



Submission No.	57
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**Submission by the Department of Family and Community Services to  
the House of Representatives Standing Committee on Legal and  
Constitutional Affairs**

The Department of Family and Community Services (FaCS) welcomes the opportunity to provide a submission to the House of Representatives Standing Committee on Legal and Constitutional Affairs Inquiry into the exceptions to liability for the circumvention of technological protection mechanisms (TPMs) resulting from proposed changes to the *Copyright Act 1968* (the Act).

FaCS believes that the Committee should consider providing in the Act a further exception to liability for TPMs.

FaCS is concerned that the presence of TPMs may have an actual or likely adverse impact on non-infringing use of copyright material by people who have impaired sight or hearing or other disabilities. For example, presently, many service providers, such as government departments, educational facilities and libraries, among others, transcribe material in which there is copyright into alternative formats such as Braille, large print or audiotapes, in order to make them accessible to people who are vision impaired. To do this, service providers may circumvent TPMs in order to access the material and put it into another format. If the proposed changes do not make an exception to liability for this use of copyright material, then such services may be unable to be provided, or the providers may face prosecution for providing such services. FaCS considers that the service providers should have the capacity to circumvent TPMs in order to put copyright material into a format accessible by people with disability, provided that the use of the copyright material is a non-infringing use.

FaCS notes that Australia can only implement exceptions if they comply with Article 17.4.7(e)(viii) and Article 17.4.7(f) of the Australia-United States Free Trade Agreement. FaCS considers that the proposed exception would:

- be confined to acts of circumvention of access control measures;
- be limited to activities where the prohibition on circumvention has a credibly demonstrated likely or actual adverse impact on non-infringing uses of copyright material; and
- not impair the adequacy of legal protection or the effectiveness of legal remedies against the circumvention of effective technological protection measures.

FaCS considers that the exception should apply to all classes of copyright material that people with disability would otherwise have difficulty accessing.

If you wish to discuss this submission further, the contact officer is Meghann Everett, who can be contacted on (02) 6244 8737 or [meghann.everett@facs.gov.au](mailto:meghann.everett@facs.gov.au)