

## MEDIA RELEASE

### Copyright Amendment Bill passes: onwards to Fair Use

*Canberra, 15th June 2017*

Electronic Frontiers Australia – the country’s leading digital rights advocacy organisation – welcomes today’s passage of important updates to Australia’s Copyright Act and calls for urgent progress towards more comprehensive reform that will make Australia’s copyright system fit for purpose in the digital age.

The Copyright Amendment (Disability Access and Other Measures) Bill contains a number of important changes that will benefit Australia’s schools, universities, libraries, galleries and museums. These changes will:

- streamline the process of negotiating statutory licences for the education sector;
- remove absurd restrictions which have prevented libraries, galleries and museums from protecting their collections for the future; and
- finally allow millions of unpublished works, such as diaries and personal correspondence to be made available.

The Bill also implements Australia’s obligations under the Marrakesh Treaty for the Blind and Vision Impaired, a global treaty which addresses equity of access to content by removing impediments to the creation of accessible format versions.

EFA is pleased to note that the Bill allows for the creation of accessible format versions of content to address any form of disability and therefore exceeds the obligations set out in the Treaty.

EFA is however disappointed that the simple fix to the copyright safe harbour scheme that would extend it beyond carriage service providers was left out of the Bill, but understands that the government is leading good faith negotiations which are proceeding towards a resolution of this issue in the near term.

Extending the copyright safe harbour scheme will provide legal certainty for all Australian organisations that provide online services, from schools and universities to technology start-ups and service platforms, while delivering low-cost mechanisms for rights-holders to request for infringing content to be removed, and ensuring that Australian consumers will have recourse against frivolous and erroneous takedown requests.

The Copyright Amendment (Disability Access and Other Measures) Bill therefore provides important but only incremental steps towards a copyright system that is fit for purpose in the digital age.

What is now required is the introduction of a broad, flexible fair use exception into Australia's Copyright Act.



As EFA Chair David Cake said today, “while the amendments passed today are both welcome and important, if Australia is to fully realise the social, economic, artistic and educational benefits offered by digital technology, then we must introduce fair use into our copyright system. Fair use strikes an appropriate balance between the legitimate rights of all parties, providing space for creative acts, technological and service innovation, social interaction and political speech, while protecting the interests of copyright-holders.”

Such an exception has now been recommended by no less than six separate inquiries over the last two decades, most recently by the Australian Law Reform Commission in 2014<sup>i</sup> and the Productivity Commission<sup>ii</sup> in December 2016.

EFA therefore calls on the government to introduce legislation to implement a broad flexible fair use exception into Australia’s Copyright Act without further delay.

### **About EFA**

Established in January 1994, Electronic Frontiers Australia (EFA) is a national, membership-based non-profit organisation representing Internet users concerned with digital freedoms and rights.

EFA is independent of government and commerce, and is funded by membership subscriptions and donations from individuals and organisations with an altruistic interest in promoting civil liberties in the digital context. EFA members and supporters come from all parts of Australia and from diverse backgrounds.

EFA’s major objectives are to protect and promote the civil liberties of users of digital communications systems (such as the Internet) and of those affected by their use and to educate the community at large about the social, political and civil liberties issues involved in the use of digital communications systems.

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<sup>i</sup> <https://www.alrc.gov.au/publications/copyright-report-122>

<sup>ii</sup> <http://www.pc.gov.au/inquiries/completed/intellectual-property#report>