

Dear Sir

I wish to express my concern as some of the ramifications of the proposed Trade Agreement with America.

My comments and requests are more generalized than specific. They can be summarized as seeking important protections for small business in the area of copyright infringement as it relates to computing.

- Firstly as a user of commodity software in my work and business I request that significant protections be put in place to defend small business against the overwhelming power of Large Multinational Corporations who seek to lock in users to their software. Choice is not in the vocabulary of these companies. We need vital software companies and developers in Australia who can help to create choice. Heavy penalties against those programmers who seek to bring us choice by companies shouting copyright infringement will destroy Australian software development.
- I respectfully ask that the burden of proof against copyright infringement must not be laid upon small business. The picture of small business cowering under the threat of prosecution by Large Multinational Corporations is not a pretty one. Presumption of innocence must be maintained. If an infringement is claimed, the burden of proof must lay with the owner to prove fault.
- Intimidatory behavior should be outlawed. Large organizations and their legal departments must be accountable. Penalties for false and misleading statements must be enforced. It is not enough to seek to scare small business owners with cease and desist letters.
- Without these important protections we will easily fall foul of Lawyers claiming infringement that is not proved. Cease and desist letters have not been a part of Australian Society. It seems now they will. But they can be moderated by policies put in place by this committee.
- Open source software is a big new development in computing. It leverages sharing of computer code and cooperative development. Its success has however been noted by large corporations and is seen as a threat by some.

Entrenched monopolies have become commonplace over recent times and Computing is no exception. Monopolies in hardware and software ownership abound. The committee is asked to put in protection for small businesses who choose to use the open source model. These two power houses in the computing worlds seem the antithesis of one to another. One seeks ownership and leverage of this in the market to the detriment of others. The other is a shared resource that benefits from many voices and eyes to speed its development and security. This is commonly referred to as Open Source. But inter operate they must. The committee is asked to defend this important factor.

If cease and desist letters become commonplace in Australia then the cultural imperative of a fair go for all is lost, in my opinion.

- The ability of Multinational Corporations to restrict interoperability is commonplace. If it were not for the efforts of Andrew Triggall, who was able to reverse engineer the Microsoft networking protocol and create the Samba software then, computing would still be firmly in the hands of the Monopoly.
- The preparedness of these organizations to get laws passed that leave small business users open to prosecution can be tempered by this committee. In the face of the Law corporations and small business are not equal. I ask the committee to ensure that regulations are in place to ensure this is the case.
- The Linux Operating system is a case in point. Hardware and software vendors have not always been forward in providing for drivers and software on the PC architecture. Some Linux programmers have taken things into their own hands and have reverse engineered some programs just so we can use things like DVD players. For this some have been jailed. This is not a scenario that should be entertained in Australia.

Yours Faithfully
Brian Marr