

7th October 1999

The Secretary
House of Representatives
Standing Committee on Legal and Constitutional Affairs
Parliament House
Canberra ACT 2600.

Dear Sir/Madam,

Submission on the Changes to the Library Copying Exemptions in the Digital Agenda Bill

We attach Amcor's submission on proposed changes to the Copyright Amendment (Digital Agenda) Bill 1999.

Corporate libraries are a vital part of the co-operative national library system where specialised information resources are shared. Ready access to these resources is crucial for Australia's research community, to enable an efficient flow of information between the public and private sectors.

We thank the Government for providing an opportunity to comment.

Yours Faithfully,

John O'Callaghan
GENERAL MANAGER

**HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON LEGAL AND
CONSTITUTIONAL AFFAIRS**

INQUIRY INTO COPYRIGHT AMENDMENT (DIGITAL AGENDA) BILL 1999

**SUBMISSION BY AMCOR PACKAGING (AUSTRALIA) PTY LTD REGARDING
THE PROPOSED CHANGE TO THE DEFINITION OF “LIBRARY”**

1. BACKGROUND ON AMCOR AND AMCOR’S LIBRARY

- 1.1 Amcor Limited (***Amcor***) is an Australian based packaging and paper manufacturing company with production sites and sales offices in all states in Australia, and several overseas locations.
- 1.2 The Amcor library was opened in 1938 and has a collection which is unique in Australia, with scientific publications dating from the 1880s. Many deal with the founding of the paper industry and the collaborative efforts of government and industry to establish eucalypt pulping as a reality, despite scepticism from the rest of the world.
- 1.3 To operate in an internationally competitive environment, Amcor requires information on:
 - (a) Activities of competitors and those likely to become competitors nationally and internationally.
 - (b) Developments in the markets which absorb our products and in industries whose products might compete with our own.
 - (c) New materials and production techniques which may enable us to improve our products and/or processes.
 - (d) Legal compliance for environmental, occupational health and safety requirements and corporate governance considerations. Amcor needs to effectively represent the company in the public arena. Information regarding and affecting the company needs to be reviewed and acted upon where necessary.
- 1.4 In order for Amcor to compete effectively in a changing global economy, it needs to improve existing products, design and develop new ones, introduce new production processes, investigate new materials and explore new markets.

- 1.5 To make this possible, it must keep abreast of both technical and commercial developments affecting its business, acquire and integrate new knowledge as it becomes available, and be able to find from the vast store of material precisely what it requires when it is needed.
- 1.6 Amcor's library has a strong and sound information and customer base, both internally and externally, which utilises its resources and expertise. The changes proposed in the Copyright Amendment (Digital Agenda) Bill 1999 (the **Bill**) would, if enacted, have dramatic effects on all these issues (as discussed below).
- 1.7 The Bill raises issues for the operating environment for Amcor and, in particular, the library as to how it conducts its business in the future. If the Bill is passed in its current form, libraries such as Amcor's library will inevitably become information brokers, not libraries. Serious consideration needs to be given to the likely effects of the changes in the Bill on corporations with libraries.
- 1.8 While supporting many of the proposed changes in the Bill, there are issues of particular concern. Namely:
 - (a) the proposal to insert a new definition of "library" in section 10(1) of the Copyright Act 1968 (the **Act**) such that libraries owned by organisations conducting business for a profit are excluded; and
 - (b) the repeal of section 18 of the Act which recognises that, although the organisation may be operating for a profit, the library is not.
- 1.9 This change will mean that Amcor's library will no longer be able to rely on the library copying exemptions in sections 49 and 50 of the Act. This change was not expected, as there was no mention of such a drastic change in the exposure draft of the Bill.
- 1.10 The removal of corporate libraries from the exemptions under sections 49 and 50 will have significant implications. These are discussed in more detail in the next section. Amcor's library would no longer be able to respond to copying requests from Amcor staff by providing copies of articles in accordance with section 49. Also, Amcor's library would be prevented from utilising section 50 to obtain documents from outside its own collection and provide copies of documents in its collection to external parties such as researchers and other libraries. These new restrictions would add costs to the operating budget of the library.

2. IMPACTS

2.1 Impacts on Isolated and Interstate Staff

Amcor has numerous sites (more than 100) around Australia. If the definition of “library” is changed as proposed in the Bill, staff in isolated regions or in other states will not be able to request the library to send information to them, either from our own collection or from other sources. This is despite the fact that those staff may be permitted to make copies themselves under the fair dealing provisions in the Act if they physically attend the library themselves to make the required copies. It would be impractical or impossible to insist that those staff needing specific information must travel to Melbourne to copy an article. It is prohibitively expensive to have branch libraries in each site and would be a duplication of resources.

2.2 Direct Electronic Access by Staff Not Feasible

Amcor does not have the networks in place to provide a full electronic service to allow the staff to research, view and obtain directly for themselves the documents needed for their work. To establish such a system would require substantial outlays to update networks and information provider agreements.

