

AUSTRALIAN
COPYRIGHT COUNCIL

**SUBMISSION TO THE UN SPECIAL RAPPORTEUR ON THE INTERNATIONAL COVENANT
ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS ON THE IMPACT OF INTELLECTUAL
PROPERTY REGIMES ON THE ENJOYMENT OF RIGHTS TO SCIENCE AND CULTURE**

SEPTEMBER 2014

ABOUT THE AUSTRALIAN COPYRIGHT COUNCIL

The Australian Copyright Council (ACC) supports a creative Australia by promoting the benefit of copyright for the common good.

We believe in the values copyright laws protect: creative expression and a thriving, diverse, sustainable, creative Australian culture. A society's culture flourishes when its creators are secure in their right to benefit from their creative work and when access to those creative works is easy, legal and affordable. Copyright effectively and efficiently enables this balance between protection and access.

The ACC is an independent, non-profit organisation. Founded in 1968, we represent the peak bodies for professional artists and content creators working in Australia's creative industries and Australia's major copyright collecting societies.

We are advocates for the contribution of creators to Australia's culture and economy and the importance of copyright for the common good. We work to promote understanding of copyright law and its application, lobby for appropriate law reform and foster collaboration between content creators and consumers.

We provide easily accessible and practical, user-friendly information, education and forums and pro bono legal advice on Australian copyright law for content creators and consumers.

The ACC has 24 member organisations. A full list of our members is attached at Appendix 1.

INTRODUCTION

The ACC welcomes the opportunity to provide this submission to the Special Rapporteur on the impact of intellectual property regimes on the rights to science and culture. In this submission, we will focus on the area of intellectual property covered by copyright law.

Australia is a party to the International Covenant on Economic, Social and Cultural Rights (ICESCR). Article 15 of ICESCR provides as follows:

1. The States Parties to the present Covenant recognize the right of everyone:
 - a. To take part in cultural life;
 - b. To enjoy the benefits of scientific progress and its applications;
 - c. To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.
3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.
4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

It is important to say something at the outset about this inquiry and what is meant by “access to culture”. While we accept that “culture” should have a broad meaning,¹ in our submission, access to culture is not about an individual’s ability to gain immediate, free access to an ephemeral television program. In our view, “access to culture” is most meaningful where it refers to the ability to connect with content of cultural, social and educational significance or value.

Internet and web technologies have brought increased and unprecedented access to data, and served to expand general information and communication flows across populations. These have also improved the capacity of educational institutions and organisations to present in digital form a greater array of knowledge to scholars, researchers and students. However, the expansion of the Internet has also been accompanied by a destructive shift in perceptions about career and professional creativity, perceptions in many instances encouraged by Internet technology companies and service providers for corporate and commercial purposes. For them, the creative works of authors have become mere “content”. The effect of this language shift is to devalue the role of professional creators and attempt to make less plausible their right to material reward for their work.

In this submission, we contend that:

1. the protection of copyright and its related rights is fundamental to the ICESCR; and
2. the limitations and exceptions which are inherent to copyright safeguard appropriate access to culture as required under the Convention.

¹ See for example, ILO comments on Article 15 of ICESCR May 2008
<http://www2.ohchr.org/english/bodies/cescr/docs/discussion/ILO.pdf>

The rights of the author to benefit from the protection of the material interests in their work

Copyright provides the mechanism for authors to derive an economic benefit from their work. Under Australian law, copyright is protected as personal property.²

Under Australian copyright law, authors of literary, dramatic, musical and artistic works enjoy copyright protection. As do the makers of less traditional art forms such as sound recordings and films.

This gives them a bundle of exclusive rights in their creations, notably the right to reproduce, to perform in public and to communicate them to the public. These rights are central to the ability of creators to earn a living from their work, as they are entitled to do under the historic conception of copyright.³ In our submission, this is a fundamental right.⁴

It is important to note that the suite of rights granted to copyright owners takes account of the public interest in access to culture. For example, copyright does not regulate displaying an artwork or lending a book. This is an example of how a formal copyright system serves to balance the rights of copyright owners and the public interest in being able to access artistic and other products of cultural value.

