

## House of Representatives Standing Committee on Legal and Constitutional Affairs

### Inquiry into enforcement of copyright

- 1) The Committee will inquire into and report on issues relevant to the effective enforcement of copyright in Australia and, in particular, on:
  - a) evidence of the types and scale of copyright infringement in Australia including:
    - i) the availability and accuracy of data on copyright infringement;
    - ii) the scale of infringement in Australia in comparison with countries in our region and Australia's major trading partners;
    - iii) the geographical spread of copyright infringement in Australia;
    - iv) the cost of infringement and impact on Australian business;
    - v) whether there is evidence of the involvement of organised crime groups in copyright infringement in Australia, and if so, to what extent;
    - vi) likely future trends in the scale and nature of copyright infringement.
  - b) options for copyright owners to protect their copyright against infringement, including:
    - i) actions and expenditure undertaken, and that could be undertaken, by copyright owners to defend their copyright;
    - ii) use of existing provisions of the *Copyright Act 1968*;
    - iii) use of legislative provisions other than those of the *Copyright Act 1968*;
    - iv) technological or other non-legislative measures for copyright protection.
  - c) the adequacy of criminal sanctions against copyright infringement, including in respect of the forfeiture of infringing copies or devices used to make such copies, and the desirability or otherwise of amending the law to provide procedural or evidential assistance in criminal actions against copyright infringement;
  - d) the adequacy of civil actions in protecting the interests of plaintiffs and defendants in actions for copyright infringement including the adequacy of provisions for costs and remedies;
  - e) the desirability or otherwise of amending the law to provide further procedural, evidential or other assistance to copyright owners in civil actions for copyright infringement;

- f) whether the provisions for border seizure in Division 7 of Part V of the *Copyright Act 1968* are effective in the detention, apprehension and deterrence of the importation of infringing goods, including counterfeit goods; and
  - g) the effectiveness of existing institutional arrangements and guidelines for the enforcement of copyright, including:
    - i) the role and function of the Australian Federal Police, and State Police exercising Federal jurisdiction, in detecting and policing copyright infringement;
    - ii) the relationship between enforcement authorities and copyright owners;
    - iii) the role and function of the Australian Customs Service at the border in detecting and policing copyright infringement; and
    - iv) coordination of copyright enforcement.
- 2) In undertaking the inquiry and framing its recommendations, the Committee will have regard to:
- a) Australia's obligations under relevant international treaties, in particular under the World Trade Organisation *Agreement on Trade Related Aspects of Intellectual Property Rights*;
  - b) the provisions of the *Copyright Act 1968* and any amendments to that Act that have been introduced or have been publicly proposed by the Government, to be introduced into Parliament;
  - c) established principles of criminal and civil procedure which apply in cases generally;
  - d) Commonwealth criminal law policy;
  - e) enforcement regimes for other forms of intellectual property;
  - f) existing resources and operational priorities of Government enforcement agencies; and
  - g) the possible effect of any proposed changes on the operation of Government and private sector organisations.