



Express law fast track information for clients

15 October 2012

Submissions for ALRC inquiry into copyright and digital economy

The Australian Law Reform Commission (ALRC) has released a wide-ranging Issues Paper for its inquiry into the operation of copyright exceptions in the digital environment.

This inquiry may recommend amendments to the *Copyright Act 1968* and the *Copyright Regulations 1969* to broaden or adjust the statutory rights to use copyright material to ensure that copyright law keeps pace with the rapid advance of technology in digital and social media contexts.

The outcome of this inquiry may have significant implications for agencies and their stakeholders, particularly where an agency:

- is using or developing social media platforms to engage with the public or special interest groups
- is relying on statutory licences (such as the Crown statutory licence in s 183 of the Copyright Act) to use third party material
- is investigating the use of cloud computing
- has policy responsibility for a sector of the economy that has a special interest in copyright law and/or its reform (such as educational institutions, research and higher learning organisations, IT and social media companies, libraries and archives)
- is responsible for storing or archiving documents.

The Copyright and Digital Economy Issues Paper is available on the ALRC [website](#).

Further background and comment on the inquiry is set out in our previous Express Laws dated [18 April 2012](#) and [26 July 2012](#).

Submissions

The ALRC Issues Paper offers agencies an opportunity to submit their views on the future of key components of copyright legislation in Australia.

The ALRC is seeking submissions on the questions contained in the Issues Paper, or any of the background material and analysis. Submissions and comments should be provided to the ALRC by **16 November 2012**.

AGS has experience in preparing submissions on copyright law issues and can assist agencies with drafting submissions and providing comments on any aspect of the ALRC Issues Paper.

Content of ALRC Issues Paper

Earlier this year the Attorney-General's Department, in consultation with the ALRC, released the terms of reference for the ALRC inquiry into copyright exceptions (see AGS Express Law, [26 July 2012](#)). The ALRC has recently published the Issues Paper for this inquiry and is calling for submissions in response to the questions covered by the Paper.

There are more than 50 questions listed in the Issues Paper covering a broad range of existing or potential statutory rights and exceptions under Australian copyright law. We discuss below some of the key matters that will be of interest to agencies.

Use of material in social media contexts

The Issues Paper asks for advice on how copyright materials are being used in social networking contexts and in particular:

- whether use of materials in these contexts should be more freely permitted
- how an exception to allow such use could be framed.

Crown use of copyright material

The Issues Paper addresses the Crown's use of copyright material. Currently, agencies may legally use copyright material under a statutory licence. The Issues Paper seeks input on:

- whether the Crown licensing scheme contained in Div 2 of Pt VII of the Copyright Act (including s 183) is adequate and appropriate in the digital environment
- how can the Copyright Act be amended to make the statutory licensing schemes (including the Crown statutory licence) operate more effectively and simply.

Cloud computing

The Issues Paper seeks comment on whether copyright law is impeding the development or delivery of cloud computing services and whether exceptions should be created in the Copyright Act to account for cloud computing services.

Educational institutions

The Issues Paper seeks comment on whether the use of copyright material by educational institutions should be more freely permitted in the digital environment – in particular, whether there should be changes to the existing educational statutory licence scheme and whether free-use exceptions should be expanded to cover educational use.

Libraries, archives and digitisation

The Issues Paper queries whether the current libraries and archives exceptions in the Copyright Act should be expanded to allow digitisation and communication of works. The Paper also seeks advice on what issues might arise from the digitisation of Indigenous works by libraries and archives.

Other issues

The Issues Paper also seeks input on how copyright law is affecting the caching and indexing of copyright material, copying for private use, transformative use (i.e. sampling, re-mixes and mash-ups), orphan works, data and text mining, retransmission of free-to-air broadcasts and the fair dealing exceptions to copyright infringement.

For further information please contact:

Adrian Snooks

Senior Executive Lawyer

T 02 6253 7192

adrian.snooks@ags.gov.au

Alex Readford

Lawyer

T 02 6253 7103

alex.readford@ags.gov.au

Tony Beal

Deputy General Counsel Commercial

T 02 6253 7231

tony.beal@ags.gov.au

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