Performers rights

Under Australian copyright law, certain rights are also granted to performers in sound recordings.

The rights of the author to benefit from the protection of the moral interests in their work

In addition to the economic rights of copyright, Australian copyright law also recognises the moral rights of authors. These are the right of attribution, the right against false attribution and the right of integrity of authorship. When this legislation was introduced into Parliament by the former Attorney-General, it was made clear that its purpose was to acknowledge:

“the great importance of respect for the integrity of creative endeavour. At its most basic, this bill is a recognition of the importance to Australian culture of literary, artistic, musical and dramatic works and of those who create them.”⁵

These rights are qualified by some exceptions:

an author may genuinely consent to acts done in relation to their work that might otherwise be an infringement of their moral rights. There is also a general defence of reasonableness that applies to the rights of attribution and integrity. In our submission, this is further evidence of the way the copyright system provides proportionate protection for authors.

Limitations

In our submission, the limitations inherent in the copyright regime, safeguard the public interest in access to culture.⁶

² Sub-section 196(1) *Copyright Act 1968*

³ In Australia, a series of economic studies have been conducted about professional artists. The latest study was published in 2010. See Throsby and Zednik, *Do you really expect to get paid? An economic study of professional artists in Australia*, 2010 http://www.australiacouncil.gov.au/_data/assets/pdf_file/0007/79108/Do_you_really_expect_to_get_paid.pdf

⁴ To see Australian creators talking about what copyright means to them, see the following video clip <https://www.youtube.com/watch?v=v2esYU6ce9Q>

⁵ Second reading speech, *Copyright Amendment (Moral Rights) Bill 1999*, 8 December 1999, *Hansard* 13026 <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=ld%3A%22chamber%2Fhansard%2F1999-12-08%2F0016%22>

Idea/expression dichotomy

For example, copyright does not subsist in ideas, it only subsists in the *expression* of ideas. In Australia, in order for a work of authorship to be protected by copyright, it has to fall into one of the eight categories of work or other subject-matter. This means, for example, that copyright does not protect styles or techniques.

Originality

Copyright only protects original works and subject-matter. Traditionally, there has been a low level of originality required in Australian copyright law. However, it is clear that this requirement is intended to protect human authorship. Case law in Australia in recent times has seen copyright protection denied to television guides, telephone directories produced using a computer program and newspaper headlines.⁷ This line of authorities demonstrates that copyright protection in Australia is very much linked to the public policy purpose of rewarding human creativity.

Limited duration

The term of copyright protection is linked to the notion that an author and his or her heirs should be able to benefit from the fruits of the author's creative endeavour and labour. The general rule for duration of copyright in Australia is that it lasts for the life of the author plus 70 years.

While much has been written about the duration of copyright, it is important to acknowledge that it is finite. Once copyright has elapsed, a work falls into the public domain. In Australia, works created by authors who died before 1955 are generally in the public domain. This includes many culturally and historically significant works.

De Minimus rule - substantial part

In Australian copyright law, an issue only arises, when someone uses a substantial part of a work in one of the ways reserved to the copyright owner, without their permission. This is not a quantitative test, but a qualitative test. In our submission, this is a further example of how the copyright system provides proportionate protection for an author's creativity.

Exceptions

The rights of copyright owners are not absolute. They are subject to important exceptions that seek to serve the public interest. The parameters of these exceptions are established in three important principles:

1. they must be for a special case;
2. they must not affect the normal exploitation of the work; and
3. they must not unreasonably prejudice the legitimate interests of the copyright owner.⁸

This is another example of how the copyright system balances the interests of creators and the broader public interest. In Australia, there is a wide range of exceptions, which serve the public interest by allowing for the greater dissemination of information. At Appendix 2 we include an information sheet, which sets out all the exceptions in the *Copyright Act 1968* and their stated public policy purpose.