2.3 Reduced Ability of Amcor to Compete Against International Competitors

If Amcor’s staff are restrained from obtaining the information they require daily, Amcor will lose competitive advantage from international competitors who may have no restrictions on the information they can view and circulate. Amcor is concerned that overseas companies with Australian subsidiaries may distribute material directly to staff within Australian subsidiaries by having the parent company’s overseas library make copies in that overseas jurisdiction under a library copying exemption in that jurisdiction equivalent to Australia’s current exemption. Local companies without an overseas parent able to provide such copies would be at a major disadvantage.

2.4 Impacts on R&D supported by Amcor

2.4.1 Amcor Research and Technology (a division of Amcor) is involved in primary Research and Development (**R&D**) work for new technologies, patents, processes, products and materials which affect its business strategy at corporate and operational levels.

2.4.2 This R&D is conducted in many fields outside the normal packaging environment and utilises resources from a vast number of institutions, including other corporate libraries, in order to recommend the viability of these projects.

2.4.3 To prevent or inhibit the access to this material from various sources by preventing reliance on the exemptions in Sections 49 and 50 will have adverse effects on the timing, current projects and costs associated with these pilots. It will also affect co-operation with other corporate libraries which are associated in the project work. We will no longer be able to supply the information they require as part of these projects.

2.5 Impacts on Government/Industry Collaboration to foster Internationally Competitive Industries

2.5.1 Collaborative efforts such as Co-operative Research Centres (**CRCs**), will suffer as a result of the proposed change to the definition of “library”. CRCs are a Federal Government initiative to foster collaboration between industry and government to create internationally competitive industries. Amcor’s library is a major contributor to the information requirements of several CRCs in forestry, paper and packaging fields. The information is sent to these organisations by Amcor’s library for no charge. The library forgoes the usual inter-library loan charge in the interests of providing essential information to researchers and scientists in keeping with the spirit of scientific collaboration.

2.5.2 Libraries supporting co-operative public/private sector research projects will face complicated compliance obligations, adding to the cost of research.

2.6 Impacts on Research Bodies and Educational Institutions

The change in the “library” definition will also have a major impact on research bodies such as the CSIRO, with whom Amcor’s library deals on a weekly basis, and major educational institutions. Amcor has the only paper industry library in Australia. This resource is not only used by other corporate libraries, but consultancy/market research companies, independent genealogists and historians and PhD and Masters students from various courses in Packaging, Paper, Food and Beverage. Some students’ theses would not have been possible without the information Amcor’s library is able to provide them at no cost.

2.7 Impacts on the Inter-library Loans System

Amcor's library has relied on the exemptions under sections 49 and 50 to provide documents to, and request documents from, other libraries through the inter-library loans system. The proposed changes will force us to withdraw from the system, effectively locking out our collection to other organisations and vice versa.

2.8 Cost and Administrative Implications for Corporate Libraries

- 2.8.1 For a corporate library to continue providing information if the definition of "library" is changed as proposed, it will be necessary to enter a licensing agreement with a collecting agency (Copyright Agency Limited (**CAL**) in Australia). However, this will only licence copying of works of CAL members and indications are that a CAL licence does not cover some 80% of Amcor's information needs. Amcor will therefore require a significant number of permissions from individual copyright owners. Amcor anticipates that the administrative implications of identifying and negotiating with numerous copyright holders may make the acquisition of such permissions prohibitive. This leaves companies with two options: restrict access to information or breach copyright. Neither option is acceptable.
- 2.8.2 Amcor's library has 300 subscriptions to journals and thousands of references to many others. Notifying employees of relevant information is still workable. However to maintain the second stage of full text document delivery would become prohibited due to the proposed exclusion of corporate libraries from the section 49 exemption, unless the relevant text is covered by a licence from CAL or the individual rights-holder.
- 2.8.3 These issues will be both time consuming and costly in terms of appropriating the information our organisation still requires and in terms of amending all systems and resources to ensure no disruption to the information needs of staff.
- 2.8.4 There will be a cost of compliance, legally and internally, in administering these changes.
- 2.8.5 The change in definition of "library" increases the very real threat of widespread library closures as corporate libraries are forced to find extra funds to continue operating and with no additional benefit to the organisation. It would split the library world into two. Although possibly an unintended consequence, the changes in the Bill will also have adverse implications for "public" libraries since corporate libraries will no longer be able to provide to public libraries with copies of materials in their

collections as has been the case to date since corporate libraries have been within the section 50 exemption.

3. AMCOR'S SUBMISSION

- 3.1 Removing the exemptions for corporate libraries will have a major and adverse impact not only on those corporate libraries and the library system as a whole, but also on other research and educational organisations that they support. It will also increase the cost of research and development. It difficult to see how anyone in Australia will benefit.
- 3.2 Amcor submits that the proposed changes to exclude corporate libraries from the library copying exemptions should **not** be enacted.

John O'Callaghan
General Manager
Amcor Research and Technology

7 October 1999