



## Submission to the Legal and Constitutional Affairs Legislation Committee: Inquiry into the Copyright Amendment Bill 2025

### 1. Summary of Position

The Australian Publishers Association (APA) recommends that the Copyright Amendment Bill 2025 be **passed without amendment**.

The Bill reflects outcomes negotiated through extensive consultation, including the Attorney-General's copyright roundtables. These outcomes represent a consensus-through-compromise between creative industry organisations and representatives of educational and cultural institutions.

The Bill does not create new advantages for publishers or the broader creative sector; rather, it resolves longstanding issues concerning the clarity of permissions raised by users of copyright material in a manner that all parties agreed to support. The orphan-works provisions, in particular, impose clear limits on rightsholders' ability to protect their interests and therefore represent the maximum extent of compromise acceptable to rightsholders. Likewise, while we believe the changes relating to educational instruction were not strictly necessary, they are acceptable to rightsholders as a means of providing clarity sought by users. Any further concessions would go beyond what the creative sector has agreed to and would adversely affect the reasonable interests of creators and rightsholders.

The support of the creative industries for the Bill is premised on it proceeding in its current, limited form, without attempts to introduce broader or contested reforms—particularly proposals from some parts of the education sector for additional exceptions. Any such changes would undermine the consensus-through-compromise process that produced the Bill. For these reasons, we advocate passage of the Bill as introduced.

### 2. Remote Learning

The APA notes that remote and hybrid learning are already clearly accommodated within the current Copyright Act and the statutory licensing framework. The rapid shift to remote delivery during the COVID-19 pandemic demonstrated that schools are able to operate fully online under existing copyright settings. Remote and hybrid learning have long been standard practice in higher education.

The amendments in Schedule 2 do not create new entitlements; they clarify the application of section 28 in contemporary digital teaching environments. The APA agreed to support these clarifying amendments to address concerns expressed by some school-sector representatives, on the understanding that:

- this would be the only education-related matter addressed in this Bill; and
- stakeholders from the school sector agreed to that limited scope.

We would oppose any attempt to expand the Bill to include broader (and yet to be argued) education exceptions (such as AI-related exceptions). All proposed uses of copyright materials are currently available

and priced into the statutory licence settlement – which provides educational access at a modest cost to users.

### 3. Recording of Lessons

The question of whether lessons may be recorded is already clearly covered by existing copyright provisions and education licences.

Recordings of lessons are authorised under the Act's reproduction and communication provisions, including under the statutory licence, and have long been a standard feature of university teaching practice. Guidance from the Australian Copyright Council – the senior advisory body on copyright – confirms that teachers may record lessons and capture third-party material incidental to teaching, as reflected in its published Q&A fact sheets for schools.

It is important for the Committee to note that:

- the amendments in this Bill relate solely to the public performance provisions in section 28; and
- the permissibility of lesson recording is entirely independent of the Schedule 2 amendments.

In short, recording of lessons is not an issue that this Bill is required to resolve – either in relation to permissibility or cost.

### 4. Orphan Works

The APA supports the orphan works limited remedies scheme in Schedule 1 as part of a balanced compromise reached through consultation.

The scheme responds to issues raised primarily by libraries, archives, and cultural institutions in relation to historical and cultural materials for which rightsholders cannot be identified or located despite diligent efforts. The scheme provides a pathway for access while preserving core principles of copyright.

We emphasise the following:

- The scheme does not introduce new advantages for publishers or creators.
- Its acceptability depends on maintaining the safeguards in the Bill: diligent search, recordkeeping, notice requirements, and reasonable payment where rightsholders later emerge.
- Altering these safeguards—particularly by lowering search standards or broadening commercial uses—could distort markets or displace licensed uses.

In relation to educational use of materials where rightsholders cannot be identified, it should be noted that the statutory education licence already provides a remunerated, blanket pathway for uses of such materials. It is essential that the new scheme does not displace properly licensed uses or exert downward pressure on established licence values, which help underpin publishers' capacity to invest in new Australian writing.

The APA looks forward to contributing to the development of guidelines to support practical implementation, including alignment with sector-specific diligence standards.

## 5. Importance of No Further Amendments

The Bill's credibility within the creative industries rests on its narrow and carefully negotiated scope.

Introducing additional or unrelated reforms at this stage—particularly in areas relating to education exceptions or AI—would disrupt the balance achieved through consultation and could have real economic consequences for publishers and authors. Australian creators already earn modest incomes, and publishers bear significant upfront investment risks.

The creative industries have agreed to support the Bill on the explicit understanding that no further amendments would be sought by educational interests at this stage. Both creative-sector and education-sector stakeholders have other reform priorities, but those matters fall outside the scope of the agreed outcomes and require separate, consultative processes. Expanding this Bill would undermine trust in the collaborative approach that has allowed consensus copyright amendments to be enacted in the past—most notably the 2017 amendments benefiting education, libraries, and people with disabilities.

We therefore ask the Committee to recommend that:

1. The Bill be passed without amendment, and
2. Any additional reform proposals be considered in separate policy development processes involving all relevant stakeholders.

## 6. About the Australian Publishers Association

The Australian Publishers Association (APA) is the national peak body for book, educational materials, and journal publishers. Our members include major multinational houses, independent and small publishers, educational and scholarly presses, and specialist and regional publishers.

APA members commission, edit and produce Australian writing in print and digital formats, invest in Australian authors and illustrators, provide high-quality learning resources that support Australia's education and training systems, and contribute significantly to the nation's cultural life, intellectual infrastructure and export income.

APA members participate in and depend on stable, credible copyright frameworks – that underpin investment in new Australian content – namely, education statutory licence and related licensing frameworks, and voluntary licensing schemes and direct rights transactions.

Our interest in this Bill is to ensure that legislative reform preserves the economic foundations of Australian publishing, supports access in a sustainable way, and maintains a balanced, consensus-based copyright framework that serves creators, users, and the public interest.

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