⁶ See further, Torremans, Paul L.C. 'Is Copyright a Human right?' 271 *Michigan State Law Review* 2007.

⁷ *IceTV Pty Limited v Nine Network Australia Pty Limited* [2009] HCA 14; *Telstra Corporation Limited v Phone Directories Company Pty Ltd* [2010] FCAFC 149; *Fairfax Media Publications Pty Ltd v Reed International Books Australia Pty Ltd* [2010] FCA 984.

⁸ This is known as the 'three-step test' articulated in a range of treaties, including Article 13 of the *Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)*.

For example, there are fair dealing exceptions for news reporting, for criticism or review, for research or study and (since 2006), for parody or satire.⁹

In addition there is a range of private copying exceptions that allow individuals to time shift and format shift copyright material they have legally acquired.

As well, there are exceptions that apply to the prohibition against circumventing technological protection measures.

Because of Australia's particular geographic circumstances, it also has a large number of sector-specific exceptions intended to facilitate access to culture. For example, these allow books and songs and films to be performed in class, resources to be shared amongst library networks and material to be copied for preservation purposes. In our submission, this is a further example how the Australian copyright system is particularly well adapted to facilitate access to culture.

Statutory licences

Australia is also unique in that it has a highly developed system of statutory licences, which are designed to facilitate efficient access to culture. The major licences, as authorised in the Copyright Act, are for education and the services of government.

Conclusion

The copyright power in the Australian Constitution is part of the general plenary power of Parliament to make laws for the peace, order and good governance of the Australian people.¹⁰ As Australia is a nation without a bill of rights, a well-developed and comprehensive copyright system is vital in mediating between the rights of authors to "enjoy the fruits of their labour" and the broader public interest in access to culture.

In our submission, the copyright system does this effectively and as required under the ICESCR.

Fiona Phillips
Executive Director

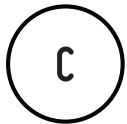
⁹ More detailed examples are given in Phillips, F "Standoff: Copyright vs Freedom of the Press", *Larrikin Post*, March 2013 <http://www.larrikinpost.com/standoff-copyright-vs-freedom-of-the-press>

¹⁰ Section 51 (xviii) *Commonwealth Constitution*.

Appendix 1: Australian Copyright Council Affiliates

The ACC's views on issues of policy and law are independent, however we seek comment from the 24 organisations affiliated to the Council when developing policy positions and making submissions to government. These affiliates are:

Aboriginal Artists Agency Ltd
Ausdance
Australian Commercial & Media Photographers
Australian Directors Guild
Australian Institute of Architects
Australian Institute of Professional Photography
Australian Music Centre
Australasian Music Publishers Association
Australian Publishers Association
APRA/AMCOS
Australian Recording Industry Association
Australian Screen Directors Authorship Collecting Society
The Australian Society of Authors Ltd
Australian Writers' Guild
Christian Copyright Licensing International
Copyright Agency
Media Entertainment & Arts Alliance
Musicians Union of Australia
National Association For The Visual Arts Ltd
National Tertiary Education Industry Union
Phonographic Performance Company of Australia
Screen Producers Association
Screenrights
Viscopy



Exceptions to copyright

There are many exceptions in the *Copyright Act* 1968. The table below sets out all the exceptions in the Act. It is based on a table created by the Copyright Law Review Committee for its Copyright and Contract Report in 2002 and later revised in the Attorney-General's Department's Issues Paper, *Fair Use and Other Copyright Exceptions* in 2005. It has been amended to include changes in the relevant legislation from 2005 to the present.

