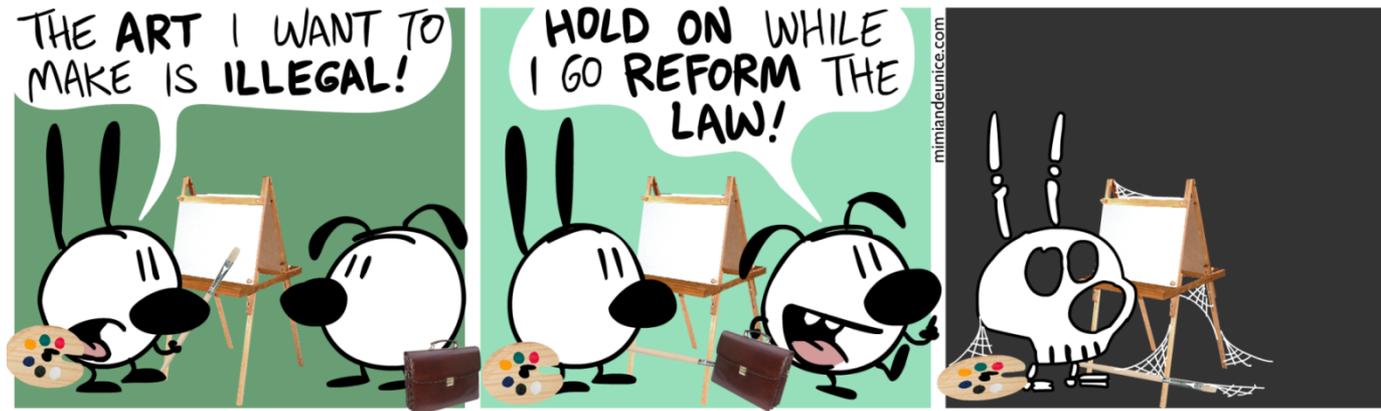


Copyright Reform in Australia 2017

Jessica Coates - Copyright and Policy Adviser
Australian Libraries Copyright Committee
and

Derek Whitehead, Chair, Australian Digital Alliance





Recent history of copyright reform in Australia

- 2000 Copyright Amendment (Digital Agenda) Bill
Copyright Amendment (Moral Rights) Act
- 2005 Australia-US Free Trade Agreement Implementation Act
- 2014 The Civil Law and Justice Legislation Amendment Bill
2014 [e-Legal Deposit]
- 2015 Copyright Amendment (Online Infringements) Act
- 2017 Copyright Amendment (Disability Access and Other Measures) Bill [we hope]
Fair use?

Copyright Amendment (Disability Access and Other Measures) Bill

Marrakesh Treaty

Gov says don't have to make changes. But making them anyway.

And while we're at it...

low hanging fruit

- Disability – new fair dealing and broader institution exception; will allow international transfer of accessible works
- Education – simplifies statutory licence & allows online exams
- Safe harbours – extends ISP 3rd party infringement protection to other online service providers, including libraries & archives
- Preservation – fixes current confusing and paradoxical exceptions & removes (almost) all restrictions
- Unpublished works - ends perpetual copyright, replaces with life plus 70 or 70 from creation for orphan works

Kiss Biscuits

Where is it from?

State Library of Western Australia Collection

What's the story?

The 1904 Recipe Book belonged to Annie Williams and was given to the State Library of WA in March 1987 by Mrs C Platell of Alfred Cove. The address on the inside cover of the Recipe Book appears to be 4 Murray Street Perth. A 1904 Electoral Roll for Perth lists Annie Williams, Spinster of No Place Inn, 358 Murray Street in Perth. Number 4 Murray Street may be part of Perth Public Hospital (now the Royal Perth Hospital). It is possible that she was employed as a cook in the kitchen of Perth Public Hospital, thus the recipe book, and lived at No Place Inn, or perhaps she worked as a cook in the kitchen of No Place Inn.

Let's make it

Ingredients

3 eggs; their weight in flour, sugar, butter and cornflour

1.5 teaspoons baking powder

Method

Beat butter and sugar together, add



First Name

Last Name

Email Address

Postcode

Do you work in a library?

