

Dear Mr Horne

MH

Submission No. 41.1
Date Received

As requested by the Committee I attach the 2003 IDC Expanding Economy Study and the Australia summary page from the 2005 IDC piracy study which give further details of the piracy figures referred to in the BSAA submission.

The Committee also requested information about whether software companies could control and monitor illegal software use by virtue of users being connected to the internet. The short answer to this question is that this is not possible for the BSAA members who have responded to our request for information about this. Most companies employ some form of validation or activation code but these are commonly "cracked" allowing infringing use to take place. Details of each company's licence validation process are set out below.

Adobe – Please see this link to the Adobe activation process <http://www.pacific.adobe.com/activation/main.html>

Autodesk –Autodesk products require a one-time activation, most easily through the internet, but also possible via email, fax or mail. The process to activate the software is initiated when the product is launched for the first time after installation. An initial 30-day activation grace period (duration may vary by product) is provided to complete the activation. The software must be activated in order for it to continue operating beyond the grace period. Via the internet, an activation request (composed of the product name, software serial number, product version and language) and a request code is sent to Autodesk through a secure internet connection. The request code identifies the activation request and contains a machine ID (which is a 64-bit randomly computed value that cannot be used to identify the make or model of the user's computer or its components). The machine ID simply ensures that the software is not again activated on any ineligible computers. No other information about the product and hardware is contained in the request code. If the request is valid, a valid activation code is returned that enables the product immediately. Reactivation may be required only when the user's computer environment changed significantly, for instance when a computer is replaced or the operating system is reinstalled. Once activated, no further data is transmitted to Autodesk unless reactivation is required. Product registration is required at the same time as activation. The required fields to be furnished during registration are:

1. Customer's name
2. Company name and address
3. At least one contact – email, telephone or fax

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Microsoft – Microsoft does not obtain any personally identifiable information, so by being logged onto the Internet Microsoft is not able to check if a PC is licensed or not. Even the security updates from Microsoft web site are available to everyone regardless of whether you are validated as a genuine/licensed user or not. I attach a document which gives further information about the validation and activation process.

There is one further issue on which BSAA would like to comment. It has been suggested in some submissions (notably the Law Council submission) that any exception should permit the undertaking of the activities within the exception by third parties acting for the person seeking to take advantage of the exception. We do not agree with this proposition. In our view this would be contrary to the FTA Article 17.7(a) which requires both parties to prohibit the provision of circumvention devices and services and only allows exceptions to the prohibition in very limited circumstances (which do not include provision to a person to enable them to take advantage of an access control circumvention exception). There is a good policy reason for this because creating exceptions to dealing in circumvention devices and services can create loopholes for those seeking to exploit the exception for infringing purposes.

Finally BSAA wishes to reiterate its view that the Committee should not recommend any exception unless credible evidence has been put forward of an actual need for the exception. Following our review of the submissions to the Committee we maintain our position that the case for exceptions has not been made out.

BSAA is grateful to the Committee for the opportunity to participate in the Inquiry.

Yours sincerely

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