Section	Exception	Historical/Policy Justification
	FAIR DEALING	<p>The concept of fair dealing has been embedded in copyright through the common law.</p> <p>In order for a certain use of copyright material to be a fair dealing, it must fall within one of these exceptions in addition to being 'fair'.</p> <p>Whether a person's use of copyright material is 'fair' depends on the circumstances of each case.</p>
ss 40, 103C	Research or Study	Introduced for the purpose of promoting and facilitating education and research.
ss 41, 103A	Criticism or review	The exception is based on the assumption that copyright owners ordinarily expect to have their works subjected to criticism and review for the purposes of providing potential consumers with information about the works.
ss 42, 103B	Reporting news	Policy basis derived from the public interest in promoting the free flow of knowledge, ideas and information, evident in the case law.
ss 41A, 103AA	Parody or satire	Implemented following the Fair Use Review in 2006 to promote free speech and Australia's "fine tradition of satire" by allowing comedians and cartoonists to use copyright material for the purposes of parody or satire.
s 43(2)	Giving professional advice	<p>This exception was implemented for the purposes of facilitating the administration of justice, with the interest of assisting people to understand their legal rights and obligations.</p> <p>NB: The <i>Intellectual Property Laws Amendment (Raising the Bar) Act 2012</i>, amends ss 200(2) and (2A) of the <i>Patents Act 1990</i> to extend this privilege to registered patent attorneys.</p>
s 200AB	Use of works and subject-matter for certain purposes; that do not conflict with a normal exploitation of the work or other subject-matter or unreasonably prejudice the legitimate interests of the owner of the copyright.	<p>Introduced following the Fair Use Review in 2006.</p> <p>Based on the rationale that if schools, universities, libraries and</p>

(2)	- by body administering library or archives	archives are given the chance to use copyright material for non-commercial purposes they will be able to better assist their users in the online environment.
(3)	- by body administering educational institution	
(4)	- by or for person with a disability	Allows people with disabilities to access copyright material.
	COPYING BY LIBRARIES AND ARCHIVES	<p>The initial copying provisions implemented the 1959 recommendations of the Spicer Committee. They are similar to the UK provisions designed to remove the potential risk of librarians being held liable for copyright infringement when making copies for students or for other libraries. The 2011 Hargreaves Review of UK Intellectual Property Law recommended extending the exceptions in UK law to include methods of digitisation for archiving works.</p> <p>The exceptions facilitate education and scientific research making it easier to access specialist research material.</p> <p>The <i>Digital Agenda Act (2000)</i> updated the library and archives provisions allowing them to copy electronic material, reproduce hard copy material in electronic form and to communicate electronic material forming part of the library's and archive's collection.</p> <p>These amendments were implemented to allow the general community access to copyright material through the use of new technology whilst protecting the interests of copyright owners.</p>
ss 48A 104A	Copying by Parliamentary Libraries for MPs	Based on public interest in having an informed political process.
s 49	Reproducing and communicating works by libraries for: Users for research and study (user requests)	An extension of the permission granted to a student to make a fair dealing copy of a work to a librarian acting on a student's behalf.
s 50	For other libraries or archives (interlibrary copying for (document supply)	In 1976, the Franki Committee argued that Australia's geographical constraints rendered inter-library loans impractical due to cost and efficiency. This argument was accepted, and this exception was justified on practical grounds.
s 51, s110A	Reproducing/communication of old unpublished works, films or sound recordings in libraries or archives	Assists scholarly research and the dissemination of its results.
s 51AA	Reproducing/communicating works in Australian Archives	Assists in making the Australian Archives' collection more accessible throughout Australia.
ss 51A, 110B	Reproducing/communicating works for preservation and other purposes	Assists in maintaining the collection of a library or archives by enabling them to replace works, films and sound recordings that have deteriorated, been damaged, lost or stolen.
s 52	Publication of old unpublished works that are kept in libraries or archives and to which s51 applies	In recognising the value and historical significance of unpublished works this exception facilitates scholarly research and the dissemination of its results.
s 53	Extension of exceptions under ss48A-52 to illustrations that accompany works copied	This exception recognises the impracticality of excluding illustrations accompanying works when, copying or communicating works under the library and archives copying provisions.

