

Dear Sir/Madam,

One of my main concerns with the proposed Free Trade Agreement is something that doesn't seem to have gotten much media exposure - the effects on Intellectual Property and copyright laws in Australia.

From what I understand, one part of the FTA will increase copyright from death + 50 years to death + 70 years. In my opinion, this extension is contrary to the intent of copyright, ie for the creator to be able to make some income from their creation, passing some benefit onto their children. It is only of real benefit to corporations wishing to secure their future income streams.

The cost of this corporate benefit is that the public are denied free access for a longer period. The public domain is a vital part of the creative Australian culture, as it allows new ideas to be built on the foundations of what came before.

If the trend of continuing the length of copyright continues, works may well never enter the public domain (the "Micky Mouse" example from the US illustrates this point).

As an example, Waltzing Matilda, the defacto Australian anthem, would still be protected under copyright if life+70 laws were put in place, as Banno Patterson died in 1941 (copyright would extend to 2011). Surely this example proves that life+50 is more than enough, when something can become so ingrained in our culture yet still be protected under copyright.

Another concerning aspect is the increased power given to US agencies to prosecute Australian citizens for copyright infringement. US citizens are protected somewhat by "fair use" rules regarding copyright. For example, they may make copies of CDs they own for use in the car, at work etc. In Australia we do not have any similar free use laws and as a result US companies may charge Australians with copyright infringement for an activity that is perfectly legal in the US.

There is currently a similar situation with copy-protected CDs being released here. Copy protected CDs cannot be released in the US because they violate free use laws. The FTA will only make matters like this worse.

My third worry relates to copyright protection circumvention devices. Under the FTA devices such as multi-region DVD players would be illegal, as they can be used to circumvent the copyright protection provided by region encoding. This is of concern for a few reasons:

- 1) A lot of people own multi-region DVD players. In fact most off the shelf units are now multi-region, so people could be unwittingly breaking the law by purchasing a product.
- 2) DVD region encoding is anti-competitive behaviour, which I believe the ACCC is investigating (or has investigated).
- 3) Many DVDs are not released in Region 4 versions, and for this reason many people legitimately import DVDs from other countries.

In a related matter, the ACCC ruled that "mod-chips" for gaming consoles were legal, as they allowed circumvention of game region encoding. Region encoding was found to be anti-competitive as it allowed game manufacturers to artificially fix local prices, when the same product could be had for much less in other parts of the world. As I understand it the FTA would nullify this decision.

There is also an issue around the reverse engineering of computer software. Currently some companies reverse engineer a product that they do not own in order to make their own product compatible. Under the FTA, reverse engineering (and the software used to do it) would be illegal.

A more general concern is that of Australian sovereignty when making laws. We are lucky to have an agency like the ACCC looking out for consumers, and I fear that its effectiveness may be significantly diminished as a result of the FTA. As always, the devil is in the detail, and I am concerned that other parts of the FTA undermine the powers of various other Australian Government agencies, but as yet these have not been recognised or investigated.

These are just some of my concerns. There are many others, including the abolition of local content rules for media, effects on the PBS, and our inability to deny the importation of GM agricultural products.

I look forward to the outcome of your review, and thank you for the

opportunity to provide input.

Yours,

Ben Hughes

--

Bachelor of Commerce

Bachelor of Information Technology