Queensland University of Technology

30 October 2006

Committee Secretary
Senate Legal and Constitutional Affairs Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

by email to legcon.sen@aph.gov.au

Re: Provisions of the Copyright Amendment Bill 2006

Dear Sir or Madam

We are pleased to make the following submission to the Committee's inquiry into the provisions of the *Copyright Amendment Bill 2006.*

We trust that our submission will assist the Committee, and would welcome the opportunity to provide any further information which may be required.

Yours faithfully

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Submission on the Competition and Interoperability Implications of the *Copyright Amendment Bill 2006*

1. Background

Queensland University of Technology (QUT) is currently undertaking a research project entitled, *The Use of Information and Cryptographic Technology to Restrict Competition*. This project is funded by an Australian Research Council grant.[1]

Although research in the project is ongoing, our preliminary results suggest that 'anti-circumvention' legislation, such as contained in Schedule 12 of the *Copyright Amendment Bill 2006* ('the current Bill') have a significant potential to restrict competition in high-tech markets.

This undesirable situation is exacerbated by small but significant differences in the scope of copyright protection, and copyright exceptions, between Australia and other countries such as the United States of America.

These and other copyright issues threaten to chill innovation and the development of new and competing products and technologies in Australia.

The authors, in their capacity as individual members of the research project team, appreciate the opportunity to share their thoughts on these important issues with the Department.

2. Significant changes since the exposure draft

On 4 September 2006, the Attorney-General's Department released an exposure draft of a Bill titled the *Copyright Amendment (Technological Protection Measures) Bill 2006* (the 'TPM Bill'). Comments were invited on the TPM Bill, and the authors made a submission to the Attorney-General's Department on 22 September 2006 (the 'initial submission').

The areas which were dealt with by the TPM Bill are now dealt with in Schedule 12 of the current Bill.

One purpose of this submission is to draw the Committee's attention to the significant changes to the wording of key provisions of the current Bill since the release of the exposure draft.

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[1] ARC reference DP0666521

The primary focus of our submission is on the adverse effects that the enactment of the current Bill would have on competition and consumer welfare within Australia.

3. Linking TPM protection to infringement of copyright

In our initial submission, we welcomed the decision of the government to link the definition of 'technological protection measure' ('TPM') and 'access control technological protection measure' ('ACTPM') to infringement of copyright. Such a link was present in the exposure draft of the TPM Bill.

This link would have aligned the definitions of TPM and ACTPM more closely with current judicial interpretation[2] of the equivalent provisions of the US Digital Millennium Copyright Act ('DMCA') – the legislation upon which the TPM provisions of the Australia-United States Free Trade Agreement ('the FTA') is based.

Requiring this link would help to ensure that Australia's anti-circumvention laws would not have a broader application than those of the United States, which would defeat the objective of the FTA to harmonise the intellectual property laws of both countries.

Whether anti-circumvention laws can and should apply to technologies which *control access* to copyright material, or only to technologies which prevent the *infringement* of copyright, is a question which has been the subject of much debate internationally.

Copyright holders have pushed for any technology which controls access to be protected. Controlling *access to* copyright material, as distinct from the *infringing copying* of copyright material, is not a right which currently exists under the copyright laws of Australia or elsewhere.

Giving legislative protection to technology which allows this kind of control would extend the rights of copyright holders into uncharted territory, and amounts to a *de facto* new exclusive right of a copyright holder – to control access to copyright material in digital environments.

The DMCA and the FTA, read literally, do not require a link to preventing infringement of copyright. However, in the face of attempts by companies to abuse the DMCA to restrict competition in related markets (such as toner cartridges, garage door openers, and servicing of computer hardware), US Federal Courts of Appeal have read down the DMCA by requiring a link to infringement of copyright.[3]

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[2] 'We conclude that 17 USC § 1201 prohibits only forms of access that bear a reasonable relationship to the protections that the Copyright Act otherwise affords copyright owners.': *The Chamberlain Group Inc v Skylink Technologies Inc* 381 F 3d 1178 at 1202 (Fed Cir, 2004).