	OTHER (TECHNOLOGY BASED) EXCEPTIONS	
ss 43A, 111A	Temporary Reproductions – in course of communications	Introduced to ensure that the technical processes which are part of the use of technology do not impede access to copyright material.
ss 43B, 111B	Temporary, Reproductions – as part of technical process of use	This exception was added as a counterpart to other amendments that provide stronger copyright protection against the making of unauthorised temporary copies. It ensures that the normal use of non-infringing material is not threatened by the making of electronic copies of a transitory nature.
ss 47AA, 110C	Reproduction for purpose of simulcasting in digital form	Introduced to allow broadcasters to comply with requirements contained in the <i>Broadcasting Services Act 1992</i> that material be simulcast in digital and analogue form as part of the introduction of digital television in Australia.
ss 116AN - AP	Exceptions to anti-circumvention sanctions	These are exceptions to the sanctions concerned with the circumvention of technological protection measures. They are designed to ensure there is reasonable access to copyright material in electronic form.
Part V Div 2AA	Limitations on remedies available against carriage service providers	The <i>US Free Trade Agreement Implementation Act 2004</i> inserted Part V, Div 2AA into the <i>Copyright Act 1968</i> creating safe harbour provisions for carriage service providers.
s 116AC	Providing facilities or services for transmitting for transmitting, routing or providing connections for copyright material, or the intermediate and transient storage of copyright material in the course of transmission, routing or provision of connections.	These exceptions are contingent upon compliance with the conditions set out in 116AH.
s116AD	Caching copyright material through an automatic process.	
s116AE	Storing, at the direction of a user, copyright material on a system or network controlled or operated by or for the carriage service provider.	
s116AF	Referring users to an online location using information location tools or technology.	
	<i>Computer program exceptions</i>	
s 47B	Reproduction for normal use/study of a computer program	This exception ensures that computer programs can be used in their normal capacity. It also facilitates competition and growth in the computer software industry.
s 47D	Reproduction for making interoperable products	Introduced for the purpose of maintaining the international competitiveness of Australia's software developers.
s 47E	Reproduction for correcting errors	Introduced to ensure that software users could promptly repair malfunctions in vital operating systems. At the time of introduction there was particular concern about the Y2K bug at the turn of the millennium, where error-free copies of computer programs may not have been readily available.
s 47F	Reproduction for security testing	Security testing is seen as a legitimate activity.

	STATUTORY LICENCES	<p>The policy justification behind each licence differs.</p> <p>Statutory licenses are a practical means of remunerating copyright owners for use of their material without requiring individual licences.</p>
ss 47, 70, and 107	Ephemeral reproductions made for the purpose of broadcasting, where the maker is not the broadcaster	Promotes efficiency in broadcast programming.
Part III, Division 6	Recording of musical works	The statutory licence was seen as a means of moderating the perceived fear of high royalty demands of music copyright owners for consent to the recording of their works.
s 47A	Sound broadcasting of literary and dramatic works by holders of a print disability radio licence	Introduced to assist those with a print disability.
s 108	Public performance of sound recordings	Facilitates access to published sound recording repertoire.
s 109	Broadcasting of sound recordings	Facilitates access by broadcasters to published sound recording repertoire.
Part VA	Off-air copying of broadcasts (including underlying works, films and sound recordings) by educational institutions and institutions assisting persons with an intellectual disability (s 200AA allows free sound recording of a broadcast – but not any underlying works – by an institution assisting persons with an intellectual disability)	<p>Provides institutions operating under VA with the option to make off-air copies of any television program for educational purposes without having to seek permission from copyright owners.</p> <p>The Digital Agenda Act introduced amendments to ensure that Part VA was capable of adapting to future developments in technology.</p>
Part VB, Div 3	Reproduction and communication of works and other subject-matter by educational institutions and institutions assisting persons with an intellectual or print disability	<p>Introduced to allow educational institutions to make multiple copies of works for teaching; and to reduce the inefficiencies and high transaction costs involved in individually seeking permission from copyright owners.</p> <p>The Digital Agenda Act introduced amendments to ensure that Part VB was capable of adapting to future developments in technology.</p>
Part VC	Retransmission of free-to-air broadcasts	<p>The Digital Agenda Act introduced a statutory licence scheme to allow the owners of copyright in works, films and sound recordings embodied in free-to-air broadcasts to obtain remuneration for the retransmission of the broadcasts.</p> <p>Prior to this amendment, retransmitters were able to retransmit free-to-air broadcasts without the permission or payment of remuneration to either the owner of the copyright in the broadcast or the owner(s) of copyright in the underlying works, such as any music, written material or film.</p>

