

The Secretary
House of Representatives Standing Committee on Legal and Constitutional
Affairs : inquiry into the Copyright Amendment (Digital Agenda) Bill 1999

Re: Copyright Amendment (Digital Agenda) Bill 1999

The Special Libraries Section (South Australia) wishes to register its concerns about some aspects of the Copyright Amendment (Digital Agenda) Bill 1999.

We understand that the Bill amends the definition of "library". In effect this will prevent a library in a for profit organisation from relying on the library exceptions in the Copyright Act. This proposed amendment will have important consequences for all libraries and will disrupt the resource sharing relationships between non profit and corporate libraries. The changes to the definition will effectively lock up important collections in corporate libraries and prevent any library without a license from gaining access to relevant information. The new definition will not only affect the budgets of libraries in corporations but it will also affect the quality of library services. The definition will impose serious administrative burdens on library staff in for profit organisations and will cause delays to the way in which information is delivered to the corporate, legal and research community.

Some examples of the likely impact of proposed changes are as follows :

- * The definition of libraries seems to exclude corporate libraries and information services from participating in the library network, of which they have traditionally been members. Sometimes the material that is provided on loan by corporate libraries is unique to that library. Government libraries for example often have reciprocal arrangements with for-profit organisations.
- * Law firm libraries often contain small specialised collections. The material is shared with larger "not for profit" organisations such as university law schools. Access between the library sectors is vital.
- * The means by which law firm libraries would be required to clear rights for reproduction for, or by, any of their users under the Bill is complicated, incomplete and generally inadequate. A voluntary license from CAL cannot cover all copyright holders and CAL does not generally indemnify licensees for copying of works not included in its own repertoire. The task of identifying and communicating with the copyright owners of works not covered by CAL would be enormous.
- * Law firm libraries will be unable to rely on s39A warning notices above photocopiers or computer terminals to reduce their risk of liability for authorising infringement.
- * There may be an extra administrative burden on law firms to prove that specific copying is for use in a court case, rather than during the ordinary course of business.

- * The amendment is expected to particularly influence company libraries with minimal budgets who may be unable to absorb the additional cost of a document delivery service. If corporate staff base their decisions only on limited information already on hand this may have an impact on decision-making.
- * Hospital libraries based in the corporate sector will be adversely affected. Such libraries depend heavily on document exchange between "not for profit" libraries. The health libraries "Gratis" network is based on this principle.
- * Customers of corporate libraries involved in research and development in remote locations (including global locations) would be severely affected as library staff would no longer be able to act on their behalf. These library clients obviously do not have physical access to the required information.
- * Mining corporation libraries would not be able to copy from their own serial collections. If this was the case serial collection development would decrease or cease and the burden for retaining collections would fall onto non-profit libraries (i.e. universities and the like) who themselves do not have the budgets for this. Alternatively more researchers would rely on commercial providers for document delivery and research, meaning Australian dollars would go overseas and to overseas organisations such as the British Library, Infotrieve, CISTI etc.
- * Special libraries often require very complex and specialised information which is not the 'norm' for popular publishers. CAL does not have agreements with all publishers, which means obtaining this information would become even more time consuming, expensive and difficult.
- * Mining companies participate and support partnerships with non-profit organisations such as CSIRO, university departments, AMDEL and AMIRA to conduct research and development. However this legislation would prevent the 'for-profit' special libraries from providing information to those participating in research and development. This would affect the research by delaying progress and limiting the research involvement of companies.
- * The library budget for corporate libraries would increase by having to pay commercial suppliers for document delivery, and having to purchase more texts and programs. The increase in information retained in-house by companies would not benefit the library community as 'non-profit' libraries would not be able to access it. Many corporate libraries may not survive and their collections could be dissolved.
- * The current resource sharing between all libraries (organisational, corporate, government, university) is vitally important to Australian research and development and that is why systems such as the national database Kinetica have been set up. The idea has always been to share Australian resources to benefit Australia.

* The changes to the library definition would also affect the accessibility of information acquired by corporate libraries in digital form.

* Corporate libraries oppose any disruption to resource sharing relationships, particularly as they need resources quickly when bidding for projects.

* As a consequence of the above, there would be very significant difficulties in developing major projects within corporations to maturity, thereby threatening the viability of corporations, and ultimately the employment of people in Australia.

Other concerns about the Bill from a special library perspective are :

* the restrictive and uncertain scope of the library-to-library exception (section 50) when copying from electronic source material

* the possibility that section 51A might not permit digital preservation, replacement or "administrative purpose" copies to be made available online within library premises to anyone other than "library officers"

* the fact that circumvention devices will only be available for specific "permitted purpose" which does not include fair dealing nor some of the library exceptions

* dealing with the temporary copies issue in a way which implies that temporary copies do fall within the scope of the reproduction right.

The Bill has grave implications for corporate libraries as well as any library which relies on services from corporate libraries. On behalf of the ALIA Special Libraries Section (S.A.) I urge the Committee to reconsider those aspects of the Bill described above.

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