[3] *The Chamberlain Group Inc v Skylink Technologies Inc* 381 F 3d 1178 (Fed Cir, 2004); *Lexmark International, Inc v Static Control Components, Inc* 387 F 3d 522 (6th Cir, 2004); *Storage Technology*

This approach is consistent with the decision of the High Court of Australia in *Stevens v Sony*.[4]

It is also consistent with the views expressed by Mr Mark Jennings, Senior Counsel, Office of International Law of the Attorney-General's Department in his testimony to the House of Representatives Legal and Constitutional Affairs Committee in 2005,[5] and with the recommendations of that Committee in their report on technological protection measures exceptions.[6]

However, the link to infringement of copyright has been abandoned in the current Bill.

This unannounced and unexplained change represents a diametric change of policy since the release of the exposure draft of the TPM Bill.

Barring the fortuitous exercise of judicial restraint in construing these provisions once enacted, they will ensure that the anti-circumvention provisions of the FTA have a significantly broader application in Australia, and leave the door open to anti-competitive abuses

We recommend that the current Bill be amended to clearly require that TPMs and ACTPMs must prevent or inhibit the infringement of copyright.

This recommendation is consistent with:

- The recommendations of the House of Representatives Legal and Constitutional Affairs Committee *Review of Technological Protection Measures Exceptions*;
- The recommendations of the Phillips Fox *Digital Agenda Review*;[7]
- The current judicial interpretation of the DMCA; and
- The reasoning of the High Court in *Stevens v Sony*.

4. Scope of copyright – functionality and originality

As we noted in our initial submission, linking TPM protection to infringement of copyright is not enough, by itself, to ensure that the scope of Australia's anti-circumvention laws will match those of the United States.

Corporation (doing business as StorageTek) v Custom Hardware Engineering & Consulting 421 F 3d 1307, 1312 (Fed Cir, 2005).

[4] *Stevens v Kabushiki Kaisha Sony Computer Entertainment* (2005) 221 ALR 448.

[5] Evidence to House of Representatives Legal and Constitutional Affairs Committee, Parliament of Australia, Canberra, 5 December 2005, p 25-26.

[6] House of Representatives Legal and Constitutional Affairs Committee, Parliament of Australia, *Review of Technological Protection Measures Exceptions* (2006) [2.61].

[7] Recommendation 17.

Two reasons for this disparity are the differing copyright treatment of functional computer software, and the significantly lower standard of originality in Australia.

Functional computer code

As the decision of the Court of Appeals in *Lexmark* demonstrates, the copyright law of the United States will not protect the functional aspects of computer software. As applied to the copyrightability of TPM's, the US position is that:

> Generally speaking, "lock-out" codes fall on the functional-idea rather than the original-expression side of the copyright line. Manufacturers of interoperable devices such as computers and software, game consoles and video games, printers and toner cartridges, or automobiles and replacement parts may employ a security system to bar the use of unauthorized components. To "unlock" and permit operation of the primary device (i.e., the computer, the game console, the printer, the car), the component must contain either a certain code sequence or be able to respond appropriately to an authentication process. To the extent compatibility requires that a particular code sequence be included in the component device to permit its use, the merger and scènes à faire doctrines generally preclude the code sequence from obtaining copyright protection.[8]

The High Court of Australia has previously examined the copyright status of TPMs, albeit years before such technology enjoyed specific legislative protection. In *Autodesk Inc v Dyason (No 1)*, the High Court held that the verbatim copying of a TPM authentication sequence (127 bits of computer data) to infringe copyright.[9]

The decision in *Autodesk* had implications for the development of interoperable software in Australia. In the later case *Data Access Corporation v Powerflex Services Pty Ltd*, Powerflex Services produced computer software known as PFXplus, which interoperated with data files created by a competing program (Dataflex) produced by Data Access Corporation. The data files were compressed by use of a Huffman compression table. Unless PFXplus could use the Huffman compression table to decompress the Dataflex files, it would be unable to read them.

The High Court held that the Huffman compression table was a 'table expressed in figures and symbols, and fell squarely within the statutory definition of a "literary work".'[10] On that basis, Powerflex Services infringed the copyright subsisting in the table by reproducing it in the PFXplus software,[11] despite the fact that such a reproduction was required to produce software which would interoperate with Dataflex files.

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[8] *Lexmark v Static Control Components* 387 F 3d 522, 536 (6th Cir, 2004).

[9] *Autodesk Inc v Dyason (No 1)* (1992) 173 CLR 330.

[10] *Data Access Corporation v Powerflex Services Pty Ltd* (1999) 202 CLR 1, 41.

[11] Ibid 42.