Part VII, Div 2	Use of copyright material for the services of the Australian and State and Territory governments	Designed to simplify the means of remunerating copyright owners in order to promote the procedures of government and the administration of justice.
	MISCELLANEOUS FREE EXCEPTIONS	
ss 43(1), 104	Acts done for judicial proceedings	These exceptions are designed to facilitate the administration of justice.
s 182A	Reproduction of statutory instruments and judgments	This exception facilitates access to, and promotes an awareness of the law. It allows a single copy of the whole or part of a prescribed work (statutory and judicial material) to be made by or on behalf of a person for a particular purpose.
s 44	Inclusion of works in collections for use by places of education	Promotes education and research. The inclusion of short published works is permissible if, the collection is described in an appropriate place, the original work or adaptation was not published for the purpose of being used by places of education, the collection consists principally of matter in which copyright does not subsist and sufficient acknowledgement of the work or adaptation is made.
ss 44BA	Acts done in relation to certain medicine	This exception was implemented by the <i>Therapeutic Goods Legislation Amendment (Copyright) Act 2011</i> . Facilitates access to product information regarding certain medicines.
	<i>Reproduction and Related Uses</i>	
ss 44B, 112B	Reproduction of writing on approved labels on chemical products containers	Introduced in 1994 by the <i>Agricultural and Veterinary Chemicals (Consequential Amendments) Act</i> as part of Government policy on the marketing of generic agricultural and veterinary chemical products in Australia.
ss 47, 70 and 107	Reproduction of works and sound recordings by a broadcaster for purpose of broadcasting	In the course of licensed broadcasting, the making of 'ephemeral' reproductions is expressly recognised in the Berne Convention on copyright as a practical incident of broadcasting.
s 65 s 66 s 68	Specified reproduction and publication of works in public places: - sculptures and works of artistic craftsmanship - buildings and models of buildings - publication of legitimate reproductions of artistic works in public places (or films referred to in s67)	It is considered reasonable to allow the creation and the legitimate reproduction of a painting, drawing, engraving or photograph of these works. It would be impractical to control this type of copying.

s 67	Incidental filming or televising of artistic works	It is considered reasonable to allow the incidental inclusion of these works cinematograph film or television broadcast as it would be impractical to control this form of copying.
s 72	Reproduction of part of an artistic work in later artistic work	Accommodates the copying (reference, or quotation) of parts of an artistic work by the author in a later work.
s 73 (1), (2)	Reconstruction of buildings	A practical measure to allow the reconstruction of buildings.
s 111	Recording broadcasts for replaying at more convenient time (private and domestic use)	This exception was introduced following the Fair Use Review in 2006. It recognised that the common consumer practice of 'time shifting' broadcasts should be permissible. The exception makes it legal for people to record TV or radio programs in order to play them at a more convenient time.
s 112	Reproductions of editions of works	This section allows the reproduction of the whole or part of an edition of a work without infringing copyright in the edition if the reproduction is made in the course of specific dealings with the work that is exempted under the Act. This provision was inserted to provide consistency within the Act, namely the dealings exempted under ss. 40-43, ss.49-50 and s. 51A and the copying of works pursuant to the statutory licences under Part VB and s. 182A.
s 43C	Reproduction of works in books, newspapers and periodical publications in different form for private use	This exception was introduced following the Fair Use Review in 2006. This exception allows consumers to reproduce material such as newspapers and books into different formats for their own private use (eg converting hardcopy books into electronic format).
s 47J	Reproduction of a photograph in different format for private use	Introduced following the Fair Use Review in 2006, to recognise that common consumer practices such as format shifting with regards to certain copyright material should be permissible. The Attorney-General's Department reviewed the operation of s47J in 2008, recommending no change be made to the section at that time. This exception allows a photograph in hardcopy form to be reproduced in electronic form or a photograph in electronic form to be reproduced in hardcopy form for private use.
s 109A	Copying sound recordings for private and domestic use	This exception was introduced following the Fair Use Review in 2006, to recognise that format shifting of certain copyright material should be permissible. It allows people to transfer music from CDs they own onto their personal music players.
s 110AA	Copying cinematograph film in different format for private use.	This exception was introduced following the Fair Use Review in 2006, to recognise that format shifting of certain copyright material should be permissible. The Attorney-General's Department reviewed the operation of s 110AA in 2008, recommending no change be made to the section at that time. This exception is narrow in scope and only permits the owner of a videotape embodying a cinematograph film in analogue form to copy the film in electronic form for their own private and domestic use. The intent of this provision was to allow consumers to continue to be able to view films purchased on VHS without the need to buy an increasingly obsolete video cassette player.
	Making preservation copies in key cultural	Implemented in the 2006 reforms, with the idea that given the

