

RECEIVED
7 OCT 2005

BY: _____

Submission No. 19
Date Received

6 October, 2005

**The Secretary
House of Representatives
Standing Committee on Legal and Constitutional Affairs
Parliament House
CANBERRA 2600
laca.reps@aph.gov.au**

Dear Sir/Madam

**RE: Submission to the Standing Committee on Legal and
Constitutional Affairs Inquiry into Technological Protection
Measures Exceptions**

I am happy to respond to your Committee's invitation of 19 July 2005 that interested persons and organisations make submissions addressing the terms of reference of the Review on Technological Protection Measures Exceptions.

I am the General Manager of Vision Australia Information and Library Service, an organisation that has amongst its client community and stakeholders Australia's blind and vision-impaired. Ours is a national organisation that was formed through the merger of Royal Blind Society, the Royal Victorian Institute for the Blind, Vision Australia Foundation and the National Information and Library Service, all of whom have had a long and distinguished history of serving the needs of those Australian citizens who have a vision impairment. I write as a leader of an organization that conducts business "activities for and on behalf of those with a disability" and it is in pursuit of their right to accessible information that I make this submission.

Vision Australia, through the auspices of the Vision Australia – Information and Library Service, is an "institution assisting a person with a print disability" as defined under the Copyright Act and, as such, is an institution licensed to provide materials to both students and their educational institutions and to persons with a print disability under the Statutory Licence scheme. This scheme permits the reproduction and communication of works in accessible formats.

Institutions such as Vision Australia—Information and Library Service that assist people with a print disability are currently able to purchase and use software that can unlock or circumvent, by means of a process or device, protection by encryption or other technological protection measures without any breach of the Copyright Act. They may do so in order to provide accessible information to a person with a print disability where no accessible electronic versions of a work are already available within a “reasonable time at a reasonable cost”.

The loss of our ability to use circumvention devices and processes would represent a diminution of legal provisions now in place under Australian law that provide assistance to those with a print disability. The removal of these provisions would have an immediate effect on the lives of those without sight and would significantly erode their quality of life and capacity to participate fully in the social, cultural and professional life of the Australian community. For example, the conversion of a pdf file for the provision of accessible educational and recreational reading in Braille and large print formats to students and seniors would be illegal. The conversion of scanned files to text files, that enables accessible information to be read audibly by a screen reader or manually by a refreshable Braille reader would be illegal.

We recognise that the owners of copyright have a right to protect their intellectual property and we are willing to take reasonable precautions to protect their interests. New technologies allow us to protect copyright owners in a number of ways:

- Applying encryption and pass wording
- Using time-bombing on digital files

Currently the Copyright Act defines a technological protection measure as a device or product, or process designed in the ordinary course of its operation, to prevent or inhibit the infringement of copyright in a work or other subject-matter by either or both of the following means:

- ensuring that access to the work or other subject matter is available solely by use of an access code or process with the authority of the owner or exclusive licensee of the copyright
- and/ or through a copy control mechanism.

The Copyright Act holds that a circumvention device is any device (including software) to circumvent a technological protection measure.

This definition is at odds with new and emerging technologies specifically made for those who are blind and vision impaired that can now deliver the capacity to capture and make accessible structured and navigable files. These handheld playback devices, such as the Bookport™, the Book Courier™ and Humanware Maestro™, used in countries such as the USA and Canada, decrypt and recode information for playback in synthetic voice. With such

playback devices those who are blind can hear a daily newspaper or magazine, a railway timetable or a schedule of cricket fixtures. It is essential that they should not be classed as circumvention devices.

For those who have lost their sight, new technologies are unlocking new worlds of possibility. Without recourse to circumvention devices, technological protection measures will again lock away the wealth of information potentially available to Australian citizens who are blind and vision impaired.

I strongly urge and petition the House of Representatives Standing Committee on Legal and Constitutional Affairs to make an exemption in the liability scheme as specified in Article 17.4.7(e)(i) to (vii) or pursuant to Article 17.4.7(e)(viii) on behalf of those who have a print disability.

I am happy to make myself available should you require any clarification of these matters and look forward to your response.

Yours faithfully

Tim Evans
General Manager Business Enterprises
Vision Australia Information and Library Service