The High Court was not oblivious to the consequences of this decision, noting that

> [t]he finding that the respondents infringed the appellant's copyright in the Huffman table embedded in the Dataflex program may well have considerable practical consequences. Not only may the finding affect the relations between the parties to these proceedings, it may also have wider ramifications for anyone who seeks to produce a computer program that is compatible with a program produced by others. These are, however, matters that can be resolved only by the legislature reconsidering and, if it thinks it necessary or desirable, rewriting the whole of the provisions that deal with copyright in computer programs.[12]

Although a new exception[13] was introduced in an attempt to remedy this problem, it has yet to be judicially considered and may not be wide enough to protect all interoperable software.[14]

In any case, the difference between the US position (copyright does not subsist in functional computer code) and the Australian position (copyright probably subsists in such code, but s 47D may apply) will be significant, as a TPM as defined in the FTA and the TPM Bill applies only to a work or other subject matter *in which copyright subsists.* A technological measure for protecting functional computer code would be protected as a TPM under the TPM Bill, but not under the DMCA.

Standard of originality

The copyright law of the United States protects works with a 'creative spark' or a 'minimal degree of originality'.[15] The threshold for obtaining copyright protection in Australia is significantly lower, in that it does not require any originality, requiring merely 'labour and expense' or 'industrious collection'.[16]

As an example, compilations of factual information such as telephone directories are protected by copyright in Australia,[17] but not in the United States.[18] A technological measure protecting a compilation of factual information would be protected as a TPM under the TPM Bill, but not under the DMCA.

The Joint Standing Committee on Treaties (JSCOT) review of the FTA recommended that the standard of originality required to obtain copyright

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[12] Ibid.

[13] *Copyright Act 1968* (Cth) s 47D.

[14] Dale Clapperton and Stephen Corones, 'Locking-in Customers, Locking-out Competitors: Anti-Circumvention Laws in Australia, and Their Potential effect on Competition in High-Tech Markets' (Forthcoming in the Melbourne University Law Review)

[15] *Feist Publications, Inc v Rural Telephone Service Company* 499 US 340 (1991).

[16] *Desktop Marketing Systems Pty Ltd v Telstra Corp Ltd* (2002) 119 FCR 491.

[17] Ibid.

[18] *Feist Publications, Inc v Rural Telephone Service Company* 499 US 340 (1991).

protection in Australia be reviewed, with a view to adopting a higher standard such as that in the United States.[19]

The Labor Senators on the Senate Select Committee investigating the FTA ('the Labor Senators') also recommended such a change,[20] and the Government Senators on that committee adopted the recommendations of the JSCOT report.[21]

The government response to the Select Committee report stated that the government has no immediate plans to conduct such a review.[22]

Conclusion

The anti-circumvention provisions of the FTA, as implemented by the current Bill, will have a far broader effect in Australia than in the United States. This disparity is, in part, caused by the protection for functional elements of computer software, and the lower standard of originality in Australia. Significant differences in the exceptions to copyright between the two countries exacerbate the problem.

5. Scope of copyright – exceptions and fair use

The lack of a fair use right in Australia is often dismissed as a consumer rights issue, but it has important commercial implications. In the United States, reverse engineering to produce interoperable computer software is protected as fair use.[23] This was established many years before *Data Access Corporation v Powerflex Services Pty Ltd* demonstrated that the same type of activity was unlawful in Australia.

Australia's 'fair dealing' exception has no application where the copying is for commercial purposes, including the production of interoperable products.

Although the reports of both JSCOT and the Labor Senators recommended the adoption of an open-ended right resembling 'fair use',[24] and such a change had previously been recommended by the Copyright Law Review

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[19] Joint Standing Committee on Treaties, *Report 61: The Australia – United States Free Trade Agreement* (2004), 243.

[20] Senate Select Committee on the Free Trade Agreement Between Australia and the United States of America, Parliament of Australia, *Final Report* (2004) 230.

[21] Ibid 243.

[22] Commonwealth Government, *Government response to the Final Report of the Senate Select Committee on the Free Trade Agreement between Australia and the United States of America,* p 5 <http://www.aph.gov.au/senate/committee/freetrade_ctte/gov_response/gov_response.pdf> at 20 September 2006.

