

Ms Fiona Phillips
The Director
Copyright Law Review Committee Secretariat
Attorney – General’s Department
Robert Garran Offices
National Circuit
Barton ACT 2600

Dear Ms Phillips

Crown Copyright Issues Paper February 2004

Thank you for the opportunity to comment on issues raised by the Copyright Law Review Committee (CLRC) concerning crown copyright.

Our organisation

As you know, the Arts Law Centre of Australia, established in 1983, is the national community legal centre for the arts.

Arts Law provides specialised legal and business advice and referral services, information, education and advocacy for artists and arts organisations around Australia. Its clients practice across a spectrum of art forms including literature, visual arts, photography, film, multimedia, broadcasting and performing arts.

Our response

We have considered the *Issues paper on Crown Copyright* published by your committee in February, 2004, and have had the benefit of reading the response to this issues paper submitted by the Australian Copyright Council (ACC).

Arts Law supports the ACC’s position on all issues raised by the issues paper and the ACC’s summary of, and reasons for, its position. Consequently, Arts Law does not consider it necessary to address the issues in a separate submission.

We would, however, like to emphasise that:

- we consider that public access to material such as legislation and judgments is vital, and that it will be important to clarify what other government material (such as the public records, national curriculum material and parliamentary reports mentioned in the ACC’s submission) should also be freely available (Public Material);
- not every situation involving government and copyright will necessarily be adequately dealt with, even if there is legislative change in this area of the kind proposed in the ACC’s submission. For instance, we agree that, for material created in the future, first ownership of copyright should be determined by the same provisions as determine first ownership of copyright in materials not connected to government. With increasing government use of outsourcing and consultants, however, if the crown copyright provisions are changed along these lines, and depending on the way in which public access to and use of Public Material is granted, government contract policies and practices may be increasingly important to secure this access and use. We would not, though, wish

to see government bypass the intention of any legislative changes by having a blanket policy of acquiring copyright by contract in all or in an inappropriately broad class of material. We are, in fact, currently aware of circumstances in which the government's acquisition of copyright could be considered inappropriate and arguably in conflict with other government policy. For example, we understand that some Indigenous artists employed on CDEP schemes have, in exchange for a small wage, had the copyright in their artworks acquired by government, to the distress of the individuals involved.

Please feel free to contact me at Arts Law if you would like us to provide more details on our views about any aspect of your *Crown Copyright* issues paper.

Yours sincerely

Robyn Ayres
Executive Director