Yes

Subscribe

DONATE



APA and ALIA book cover agreement

Publishers and libraries work together to make it easier to promote books to Australian readers

1 August 2016: The Australian Publishers Association (APA) and the Australian Library and Information Association (ALIA) have come to a landmark agreement to allow libraries to use book covers to promote books and authors without seeking permission each time.

The Australian Publishers Association and the Australian Library and Information Association have agreed on the value of an environment in which libraries can be confident, for promotional purposes, to reproduce images of book covers whose copyright is owned by Australian publishers.

It will make it easier for libraries to create displays, posters, websites and social media, and free them to be able to focus more on the promotion of books and reading rather than confirming copyright clearances every time.

Michael Gordon-Smith, Chief Executive of APA, said: "It's a simple commonsense approach. Publishers and authors have nothing to lose. They may even reach more readers or make more sales as a result. We're delighted to be working with ALIA, and to show

The Productivity Commission



Intellectual Property
Arrangements

Productivity Commission
Inquiry Report
Overview & Recommendations

No. 78, 23 September 2016

What did they say?

- “Australia’s copyright arrangements lack balance and have been slow to adapt to technological change, imposing costs on the broader community.
- There is a need for a “reform champion with resolve to pursue change in the face of strong vested interests.”
- “... skewed too far in favour of copyright owners to the detriment of consumers and intermediate users.”
(p.7)
- <https://www.communications.gov.au/departamental-news/release-productivity-commission-intellectual-property-report>

Main Recommendations (1)

- Replace existing exceptions with a broad fair use exception like that applying in the US
- Contractual terms which override copyright exceptions should be unenforceable.
- Consumers should be able to circumvent TPMs for legitimate uses.
- Make it clear that it is not an infringement to circumvent geoblocking technology.
- Repeal parallel importation provisions for books.
- Limit liability for use of orphan works.

Main Recommendations (2)

- Ensure that government agencies work together on copyright issues
- “Avoid the inclusion of IP provisions in bilateral and regional trade agreements and leaving negotiations on IP standards to multilateral for a.
- Implement an open access policy for publicly-funded research and publishing.
- Review the current voluntary code for collecting societies.
- Re-examine copyright term protection

The recommendations closely reflect those of the Australian Law Reform Commission in 2014.

Steely Resolve

The report anticipates opposition to these proposals from copyright owner interests, and says

“But achieving reform will not be easy. Some vocal interest groups have long shaped Australia’s IP arrangements to advance their own interests. And in the past, reform efforts have more often than not succumbed to misinformation and scare campaigns. The same tactic has been deployed here, with some parties publishing more fiction than fact about the Commission’s draft report. Government will need to show steely resolve to pursue a better balanced IP system in the face of strong vested interests.”

Fair Use

Australian Copyright Act = great example of why fair use (or at least principle based exception) is needed:

- 700 pages long
- 41 minor amendments since 1996
- Most exceptions complex - 1.5+ pages long
- eg s44BA Acts done in relation to certain medicine

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Why do libraries want fair use?

- Broader than s200AB (eg allows some commercial uses)
- Helps solve dilemma re providing material to users for technically infringing uses
- Increases flexibility, acts as a safety valve
- More intuitive for lay person, less confusing than complex exceptions
- Gives institutions confidence to be innovative
- Empowers clients, not just institutions
- Only way to have a future-proofed copyright system

Why do others want fair use?

- Increased economic activity and community benefit.
- Permits new and innovative uses of copyright material.
- Improved flexibility and adaptability
- Better alignment of copyright with community expectations
- Improved access to orphan works
- Improved consumer access to commercially unavailable, non-commercial and other works
- Savings of about \$18m per year from the education statutory licence
- Public perception that that some activities in relation to copyright are “fair” – the idea is already enshrined in public thinking.



History of fair use recommendations in Australia

- 1998 CLRC Simplification Report
- 2004 Joint Standing Committee on Treaties AUSFTA Report
Senate Selection Committee on AUSFTA
- 2005 Australia-US Free Trade Agreement Implementation Act
- 2013 House of Reps Standing Committee on Infrastructure – IT Pricing Report
- 2014 ALRC Copyright and the Digital Economy
- 2016 Productivity Commission IP Arrangements Inquiry (final released 20 Dec)

Productivity Commission report

“Australia’s copyright arrangements lack balance and have been slow to adapt to technological change, imposing costs on the broader community.” (p.103)

