



**NATIONAL
ASSOCIATION
FOR THE
VISUAL ARTS**

Committee Secretary
Senate Legal and Constitutional Affairs Committee
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Re: Copyright Amendment Bill 2025

The National Association for the Visual Arts (NAVA) welcomes the opportunity to comment on the Copyright Amendment Bill 2025.

Established in 1983, NAVA is the national peak body for the visual arts, craft and design sector. It is an independent membership organisation which brings together the many voices of the contemporary arts sector to improve the fundamental conditions of work and practice. We do this through advocacy, education and the Code of Practice for the Visual Arts, Craft and Design. Our network comprises over 50,000 artists, arts workers, galleries, arts organisations and industry bodies.

NAVA has been a longstanding advocate for copyright protections for visual artists. In 1995, we played a central role in establishing Viscopy, Australia's first copyright collecting agency for the visual arts, now part of the Copyright Agency. This was a significant step toward securing income rights for artists and remains foundational to the integrity and sustainability of the sector.

NAVA is an affiliate member of the Australian Copyright Council (ACC) and a member of the Copyright Agency. We support and endorse the substantive positions outlined in their submissions. Our response highlights the key issues for visual artists.

NAVA supports the passage of the Bill as drafted. Like ACC and the Copyright Agency, NAVA recognises that the Bill reflects consensus reached after extensive consultation between creative, education and cultural stakeholders. We support its limited scope and its intention to resolve specific issues without extending into broader or contested areas of copyright reform.

We note, however, a number of areas where additional clarity and safeguards are needed to protect the rights of visual artists.

Any expansion of the Bill beyond the amendments could compromise artists' rights. The visual arts sector already contributes a significant volume of material to the education and cultural sectors, often with limited avenues for remuneration. Australia's statutory licence framework already provides broad and flexible access to copyright material for education.

It is important that the Bill not be used to widen unpaid or uncompensated uses, or to introduce further exceptions sought outside the current consensus.

NAVA supports the ACC's position that unpublished works should be excluded from the orphan works scheme. The right to control if, when and how a work is first made public is fundamental to artistic autonomy and cultural integrity. Many visual artists intentionally keep certain material unpublished, such as preparatory works, private archives, personal papers, culturally sensitive material, or unfinished works.

If unpublished works are included in the scheme, there is a risk that material an artist never intended to release could be made public without their knowledge or consent. Even if the legislation maintains a technical definition of "publication", in practice these works could still be circulated, viewed, or reproduced in ways that override an artist's intentions for privacy, context or timing.

The Bill's treatment of Indigenous Cultural and Intellectual Property (ICIP) requires stronger protection. Visual artworks and archives can contain ICIP that is misidentified, poorly documented, and/or separated from the communities to whom it belongs. If this material is used under the scheme, the options for responding afterwards will not be enough to address cultural harm or meet community expectations for consent, control and proper handling.

NAVA recommends that:

- unpublished ICIP material be excluded from the scheme;
- any industry guidelines developed must align with work underway on standalone ICIP legislation; and
- the scheme must not legitimise the use of culturally sensitive or restricted materials without clear, community-driven permission processes.

NAVA supports the Copyright Agency's view that the education sector is already well supported by a broad statutory licence framework. Teachers are not constrained from reasonable uses of copyright material, including digital, remote or hybrid learning and the recording of lessons.

The Bill must not be used to expand education-sector exceptions or reduce creator remuneration. Any such expansion would reduce the value of visual artists' work and further entrench the precarity experienced across the sector.

NAVA supports the Copyright Amendment Bill 2025 as drafted and urges the Committee to recommend its passage without amendment. Clearer safeguards for unpublished works and ICIP are essential to ensure the scheme does not unintentionally weaken the rights, incomes and cultural authority of visual artists and First Nations communities.

We thank the Committee for the opportunity to contribute to this inquiry.

Sincerely,
Penelope Benton
Executive Director