



AUSTRALIAN DIGITAL ALLIANCE

PO Box E202, Kingston ACT 2604 Tel: 02 6262 1273 Fax 02 6273 2545

MEDIA RELEASE

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NEW COPYRIGHT EXCEPTIONS ON GOVERNMENT AGENDA: BUT WHAT WILL THEY FIX?

With the *Copyright Amendment (Exceptions, Enforcement and Other Measures) Bill* listed for introduction during the Autumn sittings of Parliament, Australians will soon find out whether the Federal Government will lay the foundation for a new era of Australian innovation by granting us the same rights as our US counterparts when it comes to using music, software, video and all the other information products that surround us day to day.

The proposed legislation presents a unique opportunity to remedy the current inflexible exceptions which restrict Australian consumers, creators and innovators nation-wide. It follows a review instigated in May last year that sought to address the imbalance created by the Australia-US Free Trade Agreement (AUSFTA), which beefed up copyright protection without doing anything to address the outdated nature of Australia's current copyright exceptions.

A key concern of the Australian Digital Alliance (ADA), whose members include libraries, technology companies, universities, schools and individuals, is whether the Government will use this opportunity to address the fundamental problem with the current legislation – that it is inflexible and does not adapt to changing technology and behaviour – or whether it will instead seek to adopt a quick-fix solution that mollifies key interest groups whilst keeping Australian innovators and creators one step behind their US Counterparts.

Currently under Australian copyright law, activities such as arranging information on the internet via search engines, the creation of parody works, and even the taping of television programs to watch at a later time, are not legal in Australia. This is in direct contrast with the position in the US, where more flexible “fair use” laws have enabled new exceptions to be developed alongside these technologies, without protracted legislative processes, and have given US business interests a competitive edge over their counterparts in Australia, where inflexible copyright laws become a barrier in the face of technological development.

Commenting on the challenge of updating Australian copyright, Jamie Wodetzki, ADA Chair and CEO of Australian software company Exari Systems, said:

“Australia’s problem is not that we have weak copyright laws. It’s that we end up labelling people as copyright pirates when it’s just plain silly. Your Grandma’s a pirate if she tapes a nature documentary to watch the next day. You’re a pirate if you buy a CD and copy a few tracks to your iPod. All because we don’t have a flexible law like ‘fair use’ which has allowed US copyright law to adapt quickly as things change. If we want to avoid looking silly, and uncompetitive, when the next technology change sweeps through, we need the same flexibility for Australian law.”

The Government deserves praise for prioritising this much needed over-haul of copyright exceptions. But if we end up with a few, narrow patch-ups, and miss the chance for a flexible, long-term solution along the lines of US “fair use”, then Australian copyright law will quickly become outdated and out-of-step with the ever changing technology landscape. Technology moves fast. We desperately need flexible laws that can keep up.

The Government is expected to introduce legislation amending the copyright exceptions in May.

For Further Information:

Sarah Waladan

Ph: 02 6262 1273

Fax: 02 6273 2545