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AUSTRALIA

TELEPHONE (07) 4631 2100

www.usq.edu.au

Submission No. 26

Date Received

RECEIVED 14 OCT 2005

BY:

THE LIBRARY

Assoc Prof Alan Smith

Acting University Librarian

PHONE (07) 4631 2296 | FAX (07) 4631 1481

EMAIL smith@usq.edu.au



AS:LW:L10/05

7 October 2005

[Handwritten signature]

The Secretary
House of Representatives Standing Committee on Legal and Constitutional Affairs
Parliament House
CANBERRA ACT 1600

Dear Sir

The University of Southern Queensland (USQ) notes that the Attorney General has referred to the Committee the matter of legislation subsequent to the signing of the Australia-United States Free Trade Agreement (AUSFTA) in relation to technical protection measures (TPMs). USQ requests the Committee to note the University's view of this matter as stated below.

Like other universities, USQ is a major user of copyright material. It makes available a large range of material to its community in the fulfilment of its mission. Much of this is online, and may be divided into four classes of material:

1. Study content written by employees for the purposes of teaching and learning. Copyright in these materials is held by USQ.
2. Copyrighted content made available to students under educational licence (Part VB of the Copyright Act).
3. Copyrighted material which falls outside the limits of Part VB, for the copying of which permission has been sought and obtained from the copyright owner.
4. Electronic versions of journals, books and other information acquired under licence and made available in accord with licence requirements. In most cases access to this material is via a software platform provided by the vendor of the data.

In all these cases access to the material is limited to members of the USQ community by password and/or IP range security. The University also has a public web site for marketing and public relations purposes. Copyright in this content is owned by the University.

Universities cannot supervise all the individual actions of all the members of their community connected to the university network. USQ carries out copyright awareness campaigns and has an acceptable use policy of which students and staff are made aware.

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We also have well established procedures to ensure that any copies made for teaching purposes comply with the requirements of the Act.

USQ is not aware of any instances where unauthorised circumvention of technological protection measures has taken place, or indeed has been required. The most likely instances in which circumvention might be required are covered by the AUSFTA viz, security and interoperability. If any circumvention were required it would be normal practice at USQ to do so in consultation with the relevant vendor.

However it is conceivable that with generational technological change in software and file formats in future it may be necessary to circumvent TPMs so that content lawfully acquired can be copied to make it readable/usable.

With this scenario in mind, USQ is anxious that the Committee not reach any determination that would inhibit copying for the purposes currently sanctioned in the Copyright Act.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Alan Smith', written in black ink.

Alan Smith