

# Submission to Convergence Review

October 2011

## 1. About Copyright Agency

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Copyright Agency is a member-owned, not-for-profit organisation founded by Australia's authors and publishers in 1974. We now have more than 20,000 members, who include writers, artists and publishers.

We have been appointed by the Australian Government to manage the statutory licence scheme in the Copyright Act that enables educational use of content in return for fair payment to content creators, and a similar scheme for government use. We also offer licences, as agent for our members, for other uses of text and images, such as corporate use. In addition, we were appointed by the Australian Government in 2010 to manage the new artists' resale royalty scheme.

We pay the licence fees we collect to the rightsholders whose content has been used. In 2010–11, this totalled more than \$121M. Our members have authorised us to allocate 1.5% of licence fees for cultural purposes, which supports a range of projects assisting writers, artists and publishers. Many of the projects also assist educational and cultural institutions.

We are also a member of other organisations that have made a submission to the Review: Australian Copyright Council and Australian Content Industry Group.

## 2. Importance of Australian content

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The focus of our submission is the principles, articulated in the Emerging Issues paper for the Review, on Australian content:

- Australians should have access to Australian content that reflects and contributes to the development of national and cultural identity (Principle 4).
- Local and Australian content should be sourced from a dynamic domestic content production industry (Principle 5).

We agree with these principles, and with the reasons for supporting Australian content set out on page 7 of the Discussion Paper.

The principles and reasons apply equally to educational resources as to other content, such as that consumed for entertainment or leisure. A government commitment to ensuring Australian students have access to quality Australian educational resources is essential for the realisation of the benefits outlined in the Discussion Paper.

The focus of the Convergence Review is audiovisual content. We are primarily interested in text and images, which is the content created and published by our members. Increasingly, however, our members are moving into the creation of interactive content, particularly in the area of educational resources.

We are therefore interested in how best to provide an environment that fosters the creation, distribution and consumption of Australian content, including Australian educational resources.

That environment is affected by a range of factors that include the following:

- a regulatory framework that promotes the creation and dissemination of creative and innovative content (effective copyright law being the primary mechanism);
- measures to enable access to legitimate content on fair terms;
- measures to convert unauthorised use of content to legitimate use;

- financial incentives to invest in Australian content (such as producer offsets);
- financial support for the creation and dissemination of content through government funding bodies such as the Australia Council;
- assistance with export, to assist with realising return on investment in Australian content;
- assistance with marketing and promotion, in particular to assist Australians to find Australian content in an increasingly globalised marketplace;
- training to assist smaller players to transition to disseminating their content in the online environment; and
- maintaining sovereignty to determine appropriate measures for the development of Australian content.

We have commented below on a number of these issues.

### 3. Other reviews and initiatives

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Issues of relevance to the Convergence Review are likely to be addressed in:

- the report of the Book Industry Strategy Group, due for release on 31 October;
- the review of copyright law to be undertaken by the Australian Law Reform Commission in 2012;
- the review by the Attorney-General's Department of the 'safe harbour' provisions in the Copyright Act for online service providers;
- the National Cultural Policy; and
- the Review of Private Sector Support for the Arts.

Recent government reports and initiatives which are also relevant include:

- *Creative Industries, a Strategy for 21st Century Australia* (Creative Industries Strategy); and
- House Standing Committee on Infrastructure and Communications *Report of inquiry into the role and potential of the National Broadband Network*.

### 4. Factors contributing to Australian content

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#### Regulatory framework

The importance of the copyright framework is outlined in the Government's Creative Industries Strategy:

*A defining feature of creative industries is the generation of creative ideas that have the potential to be commercialised. Creative expression is essential to a vibrant and rich Australian culture. These ideas, once commercialised, underpin innovation and have a positive impact on the national economy. In a 2008 report, PricewaterhouseCoopers estimated that during 2007, the Australian copyright industries generated \$97.7 billion in economic value (10.3 per cent of GDP).*

*Australia's intellectual property system—including copyright, patents, trademarks and other intellectual property rights—assists creators to commercialise their ideas and creative works. Australia is acknowledged internationally as having a strong and comprehensive intellectual property rights regime.*

*This robust system has been assisting producers of creative content to guard against misuses like piracy. The legislative framework gives creators incentives in the form of recognition and economic reward. It also provides a disincentive for unauthorised use and reproduction.*

We ask the Review Committee to confirm that an effective copyright framework is fundamental to the production and dissemination of Australian content.

### **Legitimate use of content**

We support the submission of the Australian Content Industry Group for an industry-led solution to convert unauthorised to legitimate use of content.

The Government has a role in educating people about the value of digital content, the investment and effort required to produce it, and the effects on the creative environment if content is not acquired from legitimate sources.

### **Financial incentives for investment**

We think that financial incentives for investment in local content, such as the producer offsets available to the film industry, should be available for all Australian content, particularly that which is innovative and may thus be a riskier investment prospect.

### **Government funding**

We support the proposal by Artspeak, in its submission on the National Cultural Policy, for a proportion of the National Broadband Network (NBN) budget to be allocated to Australian content to be delivered via the NBN.

We also support the aspirations of Australia's cultural institutions to digitise their collections to enable them to be viewed online, and see this as an important source of Australian content, including for Australia's students. We ask the Review Committee to recommend that the Australian Government commit funds to the digitisation of collections.

In our submission on the National Cultural Policy we have outlined a solution to the copyright issues associated with mass digitisation by cultural institutions.

### **Marketing and promotion**

Discoverability of Australian content will become even more important in an increasingly globalised world. Funding and skills for marketing and promotion are thus a key aspect of supporting Australian content.

### **Export**

Mechanisms to promote the export of Australian content, including Australian educational resources, are an essential part of an environment conducive to the production of Australian content. An export market can enable much more extensive investment than may be justifiable otherwise.

We have outlined some proposals in our submission on the National Cultural Policy. We also note the range of Government assistance programs listed in the Government's Creative Industries Strategy.

### **Training and technical skills development**

We recently surveyed our members about their perceptions of the digital environment and its implications for them.<sup>1</sup> The main issues the respondents identified as concerns for them were: limited technical skills, lack of digital marketing skills, apprehension at the potential for large multinationals to dominate the online market, and the threat of online piracy.

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<sup>1</sup> [www.copyright.com.au/Latest\\_News/CAL\\_releases\\_results\\_from\\_digital\\_publishing\\_trend.aspx](http://www.copyright.com.au/Latest_News/CAL_releases_results_from_digital_publishing_trend.aspx)

In alignment with recommendations of the Book Industry Strategy Group, we ask the Review Committee to recommend government assistance for skills development and support to enable those involved in creative endeavour to successfully transition to the online environment.

### **Constraints on options available to support Australian content**

The Discussion Paper, in Appendix B, refers to multilateral and bilateral treaties that limit the Australian Government's options for supporting Australian content, in particular the Australia–US Free Trade Agreement.

We ask the Review Committee to recommend that the Australian government refrain from committing to any further restraints, including as part of the Trans-Pacific Partnership (TPP) Agreement.

### **Indigenous culture**

A key element of Australian content is, of course, Indigenous culture. There are issues that arise specifically for Indigenous culture, particularly traditional aspects of Indigenous culture, that need to be addressed specifically in the Government's policies and strategies for supporting Australian content.

### **Australian content in education**

Government policies to support and promote Australian content should include the resources that will enable the successful delivery of the National Curriculum. Australia has an innovative educational publishing sector, whose products are used all over the world. The rationale for supporting Australian content clearly applies to this sector of Australia's Creative Industries.

We would be happy to provide any further information that may be of interest to the Review Committee.



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