

Secretary  
Senate Select Committee on the Free Trade Agreement  
between Australia and the United States of America  
Suite S1.30.1  
The Senate  
Parliament House  
Canberra ACT 2600  
AUSTRALIA

30 April, 2004

Dear Sir/Madam,

We would like to express our concerns at the proposed extension of the duration of copyright to 70 years in the Free Trade Agreement.

As professional picture researchers, a large portion of our working lives is spent trying to locate the copyright holders of historical images, including artworks, photographs, commercial designs, advertisements etc for a wide range of end users like documentary films, school textbook publishers, authors, book publishers and designers, artists, historians, museums and other exhibitions, etc.

In one way, the proposed amendment to the Australian Copyright Act could mean more work for us, but in reality the increased costs for our clients in terms of research and additional permission fees will make many projects unfeasible.

Many images will not be able to be cleared at all as it is often not possible to locate the estate of the work's creator 5 years after their death, much less 50, and this will be made even more difficult with 70 years to cover. Such a long period is of no benefit to the artist and very rarely to their heirs - after such a long period of time, a copyright holder may not have even ever met the artist, or they are not sure if they are in fact the copyright holder at all. Even if an artist is very famous at the time of his or her death, it is only in rare circumstances that any information can be found about their estate after such a long period of time, and most creators of images are not well known at all in the first place.

This kind of difficulty is exacerbated when the artwork has been done for a commercial firm when the work may, or may not have been commissioned, and

when the firm has gone out of business.

This would mean that for a school history book for example, many images that illustrate life in Australia in earlier decades could not be used at all, and much additional expense would be involved in trying to get permission for those that are used, making books & other teaching materials even more expensive and inaccessible. The teaching of Australian history would be severely curtailed, as would the making of documentaries, the staging of exhibitions, and many other areas where our past is discussed.

Libraries, galleries, museums and archives would have to bear the costs of administering this vastly increased workload and enforcing these additional restrictions, a cost which they will have to pass on their clients in some form whether it is in time delays or additional fees.

We wholeheartedly support the protection of all artists' rights through copyright and moral rights legislation, but increasing the period of protection to 70 years is not sensible.

It restricts access to information and the discussion of Australian history, it inhibits the creation of new artworks and projects, and increases costs for any of the industries dependent on access to information about the past, whether these be publishing, television, film, multimedia, exhibitions or academia.

If the amendment were adopted, to increase the period retrospectively would just increase the difficulties, so we would ask that if the amendment does absolutely have to proceed that some consideration is given to the possibility of making it refer to future copyright periods rather than those currently existing.

Yours sincerely,

Linda Brainwood  
&  
Jeannine Baker