[23] *Bowers v Baystate Technologies* 320 F 3d 1317, 1325 (Fed Cir, 2003); *Sony Computer Entertainment v Connectix Corporation* 203 F 3d 596, 602 (9th Cir, 2000); *Sega Enterprises Ltd v Accolade Inc* 977 F 2d 1510 (9th Cir, 1993).

[24] JSCOT above n 18, 240; Select Committee above n 19, 230.

Committee,[25] a recent review conducted by the Attorney-General's department apparently rejected these recommendations.

Lack of a flexible, open-ended exception to copyright (such as fair use) has caused, and will continue to cause Australia's copyright system to be reactive in nature, and dependent on legislative intervention to create new exceptions where required. The *Powerflex* case demonstrates the failure of this approach. A reactive approach to copyright exceptions will chill development of new, useful and competitive products, for fear that they may infringe copyright.

As one example, the computer chips at issue in the *Lexmark* litigation would be illegal if produced in Australia, due to the narrowness of the specific Australian exception,[26] and the lack of an applicable broader exception.

Technology companies will be reluctant to risk becoming the "next Powerflex", and lose an infringement action to demonstrate the inadequacy of the current static exceptions.

6. Protection of market segmentation TPMs

Our initial submission was critical of the provisions of the TPM Bill dealing with TPMs which enforced market segmentation.

These criticisms have largely been addressed in the current Bill, but some uncertainty remains as to the operation of these provisions.

The current Bill defines the terms ACTPM and TPM, and states that the definition 'does not include such a device, product, technology or component *to the extent that* it [controls geographic market segmentation or restricts the use of other goods or services]'.[27] The words 'to the extent that' may cause some uncertainty as to how these exceptions would apply.

If one device has two or more functions, and one function is to control geographical market segmentation so as to fall within sub-part (c) of the definition of TPM or ACTPM, then it will be a TPM except to the extent that it controls geographical market segmentation.

Turning to the explanatory memorandum, it states that if each function of an ACTPM can be separately circumvented, then each function of the ACTPM is treated as an ACTPM in its own right.[28] Presumably then the market segmentation function of the device would not be an ACTPM and would not be protected.

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[25] Copyright Law Review Committee, *Simplification of the Copyright Act 1968 Part 1* (1998) [6.10].

[26] *Copyright Act 1968* s 47D.

[27] Current Bill, amendments to s 10(1).

[28] Explanatory Memorandum [12.1]

But what if each function cannot be independently circumvented? The explanatory memorandum states that:

> Where an access control has different functions but each function cannot be circumvented independently, that access control would be considered to be only one access control TPM.[29]

In such a situation, the current Bill and the explanatory memorandum seem to be in conflict.

It seems clear that where an ACTPM performs more than one function, including geographic market segmentation, but each function cannot be independently circumvented, then either the whole ACTPM must be protected, or the whole ACTPM must be excluded from protection.

Allowing protection to the whole ACTPM would frustrate the intent and the wording of the legislation by giving legal protection to technology which enforces geographic market segmentation. This problem applies equally to ACTPMs which restrict the use of other goods or services.

7. Interoperability exceptions

Our initial submission was also critical of the provisions of the TPM Bill allowing exceptions for interoperability.

The provisions of the TPM Bill would have allowed the *production of* interoperable computer programs, but not the *use of* interoperable computer programs.

The equivalent provisions of the current Bill have addressed this issue by allowing circumvention or the supply of circumvention devices or services 'for the sole purpose of achieving interoperability of an independently created computer program with the original program or any other program.'[30]

These changes have also rendered subsection (c) redundant. We submit that its inclusion in the present Bill is probably a drafting error.[31]

However; some concerns remain with these provisions. The interoperability exceptions in the current Bill deal with 'computer programs' within the meaning of s 47AB of the *Copyright Act 1968*, which extends the meaning of the term given by s 10(1) of the *Copyright Act 1968.*

'Computer program' is defined by s 10 of the *Copyright Act 1968* as 'a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result.' This definition may be broad enough to

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[29] Ibid.

[30] Current Bill, ss 116AN(3), 116AO(3), 116AP(3), 132APC(3), 132APD(3), 132APE(3).

[31] Current Bill, ss 116AN(3)(c), 116AO(3)(c), 116AP(3)(c), 132APC(3)(c), 132APD(3)(c), 132APE(3)(c).

encompass computer data files, which would not fall within the every-day meaning of 'computer program'. So far as we are aware, no courts have clarified this issue since the definition was amended in 2000.

