



AUSTRALIAN
DIGITAL ALLIANCE

Ms J Fubbs, Chairperson
Portfolio Committee on Trade and Industry
Box 15, Parliament
Cape Town, South Africa 8000.
a/ Mr A Hermans

Dear Ms Fubbs

COPYRIGHT AMENDMENT BILL [B13-2017]

I am writing on behalf of the Australian Digital Alliance to provide comments to the current consultation process on specific clauses of the *Copyright Amendment Bill [B13-2017]* and the Memorandum on the Objects of the Bill.

The Australian Digital Alliance is a non-profit coalition of public and private sector interests formed to provide an effective voice for a public interest perspective in copyright policy. It was founded by former Chief Justice of the High Court of Australia, Sir Anthony Mason in February 1999, to unite those who seek copyright laws that both provide reasonable incentives for creators and support the wider public interest in the advancement of learning, innovation and culture. ADA members include universities, schools, disability groups, libraries, archives, galleries, museums, technology companies and individuals. We have a strong interest in promoting global best practice in copyright that encourage innovation and cultural growth.

We write to commend the Committee's decision to continue to progress the proposed copyright amendments as a single Bill, and to not delay the introduction of vital and long overdue public interest reforms to South African law. In particular, we support the inclusion of fair use provisions in the Bill, as well as exceptions for education, research, cultural institutions, freedom of panorama and persons with a disability. These amendments will also fulfill South Africa's obligations under the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, and will confirm South Africa's support for the Treaty proposals currently being put forward by the African Group at WIPO.

As you are aware, Australia's Productivity Commission has strongly recommended the adoption of fair use as part of our own copyright reform, as the best way to promote innovation and cultural growth by allowing our copyright system to "better adapt to technological change and new uses of copyright material, without compromising incentives to create. Improved access to

copyright works would increase economic activity and community welfare”¹ The Commission found that the importance of the balancing role of exceptions is only increasing in the modern age:

In order to realise the benefits afforded by the digital economy ... copyright arrangements must facilitate (or at a minimum not discourage) transformative, innovative and collaborative use of copyright materials. Digital technology, including search functions, cloud-based solutions and other digital platforms, provides opportunities to create and deliver new and valuable products and services, as well as productivity gains for individuals, businesses and governments.²

We also support calls to increase the diversity of representation in the technical team that will review the Bill, to provide a broad spread of expertise and views and ensure that the new laws are balanced and represent the interests of all South Africans.

Our primary contact on this matter is our Executive Officer, Jessica Coates, who can be contacted at jessica@digital.org.au.

Yours sincerely

A handwritten signature in black ink that reads "D Whitehead". The signature is written in a cursive, slightly slanted style.

Derek Whitehead
Chair
Australian Digital Alliance

¹ Productivity Commission Inquiry Report, *Intellectual Property Arrangements* (2016) p.28. Available at <http://www.pc.gov.au/inquiries/completed/intellectual-property>

² Productivity Commission Inquiry Report, *Intellectual Property Arrangements* (2016) p.167. Available at <http://www.pc.gov.au/inquiries/completed/intellectual-property>