provisions in the Copyright Act, is there a need for any additional provisions to ensure the safe storage and preservation of legal deposit materials?

Response to Issue 12:

It may be appropriate to develop standards for supply of electronic/digital materials, when preservation and user access are key objective.

Issue 13:

What timeframe should apply for deposit under an extended legal deposit scheme?

Response to Issue 13:

The preference for all parliamentary libraries including the Australian Parliamentary Library for deposit/capturing and copying material is that it be immediate i.e. within a time frame of up to a week. This is because their function of supporting the parliaments and their member requires access to of the need to access to current material immediately.

Issue 14: In light of the recent amendments to the technological protection measure provisions in the Copyright Act, are any additional provisions required to ensure access to materials deposited under an extended legal deposit scheme?

- Should publishers be required to ensure that the copy of published material provided under an extended legal deposit scheme will be accessible?

Response to Issue 14:

Publishers should ensure that material is accessible to repository libraries and that it is able to be copied for preservation purposes without any extra cost or technological delay. This is particularly important in the case of parliamentary libraries, for servicing their members of parliament.

Issue 15:

On what basis, if any, should access be restricted to material deposited under an extended legal deposit scheme?

Response to Issue 15:

APLA recommends that there should not be any restricted access to material which would fetter their provision of service to members of parliament.

Issue 16: Under any extended legal deposit scheme should legal deposit materials be subject to separate provisions concerning their use by the repository institution and the public?

- What kind of provisions are desirable to ensure that repository institutions can provide the public with adequate access to legal deposit materials under any extended scheme?

Response to Issue 16:

The core clients of parliamentary libraries are members of parliament and their staff. For those parliamentary libraries – Qld, NSW, SA, - that have legal deposit legislation they would continue their normal practice. For all state parliamentary libraries and the Commonwealth parliamentary library, material must be available to their clients perhaps via parliamentary library staff through inter-library loan.

Issue 17:

Are there any other issues that you consider relevant to the extension of the legal deposit scheme?

Response to Issue 17:

In many states, existing legislation ensures legal deposit for material published in their state, and in addition in QLD, NSW and SA ensures legal deposit to the parliamentary libraries. In some cases the state legislation already provides for audio visual and electronic material. The regimes need to be harmonised in this respect. It does not make sense for the Commonwealth regime to be any different.