Importance of program-data interoperability

The exceptions deal with interoperability between computer *programs*. In the context of competing software products however, programs rarely interoperate with each other – instead program B will interoperate with *data files* created with program A. For example, Openoffice (a freely available open-source alternative to the Microsoft Office suite, which can open and modify data files created by Office) does not interoperate with Microsoft Office itself, it interoperates with the data files created by users of Office.

It would hardly be of commercial benefit for producers of computer software products to be able to interoperate with competing products themselves – it would necessarily require that the user obtain *both products.*

In essence, program-program interoperability is used by *complementary* products, not *competing* or alternative products.

Taking as an example the *Powerflex* case, Data Access Corporation could protect the data files produced by Dataflex with a TPM. The purported purpose of the TPM would be to protect the copyright which subsists in the data structures and layouts within the Dataflex data files, but the real purpose would be to prevent competing software programs (such as PFXplus) from being able to open and work with data files created using Dataflex.

Powerflex Services Pty Ltd could not reverse engineer the Dataflex data files, or circumvent the TPM which protects them, unless the Dataflex data files were 'computer programs' within the meaning of s 47AB of the *Copyright Act 1968.*

By using a TPM in this way, Data Access Corporation could preclude the production of software which interoperates with data files created by Dataflex, which would reduce (if not eliminate) competition in the market for such software.

8. Legislating around *Stevens v Sony*

The High Court of Australia held in the landmark case *Stevens v Sony* that to 'prevent or inhibit' an infringement of copyright, a device must 'physically' prevent the infringement; devices which have a general deterrent effect are not protected.

The definition of TPM in the TPM Bill also required the device to 'prevent or inhibit' the doing of an infringing act.

This definition has been changed in the current Bill in two significant ways.

First, 'prevent or inhibit' has been changed to 'prevent, inhibit *or restrict*'.[32] This change seems to have the sole purpose of legislating around the meaning of 'prevent or inhibit' as set down by the Federal Court and endorsed by the High Court, and thereby giving protection to a wider class of devices.

Secondly, the TPM must 'prevent, inhibit or restrict *the doing of an act comprised in the copyright*' instead of the doing of an infringing act. This change is very significant in the digital environment, where almost every use of material will involve some transient, temporary reproduction. This transient, temporary reproduction has, since the 2004 amendments to the definition of 'material form',[33] been an act comprised in copyright.

The restriction of 'an act comprised in the copyright' will, for that reason, amount to a pure access control in a digital environment.

We note that there has been no explanation given for this fundamental change, and no debate on its implications.

9. Criminal provisions

Schedule 1 of the current Bill creates a large number of indictable, summary and strict liability offences which relate to copyright. The indictable offences essentially replace the existing offences in s 132 of the *Copyright Act 1968*, while the summary and strict liability offences are new offences, which apply to the same types of conduct as the indictable offences, but are easier to prove (as they have different fault elements) and have lesser penalties.

To the extent that the new indictable offences replicate existing offences in s 132, at least some of these offences are overly broad and may apply to or adversely impact upon legitimate commercial conduct within technology markets.

New s 132AC

Section 132AC(1) provides that:

> (1) A person commits an offence if:
>> (a) the person engages in conduct; and
>> (b) the conduct *results in* one or more infringements of the copyright in a work or other subject-matter; and
>> (c) the infringement or infringements have a substantial prejudicial impact on the owner of the copyright; and
>> (d) the infringement or infringements occur on a commercial scale.

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[32] Current Bill, Schedule 12, item 5, page 186.

[33] *US Free Trade Agreement Implementation Act 2004* (Cth), Schedule 9.

An offence against this subsection is punishable on conviction by a fine of up to $302,500 for corporations, or five years imprisonment and/or a fine of up to $60,500 for individuals.

Because s 132AC(1)(b) does not specify a fault element, the fault element defaults to recklessness.[34] Here, recklessness would consist of awareness by the person of a substantial risk that the infringements would occur, and that having regard to the circumstances known to the person, that it is unjustifiable to take the risk.

What if the 'conduct' engaged in is the production, sale, or distribution of a computer program or some physical product which could be used by end-users to infringe copyright?

A person engaging in such conduct would probably be aware of a substantial risk that the products would be used to infringe copyright, but in the circumstances it may not be reasonable for them to stop producing, selling or distributing their products in response.

