

Copyright Legislation Amendment Bill 2004

Public hearing 6 December 2004

Question on Notice from Senator Ridgeway

How do libraries fall under the definition of "carriage service providers"?

Answer provided by Ms Sarah Waladan, Executive Officer Australian Digital alliance; Copyright Adviser, Australian Libraries Copyright Committee.

I am not aware of any reason why universities and libraries would not be covered by the definition of carriage service provider (CSP) in the Telco Act if the university/library fits within the terms of section 87 of the Telco Act (which defines a CSP).

Broadly speaking, a university/library will fit within the terms of section 87 if it supplies a "listed carriage service" to "the public" using a "network unit" owned by a "carrier", or if the university/library fits within the definition of "carriage service intermediary".

Internet access services are definitely a "listed carriage service", and would be supplied to "the public" if (again, broadly speaking) supplied outside the "immediate circle" of the university/library. The immediate circle of a library/university would not ordinarily be taken to include ordinary public library users or university students and the like (who were not officers or employees of the university/library). "Network unit" basically means a telco line connecting Australian places over 500 metres apart. In summary, I can envisage many situations where a university/library would satisfy the definition of CSP. Equally, there may also be situations where the university/library is not covered, particularly where the university/library is itself providing content hosting services which may or may not be a "listed carriage service".

"Carriage service intermediary" is intended to cover commercial agents, dealers and distributors of telecommunications services - there is a "for reward" element to this concept that the libraries/universities might not satisfy in many cases.