

Copyright and libraries: the ALCC

The Australian Libraries Copyright Committee (ALCC) is the peak consultative body and policy forum for the discussion of copyright issues affecting Australian libraries and archives. It considers the impact of copyright law on its members, develops policy, and provides an effective and unified voice to government, copyright owners, and media. The ALCC advocates action to support the role of libraries as information providers and preservers, and the wider public interest in the advancement of learning, innovation, research, and knowledge.

The need to be informed and active on the development of technological, economic, and legislative copyright issues has never been so critical, and comes at a time when copyright matters are growing in complexity. The year ahead raises many challenging copyright questions, ranging from the liability of internet access providers to the regulation of collecting societies. Last year saw a number of significant copyright developments, including the release of key copyright reviews by government and several landmark court decisions. We positioned ourselves as a major player in these developments, with our sister organisation, the Australian Digital Alliance, appearing in the High Court in the *IceTV v Nine Network* case.

Copyright Training Sessions

We will again offer free copyright training to our members in 2010, both in capital cities and regional areas. In 2007, we provided introductory copyright training and more detailed training outlining the impact of the 2006 Digital Agenda amendments on libraries. In 2008, we provided introductory training and a workshop with a practical focus on taking advantage of the new section 200AB flexible dealing exception. This training provided significant value to members, particularly to those who deal with copyright issues every day.

In 2010 we will offer a choice of three sessions. The first session will outline the concept of balanced copyright law and set this as the foundation for understanding how copyright law works and should work. It will also discuss creators' rights in terms of the scope of protection, the rights protected, and infringement, and users' rights in terms of limitations and exceptions to copyright protection and access regimes.

The second session will address using exceptions and making content available online. It will focus on the exceptions for fair dealing, libraries and archives and flexible dealing. It will also address

the authorisation issues that arise when libraries make content available and users then infringe copyright in an unintended manner.

The third session will be a master class on flexible dealing including progressive interpretations of the three steps test and a workshop to run through practical uses of the exception including format shifting, making content available online and digitising collections of orphan works.

Collecting Societies

The ALCC has been increasingly active advocating the need for greater regulation of copyright collecting societies because they are monopolies with a significant degree of market power which allows them to demand high licence fees and harsh terms and conditions.

We made a submission to the Australian Competition and Consumer Commission's (ACCC) determination on the authorisation of the Australasian Performing Right Association (APRA). We submitted that APRA had significant scope to take advantage of its market power when setting licence fees and terms and conditions within the current regulatory framework and recommended several conditions to limit APRA's potential to do so.

In a significant decision, the ACCC moved to take the first steps to increase the regulation of APRA in over a decade. APRA changed its licensing arrangements, was required to enhance its alternative dispute resolution procedure, and is obliged to report annually to the ACCC on the outcomes of disputes, supplementing the Copyright Collecting Societies Code of Conduct.

Only APRA and the Phonographic Performance Company of Australia have agreed to subject their operations to authorisation by the ACCC, which was required as part of settling a court case which challenged the questionable exemption of collecting societies from competition regulation. No other collecting societies have voluntarily submitted to the authorisation process.

We consider that all collecting societies should be authorised by the ACCC because they are monopolies. Government agreed to recommendations made in the Ergas Committee Report that would create such a requirement. However, the legislative reform necessary to implement it was never carried out.

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Using photos

When using photos for your newsletter, your local newspaper, or even *inCite*, it's important to consider the ramifications.

There are very strict rules concerning photographing people without their consent. If you are taking photos of people and they can be clearly identified, each and every one of them must give consent for you to use the photo – for each situation in which you wish to use it. Don't take a photo to put up on the library wall and then provide it to a publication without specific consent to do so – each time you do it.

Set yourself up a simple consent form with room for the name of the person, their contact details, details of the event and shot, and tickboxes for use of the image, for example, permission to use in council publications, on website, or for general media distribution. In almost all cases, you will need parental permission if the shot involves children.

If you are photographing young children, it is a good idea to get their parents in the photo as well. If only children are in the shot, only use their first names in your caption for their protection.

In large group situations, a way of avoiding a bureaucratic nightmare is to take the shot from behind the group, focusing on the storyteller, so that no one else can be identified, or pick a few attendees and gain their consent.

If there are restrictions on use of the photo and you are using a photo management package, you can embed a caption to ensure anyone accessing the image knows what can and can't be done.

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