s 51B	institutions' collections of: -significant works	chance to use copyright material for non-commercial purposes, key cultural institutions will be able to better assist their users in the online environment.
s 110BA	- significant recordings and films	
s 112AA	- significant published editions	
	<i>Performances, transmissions and broadcasts</i>	
s 28	Performance of literary, dramatic or musical works or other subject-matter in the course of educational instruction	Facilitates and promotes education.
s 45	Reading or recitation of a literary or dramatic work in public or for a broadcast with sufficient acknowledgment	To assist in the public dissemination of information.
s 46	Performance of literary, dramatic or musical works at premises where persons reside or sleep	The Spicer Committee concluded that it is logical to equate this type of performance given in a guesthouse to that a person might receive in their own home.
s 106	Causing sound recording to be heard at a guest house or club	The Spicer Committee concluded that it is logical to equate this type of performance given in a guesthouse to that a person might receive in their own home. This exception is narrower in scope and does not apply to performances for which an entry fee is charged, and is limited to non-profit organisations whose principal objects are charitable or are concerned with the advancement of religion, education or social welfare.
s 199 (1)	Playing or showing in public of broadcasts of literary or dramatic works	To assist in the public dissemination of information.
s 105	Public performance and broadcasting of sound recordings that originate overseas	Aims to prevent performing and broadcasting rights being extended to foreign-origin sound recordings that were first published in Australia.
s 199(2)	Public performance of sound recordings by playing or showing of broadcast in public	Exemption recommended by the Spicer Committee.
s110(1), (2)	Public performance of news films 50 years after the expiration of the calendar year in which the principal events depicted in the film occurred; and public performance of works contained in films for which the copyright has expired	Promotes public access to film footage of historical events. This ensures that where the exception allows the public showing of a film, the copyright in the underlying works is not infringed. (eg Music and speeches.)

	OTHER USES	
s 110(3)	Use of sound recording made simultaneously with film soundtrack	This exception ensures that the playing of such sound recordings, does not infringe copyright in the film.
s 200(1), (2) & (2A)	Use of works and broadcasts for educational purposes	To assist in educational instruction.
ss 44A, C, D, E & F ss 112A, C, D & DA	Importation of infringing articles: <ul style="list-style-type: none"> - books and published editions (ss 44A & 112A) - accessories to imported articles (ss 44C & 112C) - computer programs (s 44E) - electronic literary or music items (ss 44F & 112DA) 	These provisions are not exceptions to the exclusive rights of copyright owners arising under s31(1) (works) and ss 85-88 (subject-matter other than works). They are a defence to actions under ss 37 and 102 which state that copyright in works and subject-matter other than works will be infringed by the importation of an article in Australia without the licence of the copyright owner.