

# A Brief Submission On Copyright Act 2006

I realise that your time is short, so I shall keep this submission to a single page. Linux Australia, representing many Open Source software developers and users in Australia, have been concerned about the anti-competitive effects of "anti-circumvention laws" since before the Free Trade Agreement was signed. There were three tests we had for any law:

1. Can you create your own device which uses legitimately-purchased copyrighted material? Or will the music industry gain authority over all the CD and MP3 players and the movie industry over all the VCRs, DVD players and PVRs?
2. If your device does more than the "approved" players, such as allowing you to play DVDs purchased overseas, or skip over "forced viewing" areas, will the disapproving copyright holders be able to prevent it?
3. Will the law be clear enough that a small (ie. Australian) company feels safe providing innovative products to consumers?

We have certainly failed the third point, and seem to have failed the first two. There is no exception for legitimate access. If a copyright holder has put an access control on a work and can claim that it is in relation to a copyright, the law prohibits you from accessing that work ("circumventing the access control").

It doesn't matter that you bought the copy. It doesn't matter that you're not infringing copyright. All that matters is that once there's a copyright in there, you need permission to access your own property. The tail has wagged the dog.

Who will we need to ask for permission? The movie industry, which fought tooth and nail against the VCR (famously described as "the Boston strangler" by the head of the MPAA to a US Senate Committee). The video game console industry, which construct entire elaborate systems to ensure you can't play games purchased overseas or games you write yourself. Microsoft, convicted of anti-trust violations in the US and Europe. The music industry, who fought against cassette recorders, parallel importation, iTunes and personal copying.

If you buy a CD, you can play it anywhere, copy it onto your computer, play it on your iPod or other MP3 player, lend it to a friend, or resell it. If you "buy" an album from iTunes, some artists aren't available, you pay slightly more than the wholesale cost of a CD, you can't play it on a non-iPod player, lend it to a friend or resell it, and it's lower sound quality than a CD. I want to buy a "CD" by download, and the major labels flatly refuse to sell me one. ARIA figures show record profits for 2003 (the last year's data I have), so why should they bother?

Online distribution offers 40% cost reduction in packaging and shipping, but clearly that's not enough incentive. We've lengthened copyright by another 20 years. We've given a monopoly on online *distribution* (not just copying) to the copyright holders, which wipes out independent stores in the digital age. Yet they're still failing to supply. Perhaps the problem is they don't have *enough* monopoly, so here is another 200+ pages of copyright power!

And damn that vast majority of Australians who own music and movies, and believe that copyright should merely prevent distributing new copies which displace a sale. They need to be updated for the 21<sup>st</sup> century before they cost the industry billions of dollars!

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