



Submission to Senate Legal and Constitutional Affairs Legislation Committee on Copyright Amendment Bill 2025

November 2025

SUMMARY OF POSITION

We ask that the Committee recommend that the Bill be passed without amendment. The Bill is the outcome of extensive consultations with stakeholders on issues that have remained unresolved for a long period of time.

The benefits of the Bill to the creative industry sector are limited. The main benefit is the resolution of longstanding matters raised by representatives of users of creative content. We agreed to these amendments on the understanding that there would be no further amendments sought, in this process, by representatives of the education sector or others. The understanding is important, because there is a public interest in consensus amendments where they can be achieved.

Copyright can be a very contested area, but consensus amendments have been passed, such as those in 2017 and 2018 – Copyright Amendment (Disability Access and Other Measures) Act 2017 and Copyright Amendment (Services Providers) Act 2018 – that benefitted the education and library sectors, and people with disability.

There are other matters that the school and library sectors have raised, but they are contested and not part of this process. Similarly, there are matters that the creative industry sector would like to see addressed, but it is understood that they are not part of this process.

ABOUT COPYRIGHT AGENCY

We are a not-for-profit organisation with 41,000 members, who are primarily writers, artists and publishers. We negotiate, collect and distribute copyright fees and royalties for artists, writers and people who work in publishing. In 2024–25, we distributed \$113m in copyright fees and royalties to 27,000 recipients.

We are appointed by the Attorney General to manage the education statutory licence scheme as it applies to text and images. We are also appointed by the Copyright Tribunal to manage the statutory licence scheme for governments, and by the Minister for the Arts to manage the artists' resale royalty scheme. In addition to the Government appointments, we manage collective licence schemes for the business sector, as agent for our members, and we manage pay-per-use licences for individual works, such as the use of artworks in publications or homewares.

REMOTE LEARNING

We and others in the creative industry sector take the view that the current copyright legislation allows remote learning. The school sector was able to make a rapid transition to remote learning during the COVID-19 pandemic under the existing framework (facilitated by the consensus amendments in 2017). Remote learning has, of course, been a longstanding feature of university education.

We and others agreed to amendments to resolve apparent concerns by some in the school sector about remote learning, and some other issues relating to performances in the classroom. We did this on the understanding that these would be the only education-related matters covered in an amendment Bill, and that this understanding was shared by school sector representatives.

ORPHAN WORKS

We and others in the creative industry sector have agreed to the amendments in the Bill as a compromise to resolve longstanding issues raised by the library sector and others.

We look forward to working with others on guidelines to assist users of the new provisions.

COPYRIGHT FRAMEWORK FOR AUSTRALIA'S EDUCATION SECTOR

Australia has a very broad copyright framework for the education sector, including extensive collective licensing arrangements.

As far as we are aware, teachers are not constrained by Australia's copyright framework from making any reasonable uses of copyright material for teaching. Activities allowed include making material available online (e.g. to remote students), capturing third party material in a recording of a lesson (e.g. a page of a book held up by a teacher), and using AI tools (e.g. including other people's content in a prompt for a Chatbot). Teachers can copy and share any material that they have access to, including material available online.

Part of Australia's copyright framework is a statutory licence scheme that allows teachers to copy and share text, images and broadcast content. It is complemented by other licensing arrangements (primarily for music), and other provisions in the Copyright Act that allow other activities, including a 'catch-all' provision (section 200AB) that allows any activity for teaching that is not otherwise covered, provided it is reasonable.

Recording of lessons

We and others in the creative industry sector take the view that recording of lessons is allowed under current copyright arrangements. It is a longstanding practice in the university sector, for example. It is one of the activities listed in the Australian Copyright Council's fact sheets for the education sector:

- [Copyright Q&As for School Teachers: Copying, adapting and sharing text and images](#)
- [Copyright Q&As for School Teachers: Performing, recording, copying, and sharing music](#)
- [Copyright Q&As for School Teachers: Copying and sharing broadcasts under the statutory licence](#)

Recording of lessons is not connected in any way to the amendments in the Bill, which relate solely to the public performance provisions in section 28 of the Copyright Act. Other provisions of the Act cover reproductions, such as recording of lessons.

Compensation to the creative industry sector

Because it operates so broadly, the education statutory licence scheme provides for fair compensation to people working in the creative industry sector, for the compulsory acquisition of their rights to refuse permission for the use of their material, or to set their own terms. In practice, this works like an 'all you can eat' content subscription service. For example, under Copyright Agency's current agreement with representatives of the school sector, the fair compensation has been agreed at a flat fixed rate representing \$13 per student per year. This represents 0.06% of recurrent government funding per student.¹

Copyright Advisory Group (CAG) negotiates fair compensation for the entire Australian school sector. It is supported and advised by the National Copyright Unit (NCU). CAG and NCU also advocate for changes to the Copyright Act, primarily changes that would reduce the compensation payable to people working in the creative industry sector.

¹ According to the Australian Curriculum and Assessment Authority, in 2022–23 the recurrent government funding was \$24,857 per student in government schools and \$21,252 in non-government schools:
<https://www.acara.edu.au/reporting/national-report-on-schooling-in-australia/school-expenditure>

We negotiate fair compensation for the university sector with Universities Australia.

If we and education sector representatives cannot reach agreement on fair compensation (equitable remuneration), then either party can apply to the Copyright Tribunal, which can determine equitable remuneration having regard to factors set out in the Copyright Regulations. Those factors – which, among other things, enable different valuation of different types of content and activity – are also taken into account in negotiations.

Governance arrangements for collective licensing

We provide [detailed annual reports](#) to the Government, which are tabled in Parliament and available from our website.

Aspects of licence schemes managed by collecting societies – such as licence fees – can be (and are) determined by the [Copyright Tribunal of Australia](#). An application can be made by a collecting society or by a licensee.

We and other Australian copyright management organisations (collecting societies) are signatories to the [Code of Conduct for Copyright Collecting Societies](#). Compliance with the Code is reviewed annually by the Annual Code Reviewer (a former judge of the Federal Court), whose reports are published on the Code of Conduct website.

CURRENT COPYRIGHT FRAMEWORK FOR ORPHAN WORKS

All the special exceptions in the Copyright Act – including the statutory licence schemes for the education and government sectors, and special provisions for libraries and other cultural institutions – allow the use of orphan works. People who have the benefit of those provisions do not need to spend time working out whether or not they can identify or locate a copyright owner.

The new provisions are for activities that are not covered by existing exceptions. For example, teachers have no need for the new provision because they can already copy and share any material for education without having to spend time trying to identify or locate a copyright owner.

Similarly, people working in cultural institutions are already digitising orphan works under the existing provisions such as section 200AB. The new provision will, however, assist people who acquire content from cultural institutions if they wish to (for example) publish that material.