

30 October 2006

Senator Marise Payne
Chair
Senate Legal and Constitutional Affairs Committee
Parliament House
Canberra ACT 2600

Dear Senator Payne

Inquiry into Provisions of the Copyright Amendment Bill 2006

Screenrights welcomes the Committee's inquiry into the Bill and welcomes the opportunity to make this submission on the Bill. Attached is a joint letter from Screenrights and representatives of the school sector on certain aspects of the Bill (Annexure One) and other specific comments from Screenrights on other aspects of the Bill (Annexure Two).

Annexure One: Section 28A and section 200AAA

Annexure One arose out of discussions between Screenrights and the Copyright Advisory Group of the Ministerial Council of Employment, Education, Training and Youth Affairs ("CAG"). Those discussions identified two areas of mutual concern in the Bill ie the drafting of sections 28A and 200AAA. Screenrights and CAG have quite different views on the policy behind the provisions but were able to set those differences aside in order to focus on the drafting of the provisions.

Screenrights is concerned that the current drafting of the sections inadvertently covers uses far beyond those intended by the policy. CAG's concerns are that the sections may not completely cover the intended uses. Screenrights and CAG have identified alternative means of covering these uses, which we believe clearly cover the policy intention outlined by Government, and which are limited only to the uses intended to be exempted by Government. We have taken the step of proposing alternative drafting as the simplest means of illustrating the solutions which we have identified. This drafting is included in Annexure One.

Screenrights submits that the concerns identified by Screenrights and CAG are important matters that need to be addressed in the drafting of sections 28A and 200AAA. Screenrights submits that these issues can be resolved by amending the drafting in the Bill in the manner proposed in Annexure One. In doing so this will provide precisely the exceptions sought by Government for these areas thereby providing certainty to the educational institutions relying on them, without inadvertently going beyond the intended use and thereby negatively impacting on legitimate copyright interests.

Annexure Two: other matters of particular interest to Screenrights

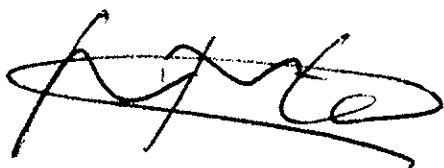
In addition to the comments submitted jointly with CAG, Screenrights comments on other provisions in Annexure Two. I have summarised two critical points below.

Screenrights welcomes the extension of the Copyright Tribunal's jurisdiction over all aspects of its operations and licences despite the potential increased administrative cost this may impose. However, Screenrights submits that in regard to the jurisdiction of the Tribunal over Screenrights' distributions to copyright owners, it is critical that any determination not act retrospectively, as this would create enormous administrative difficulties. Screenrights submits that the word "future" should be inserted before the word "period" into the relevant sections.

Secondly, Screenrights particularly commends the Government for correcting the long-standing gap in the Tribunal's jurisdiction over the educational statutory licences: the absence of jurisdiction over records systems. This gap has actively prevented agreement between Screenrights and educational institutions over the proper operation of a records system. It is especially appropriate that this anomaly is being corrected in this Bill alongside the extension of the Tribunal's jurisdiction over all aspects of Screenrights' administration.

I would like to thank the Committee in advance for considering this submission in its inquiry and look forward to the opportunity to the hearings on this important Bill.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Simon Lake', with a large, stylized flourish at the end.

Simon Lake
Chief Executive