Recklessness can also be proved by proving intention.[35] Intention with respect to a result includes awareness that it will occur in the ordinary course of events.[36]

This would mean that even where it would be unreasonable for a manufacturer, supplier or distributor of technology products to stop supplying those products because of the risk of infringement, if they were aware that the infringements would result in the ordinary course of events, their conduct will fall within s 132AC(1).

Although the risk of technology vendors being prosecuted might seem remote, even a possibility of a criminal conviction under this section could have a chilling effect on the development of new technologies in Australia.

If this section could apply to producers and distributors of technology products, it would in effect impose an obligation on such persons to ensure that those products cannot be used to infringe copyright.

Such a requirement to 'pirate-proof' technology products may be impossible to achieve using current technology. It would also impose a dramatically higher level of liability on technology vendors than currently exists anywhere in the world to the best of our knowledge. It would also cause technology products to cost more to produce. These costs would be passed onto consumers in the form of higher prices, thus harming consumer welfare.

It would also place copyright holders in a position to control the development of new technologies by mandating standards for 'pirate-proofing', and using

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[34] *Criminal Code Act 1995* (Cth) 5.6(2).

[35] *Criminal Code Act 1995* (Cth) 5.4(4).

[36] *Criminal Code Act 1995* (Cth) 5.2(3).

criminal prosecutions as an effective veto power over new technologies or new market entrants.

New s 132AL

Section 132AL provides that:

> (1) A person commits an offence if:
>   (a) the person makes a device, intending it to be used for making an infringing copy of a work or other subject-matter; and
>   (b) copyright subsists in the work or other subject-matter at the time of the making of the device.
>
> (2) A person commits an offence if:
>   (a) the person possesses a device, intending it to be used for making an infringing copy of a work or other subject-matter; and
>   (b) copyright subsists in the work or other subject-matter at the time of the possession.

An offence against this either of these subsections is punishable on conviction by a fine of up to $302,500 for corporations, or five years imprisonment and/or a fine of up to $60,500 for individuals.

As previously discussed, the element of intention referred to in ss 132AL(1)(a) and 132AL(2)(a) would be satisfied if the person was aware that the result (the making of an infringing copy) would occur in the ordinary course of events.[37]

If so, this would be sufficient to criminalise the production of a device, such as a VCR, a personal computer or an MP3 player, if the person making it was aware that in the 'ordinary course of events' it would be used for the making of an infringing copy.

Section 132AL(2) would make *possession* of a device such as a VCR, a personal computer or an MP3 player a criminal offence, if the person intended to use it to make an infringing copy with it. Given the vast amount of private copying which constitutes an infringement of copyright under Australian law, this provision would mean that practically every Australian who owns a VCR machine is committing a criminal offence.

These provisions would also apply where the making of the infringing copy is not itself a criminal offence. I.e. if a VCR machine is used to copy a television broadcast, it is a breach of the *Copyright Act 1968* as it currently stands - but this would not be a criminal offence.

However, a literal reading of s 132AL(2) would mean that *possessing* the VCR with the intent to use it in this way would be a criminal offence, punishable by up to 5 years jail.

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[37] *Criminal Code Act 1995* (Cth) s 5.2(3).

Conclusion

These new summary offences and offences of strict liability covering the same type of conduct will extend the criminal application of the *Copyright Act 1968* by lowering the bar for proving criminal offences.

Until the effect of these amendments, and the scope of the current provisions are properly understood, we submit that they should not be enacted as they will harm innovation and competition in technology markets, and harm consumer welfare.

10. Non-urgent nature of the majority of the current Bill, and the limited timeframe for review

Lastly, we note that the present Bill comprises some 213 pages. The only provisions of the present Bill which have a deadline for implementation, or could otherwise be considered urgent, are the TPM provisions contained within Schedule 12.

Schedule 12 comprises only 29 pages, or less than 14% of the present Bill.

We submit that nothing in the remaining 86% of the present Bill justifies being rushed through the committee stage in such a short timeframe.

The remainder of the present Bill introduces significant changes to Australia's copyright laws, and warrants an unhurried committee review with sufficient time to conduct meaningful public consultation and hearings.

We recommend that Schedules 1-11 of the current Bill not be enacted until a more comprehensive review of them can be undertaken, preferably in early 2007.