



30 January 2018

Ms Christine McDonald  
Committee Secretary  
Senate Standing Committees on Environment and Communications  
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Parliament House  
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Dear Ms McDonald,

The Australian Publishers Association (APA) is pleased to provide a response to the Senate Standing Committees on Environment and Communications Inquiry on Copyright Amendment (Service Providers) Bill 2017.

The APA is the peak national body for Australian book, journal and electronic publishers. Established in 1948, the Association is an advocate for all Australian publishers - large and small; commercial and non-profit; academic and popular; locally and overseas owned. The Association has approximately 210 members and, based on turnover, represents over 90% of the industry. Our members include publishers from all sectors of the publishing industry - trade and children's, schools and academic publishing.

We wish to draw the Committee's attention to the APA's submission on [Online Copyright Infringement \(July 2014\)](#). The APA position on the extension of safe harbour in that submission is outlined below:

*It is reasonable to expect that service providers should take steps to mitigate the risk that their online services can pose for copyright owners. There is a need to align safe harbour provisions with authorisation liability and a need to ensure no negative impact on licensing solutions available to service providers.*

*However, if safe harbour is improperly aligned, it could operate as a disincentive to cooperate with copyright owners, rather than as the incentive it is intended to be. We therefore propose that appropriately limiting the definition of service provider could avoid any unintended consequences for entities such as universities, as it would limit their potential exposure only in so far as they were functioning in the capacity of a service provider.*

We note that current legislation does limit the extension of safe harbour to educational institutions, organisations serving the needs of the print disabled, libraries, archives and cultural sectors. In this regard, we welcome this measured reform of the Copyright Act.

Safe harbour provisions may be appropriate for institutions that would, without them, be exposed by the infringing activities of others, outside their control, to unreasonable risks. There may be a strong case that this is the situation faced by educational institutions, especially universities. It is not clear that the Government has established that it is the situation faced by all the institutions covered by this Bill. In particular, the Government appears to have assumed that print disability organisations have a problem. However the print disability sector itself does not appear to have suggested that any problem exists that needs to be rectified by the extension of safe harbour.

We welcome the expansion of an efficient and affordable redress for online copyright infringement, as it enables creators to take action against online infringement in a cost-effective and efficient manner. As widely acknowledged, court-based alternatives represent both practical and economic barriers to creators for enforcing their copyrights. However, we do not see the expansion of this scheme as a reason for the expansion of safe harbour further than is currently proposed.

The single most important test of any safe harbour legislation should be whether the property rights of creators remain adequately respected.

We look forward to the opportunity to be involved in further dialogue.

Yours sincerely,

Michael Gordon-Smith  
Chief Executive