

Ms Claressa Surtees
Secretary
House of Representatives Standing
Committee on Legal and Constitutional Affairs
Parliament House
CANBERRA ACT 2600

Dear Ms Surtees

DIGITAL AGENDA BILL

ScreenSound Australia is the new name for the body formerly known as the National Film and Sound Archive. As you are aware, we have made a number of submissions to the Attorney-General's Department on the Digital Agenda Bill and the preceding Discussion Paper of July 1997 under our former name. We have only a few brief comments on the Digital Agenda Bill in its latest form for consideration by the Committee.

As to Section 10(2), the "reasonable portion" test has been expanded to cover electronic items. There is still a possibility of an electronic work which is neither text nor music based, that is, where the work is primarily a series of images. Such a work would not, it seems, be covered by the definitions in this section. Similarly, film ("cinematograph film", in the terms of the Copyright Act) is not subject to such a percentage guide to what is a "reasonable portion", and so a distinction will remain between film and the new electronic media.

ScreenSound Australia is still concerned with the combined effects of Sections 49 and 50, 49(5A), 51A, 110A and 110B. To quote from a previous submission to the Attorney-General's Department (19 March 1999):

“Sections 49 and 50 allow digitised items to be communicated to particular members of the public and other libraries and will maintain the rights currently existing in regard to non-electronic items. The Archive strongly supports the inclusion of this extension of rights to electronic reproduction and communication. **Section 49(5A)** means that a new distinction will be recognised between digitised material purchased as such and that which is digitised by the library or Archive. These must be read against **51AA, 51A, 110A and 110B** which allow digitisation for preservation and other purposes. In practice, it will allow officers of the Archive to look at digitised images for a variety of purposes while members of the public will only be able to access these images online

where the permission of the copyright owner has been obtained. Online delivery to the public as opposed to electronic delivery to particular users and other libraries will not be allowed. Taken together these sections may result in administrative difficulties, with new distinctions being drawn.”

ScreenSound Australia welcomes this further opportunity to comment on the Bill. Any queries should be addressed to me as Acting Director until November 5, after which Mr Ron Brent will resume his role as Director. The contact number for both officers is 6248 2010. Alternatively Ms Penelope Cottier on 6248 2080 may be of assistance.

Yours sincerely

David Toll
Acting Director

30 September 1999