



ASX

AUSTRALIAN STOCK EXCHANGE

COPYRIGHT AMENDMENT (DIGITAL AGENDA) BILL

**SUBMISSION OF
AUSTRALIAN STOCK EXCHANGE LIMITED
TO THE
HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON LEGAL AND
CONSTITUTIONAL AFFAIRS**

SEPTEMBER 1999

Introduction

This submission contains the response of the Australian Stock Exchange Limited (“ASX”) regarding the changes to the definition of libraries and archives that are proposed in the revised *Copyright Amendment (Digital Agenda) Bill 1999* (the “Bill”).

ASX is concerned that the proposed changes exclude from the definition of library:

“libraries owned by any... person or body carrying on business for profit if the person maintains the library mainly or solely for the purposes of that business”

ASX notes that this change is in direct contrast to the Copyright Law Review Committee’s (the “Committee”) *Report on Exceptions to the Exclusive Rights of Copyright Owners* which recommended not only that provisions regulating the making of royalty-free copies of copyright material by libraries and archives remain in the *Copyright Act 1968* (the “Act”), but that all provisions in the Act permitting royalty-free copying by libraries apply to all libraries, whether or not they are conducted for profit.

Public Benefits Gained from Limited Royalty-Free Copying

In making these recommendations the Committee was of the view that:

“in the public interest, limited royalty-free copying of copyright materials by libraries and archives was an important exception to the exclusive rights of copyright owners that should be maintained. Provisions regulating royalty-free copying of copyright material by libraries and archives should not be replaced by voluntary or statutory licensing schemes or amended in such a way as to constitute a substantial reduction in the type of copying currently permitted by the Act.”

ASX shares this view. The Committee was also of the view that permitting libraries that are conducted for profit in limited instances does not unreasonably prejudice the legitimate interests of copyright owners. In ASX’s opinion there is significant public benefit to be gained from the limited royalty-free copying of copyright materials by libraries, including those that are owned by for-profit companies. For example, the role played by the ASX library benefits the public in a number of ways:

1. The ASX library undertakes crucial research and provides information that assists ASX in further developing the market infrastructure and in developing products for the Australian Sharemarket. The vast majority of research and information work undertaken by the ASX library is related to ASX’s role as a stock exchange rather than its functions as a listed company. The findings of such research are widely shared with the media, regulators and governments and is vital to the ongoing development of the securities industry.

2. Recent research undertaken by ASX shows that approximately 40% of adult Australians are now part of the sharemarket, with half of all current shareholders entering share ownership since 1995. ASX plays an important role in increasing public knowledge about the sharemarket and educating retail investors. The ASX library provides support to ASX Customer Service in dealing with queries from the public. ASX Customer Service has direct access to the library to assist in answering questions from the public.
3. ASX has recently developed an archives programme with the aim of documenting the history of securities regulation in Australia. As part of this programme the ASX library supplies major state libraries with microfiche of company announcements on request, enabling the public to obtain access to information that would not otherwise be readily available.
4. The ASX library has a comprehensive collection of materials from overseas stock exchanges, including other nations' Listing and Business Rules. These materials form a valuable resource for the securities industry and are not held by any other libraries in Australia. The ASX library currently relies on the exceptions in the Act to be able to provide extracts from these materials to other libraries.
5. ASX provides substantial support each year to the Securities Industry Research Centre of Asia-Pacific ("SIRCA") and the Securities Trading and Research Laboratory ("StarLab") at the Australian Graduate School of Management. SIRCA is a university organisation whose main activities are to foster research into capital markets by building the necessary infrastructure, including substantial research activities. It provides applied research and consulting services to governments, regulators, industry bodies and participants of financial markets. StarLab is a trading-room laboratory that uses real-time securities prices to create a virtual market for both teaching and research purposes. The ASX library collection is made available to SIRCA and StarLab and assists in furthering the aims of these organisations.

Lack of Alternative Licensing Scheme

In ASX's opinion excluding libraries owned by for-profit organisations will greatly impact on the public benefit gained from these types of libraries as there is no adequate system in place for corporate libraries to be able to obtain the copying rights they require in order to be able to provide the services listed above. ASX's own experience in participating in the Copyright Agency Limited's voluntary licence scheme was that the works covered were not broad enough to warrant the administrative expense of participating in the scheme.

In the absence of a comprehensive licence scheme, corporate libraries will be forced to obtain copying rights on a case by case basis, which is a time consuming and difficult task. Further, by the time such clearance had been obtained the value of the information that had initially been sought would diminish, thereby greatly impeding the ability of corporate libraries, and others who rely on their resources, to engage in meaningful research.

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