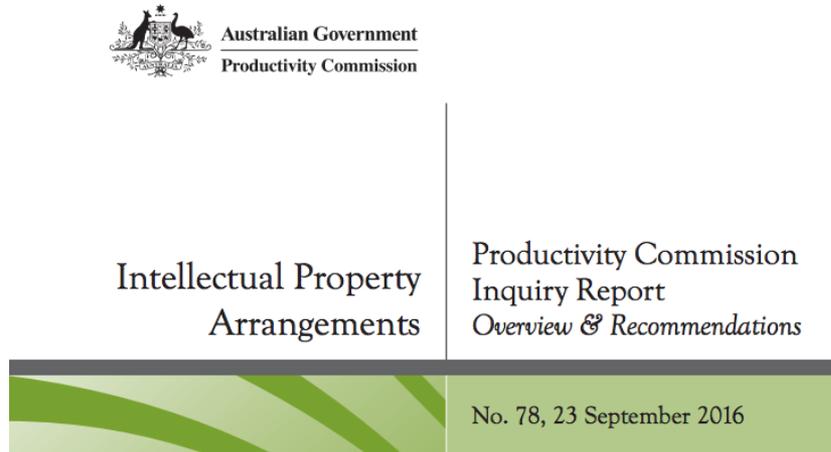
“they are skewed too far in favour of copyright owners, to the detriment of consumers and intermediate users.” (p.7)

- Productivity Commission

- Recommended fair use for balance
- Also controversial - statements about term, allowing parallel importation for books
- Non-controversial - end geoblocking, end perpetual copyright, mandate open access
- Vocal campaign by publishers and authors, led by the Copyright Agency, against the report, and particularly fair use

Where to now?

Next Steps



- The Government has called for comments by 14 February. See <https://consultation.business.gov.au/consultation>
- The report is being handled by the Department of Business
- The Government will provide a response to the report during 2017

Prospects?

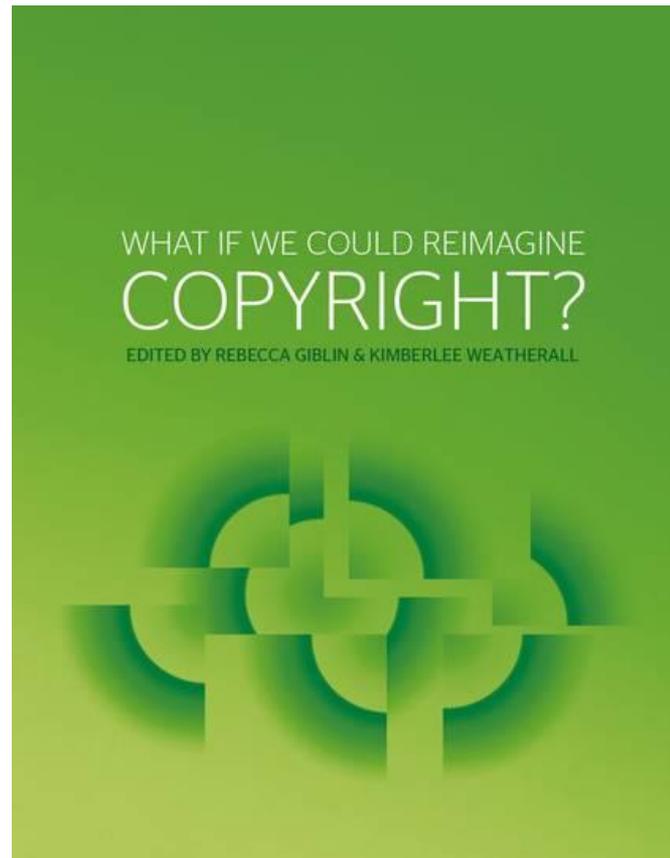


- Current government is pro-innovation, pro-technology and anti-red tape
- There is support from a wide range of interests, including many creators
- Closer than we have ever been

BUT

- Still extremely strong opposition, lots of myths, lots of hyperbole
- The Australian Digital Alliance has a series of projects planned/proposed/proceeding for 2017 designed to address some of the myths

Just published by ANU Press



Thank You



Jessica Coates

jcoates@nla.gov.au

Derek Whitehead

derek295@gmail.com

Australian Digital Alliance

www.digital.org.au

Australian Libraries Copyright Committee

www.libcopyright.org.au