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RECEIVED
31 OCT 2005

BY: VCA MT

Submission No. <u>54</u>
Date Received

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

Our Reference: DOC05/02431

Dear Committee Secretary

I am writing to outline the Australian Information and Communications Technology in Education Committee (AICTEC) position in relation to matters relating to the Standing Committee's Inquiry into Technological Protection Measures Exceptions.

By way of background, the Australian Information and Communications Technology in Education Committee (AICTEC) is a cross-sectoral, national committee responsible for providing advice on the effective and efficient use of information and communication technologies (ICT) and online services in Australian education and training to enable all sectors of education and training to contribute to the growth and vitality of Australia's society and economy.

Membership of the Committee comprises representatives from all Australian jurisdictions and each of the education sectors (that is: schools, vocational education and training and higher education institutions), including both public and private education and training sector interests.

AICTEC's particular interest in copyright and intellectual property issues reflects the significant and growing use of internet and other ICT-based educational content in the school, VET and university sectors. The increased digital availability of this content introduces significant new legal and economic considerations into the education resource debate.

In 2003/2004, for example, the education sector was responsible for 93.1% of copyright income paid to the Copyright Agency Limited. The amount paid by schools, in particular, increased by more than 53% in the same year.

Copyright income received from the Australian education sector by Screenrights in the 2004/2005 financial year represented 89% of its total income. The amount paid by the Australian education sector in 2004/2005 increased more than 10% on the previous year.

The information age has the potential to transform education. Maintaining an internationally competitive education system and economy will rely to a significant extent on our ability to effectively harness intellectual property in lifting educational performance. Inappropriate regulation of copyright has the potential to act as a blockage to the real gains that could be made in education through the dynamism of the information age.

AICTEC is supportive of making the legal arrangements more flexible, especially where it which promotes observance of copyright obligations, effective risk and financial management and a cooperative regime for the resolution of copyright matters. However, AICTEC also submits that copyright arrangements should also acknowledge education as a special case. Within this context, moves to tighten technological protection measures without an exception for education, is not acceptable.

Australian schools, colleges and universities operate within an environment governed by a complex interaction of legal and regulatory responsibilities. Their essential mission is to provide learning and development, and the opportunity for discovery and research, on a basis which recognises the legal rights and entitlements of the owners of intellectual property. These rights must be balanced with the day-to-day needs of Australian students to fair access.

In excess of \$75 million per annum, excluding the vocational educational and training sector, is spent in copyright compliance under the statutory and blanket voluntary licences scheme. It should be noted that this figure excludes electronic use costs which are still under negotiation.

It is also important to note that some markets in copyright material are highly and in some cases exclusively dependent on educational institutions as the economic consumers of that material. This applies not only to the extensive use of curriculum resources in schools but also to other cases, such as the closed market conditions applying to the journal literature purchased by universities at an approximate annual value of \$100 million.

As can be seen, the copyright costs represent a significant budget item for educational institutions. Realigning Australian copyright law in relation to technological protection measures, driven by the Free Trade Agreement principles, would run the real risk of imposing an additional financial impost on schools, colleges and universities at the expense of achieving their core charter.

In conclusion, AICTEC would be pleased to provide any further detail or to follow up this submission in any way that may benefit the Standing Committee's deliberation of this extremely important issue.

It cannot stress enough however, the importance of not placing at risk the current, reasonable arrangements for the education sector provided for in Australian copyright law.

A principal risk to this work and to the future of fair access to copyright material in Australia is the use of technological protection measures which in practice could well void the public policy intention of any changes.

AICTEC strongly believes that the intentions of Parliament should not be frustrated by individual commercial interest in the matter of fair access to copyright material.

AICTEC submits that copyright law should recognise the specific role of the education sector. The protection of intellectual property should not be at the expense of an education system increasingly reliant on principles of openness, collaboration and shared knowledge.

Yours sincerely

Leslie Loble
CHAIR