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A change that would cost way more than $1.3bn

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There's no doubt we all love a great story. Whatever the medium: books, television, films, plays, documentaries — the story is king.

So when storytellers such as Nobel prize winner J.M. Coetzee, Malcolm Gladwell, Margaret Atwood, Yann Martel and Stephen Sondheim throw their support behind a cause, there's a good reason to ask why.

They and many others filed briefs this month with the US Supreme Court in support of the American Authors Guild. The guild wants the court to hear its case that Google be held accountable for its copying of millions of books without asking permission or paying a cent.

As the guild says: "Google copied 20 million books to create a massive and uniquely valuable database. It never even bought a single book." Unlike Apple with iTunes, it never asked the creators of these works if it could use them, or paid them a cent.

The case is an expensive, decade-long escalating litigation. It's also a stark example of how badly US copyright law can go wrong.

In copying 20 million books without payment or permission, Google has relied on the US legal concept of fair use, which outlines the circumstances where large companies do not have to seek permission to use books, music and films created by other people.

A major problem with fair use is that different courts have come to widely different decisions, encouraging constant litigation. By contrast Australia's system is clearer and less prone to litigation. Despite this, some advocate that we adopt a fair use approach here which, according to a new PwC report, could result in a loss of GDP in the order of $1.3 billion.

PwC finds three main reasons for this contraction in GDP.

First, fair use would permanently lift legal costs in Australia. There is almost five times as much copyright litigation in the US than in Britain, whose law is more certain and comparable to Australia's. PwC conservatively estimates that Australia's costs of copyright litigation would rise from $26.6m to $133m annually, if fair use were introduced here.

Second, fair use would rip millions of dollars away from Australian storytellers and content creators, because large companies, governments and education institutions who now have to pay to use creative content would stop paying as much or stop paying at all.

As the PwC report puts it, "a transition to fair use will create disincentives to create original copyright works" and "the impact of reduced production should be felt almost entirely on domestically produced works ..." resulting in "a loss of Australian professional creative output".

PwC's findings are based, in part, on what happened in Canada when similar changes were introduced in 2012. Most universities and schools refused to take out licences for using content. Education licensing revenue dropped 98 per cent and multiple publishing operations closed. Oxford University Press stopped producing Canadian text books for primary and secondary school students.

Third, fair use would undermine the highly effective licensing system in Australia. This system means Australian teachers can share and copy almost every book, magazine and journal published in the world with their students for less than the cost of a book each year. School departments pay this fee, not students.

When it comes to modernising our copyright system, policymakers need to get the balance right, between promoting economic growth, setting the right incentives and making sure Australian storytellers can make a living. Our own storytellers, such as Linda Jaivin, John Birmingham, Anita Heiss, Michael Robotham and Nick Earls agree.

What this means for digitised books is that we avoid extensive and expensive litigation as occurs in the US. A better approach would be licensing laws that ensure public access to material, that provide a fair return to those who invest in content and ensure Australian storytellers keep producing.

It is vital our storytellers are given the environment and freedom they need to create new stories. Our copyright system can continue to do just that, providing clarity and certainty for Australia's innovative creative community, which contributes billions to Australia's economy.

Adam Suckling is chief executive of the copyright agency Viscopy.