

Copyright Reform and the Information Economy

On April 30 1998 the Federal Attorney-General and the Minister for Communications, the Information Economy and the Arts announced planned reforms to the *Copyright Act 1968* (Cth) ¹

The reforms are designed to improve copyright protection for material on the Internet and will implement proposals contained in the 1997 discussion *Copyright Reform and the Digital Agenda*.² They include:

- replacing the existing technology-specific broadcasting right with a technology-neutral right of communication to the public;
- extending the existing exceptions for libraries and educational institutions to the new right;
- limiting the liability of ISPs and carriers for copyright infringements; and
- implementing new enforcement measures that will include banning the sale of circumvention devices and banning the removal of electronically generated copyright information

In relation to libraries the Attorney-General said:

Throughout the consultations on the Digital Agenda Discussion Paper, libraries and educational institutions stressed the importance of the existing exceptions for their operations. The Government has decided to extend the existing exceptions for libraries and archives to enable them to provide reasonable access to copyright material in the on-

line environment. The Government has also decided to extend the existing exceptions for educational institutions to ensure that they are able to provide access to copyright material online for educational purposes. The conditions of these exceptions would be similar to those applicable to hardcopy copyright materials ³

The reforms will be included in an exposure draft Copyright Amendment Bill that will be released for public comment later this year

ALRC Issues Paper – Technology: What it Means for Federal Dispute Resolution⁴

As part of its review of the adversarial system in federal courts and tribunals, the Australian Law Reform Commission is examining the impact of technology on the federal civil justice system. An issues paper entitled *Technology: What it Means for Federal Dispute Resolution* was released earlier this year.

The paper, which is intended to raise issues and facilitate discussion, includes a chapter on technology in legal practice and legal publishing. It includes consideration of the impact of electronic publishing on legal practice, courts and tribunals and raises questions such as:

Will the improved access to information resources offered by the Internet enable smaller firms to do what was traditionally seen as large firm work?⁵

¹ The press release is available http://law.gov.au/aghome/agnews/1998newsag/joint_6_98.htm. See also: Williams, Daryl "Copyright and the Internet: new government reforms", paper presented to *Seminar organised by the Asia Pacific Intellectual Property Institute, Murdoch University, at the request of the Office of the Attorney-General, 30 April 1998*, at <http://www.law.murdoch.edu.au/apipli/events/Agseminar-April98.html>.

² *Copyright Reform and the Digital Agenda. Proposed Transmission Right, Right of Making Available and Enforcement Measures*. Canberra, AGPS, 1997.

³ Williams, Daryl "Copyright and the Internet: new government reforms", paper presented to *Seminar organised by the Asia Pacific Intellectual Property Institute, Murdoch University, at the request of the Office of the Attorney-General, 30 April 1998* at para 34.

⁴ Full text available: <http://uniserve.edu.au/alrc/ip23/ALRCIP23.html>

⁵ Australian Law Reform Commission. *Technology: What it Means for Federal Dispute Resolution* (ALRC IP 23) Sydney, ALRC, 1998 at p 51 (Question 4.2)

How should lawyers charge for processes utilising technology? Should they be assessed on a real labour cost basis?⁶

When considering the use of intranets by courts the Commission asks:

Should federal courts and tribunals establish intranets for use in specific complex cases and/or in general litigation so that lawyers and litigants could access court files pertaining to their cases? How should arrangement and protocols for such communications be established and co-ordinated?⁷

In the context of electronic publishing the Commission raises the protection of traditional revenue sources and the problems associated with the pagination and citation of electronic decisions as a reason for many courts being reluctant to publish their judgments on the Internet. They ask:

Should Australian federal courts and tribunals be adopting medium neutral citation systems for their printed and electronic judgments and decisions? Should courts and tribunals mandate how judgments and decisions are cited?⁸

The Commission suggests that Australia may be more likely to achieve this than the United States where West publishing holds copyright in the citation system and where there is more reluctance to change citation systems

The deadline for submissions and comments is 25 June 1998 and these responses will be used in the preparation of a discussion paper that is to be released in August 1998. The final report will be submitted to the Attorney-General in April 1999.

Historical NSW Cases on the Internet

Associate Professor Bruce Kercher from Macquarie Law School is involved in a project aimed at publishing records of decisions of New South Wales superior

courts prior to 1900. The records, which are available in full text on Austlii⁹, begin with cases from mid-1824 and cover the period before formal law reporting began in New South Wales in 1863. They are aimed at general historians, legal historians and lawyers

Material is being added chronologically from 1824 with approximately one year being completed each month. Text of the original reports is transcribed verbatim from manuscripts including judges' notebooks and newspapers including the *Sydney Gazette and New South Wales Advertiser* which began in 1803, the *Australian* which began in 1824 and the *Sydney Morning Herald* which was first published in 1861 as the *Sydney Herald*. The reports are heavily footnoted with details of the source, the date of hearing, the names of people concerned, references to secondary sources and a history of the issue before and after the case

Professor Kercher stated that material is selected according to the following criteria:

1. All decisions involving more than trivial points of law are included. In particular, all cases concerning the adoption or otherwise of English law are included
2. All cases of significant political or social interest are included. These include all but trivial references to the rights of women, convicts and Aborigines. Cases on the latter are particularly useful at a time when native rights are receiving such attention as they are in 1997. The newspapers and manuscript records include many cases concerning Aborigines which have not yet been examined by historians or lawyers.
3. All cases concerning prominent people are included, such as the 1824 prosecutions of Hovell the explorer and Billy Blue¹⁰

Although the reports are currently available on the Internet, the aim is to produce a CD-ROM and possibly a formal set of law reports

For further information or comments on the criteria for selecting cases or editorial policies contact Professor Bruce Kercher – Bruce.Kercher@mq.edu.au

⁶ Id at p 53 (Question 4.5)

⁷ Id at p 55 (Question 4.6)

⁸ Id at p 59 (Question 4.8)

⁹ <http://www.austlii.edu.au/au/special/nswsc/pre1900>

¹⁰ Kercher, Bruce *New South Wales Superior Courts pre 1990* [Web document] Available: <http://www.austlii.edu.au/au/special/nswsc/pre1900/intro.html> [Accessed 28 May 1998]

Australian Government Locator Service

In August 1997, the Information Management Steering Committee on Information Management in the Commonwealth Government issued a report entitled *Management of Information as a National Strategic Resource*¹¹ The report recommended the establishment of:

- a single official Commonwealth Government Entry Point;¹²
- a common search engine; (Search Engine Working Group); and
- an Australian Government Information Locator Service (Australian Archives)

A report by the Australian Government Locator Service Working Group in December 1997¹³ recommended that a modified Dublin Core metadata set be adopted as most appropriate to describe Australian government information. The report examined the methods for collecting metadata, including the tools available for the creation of Dublin Core metadata, the alternative means of storing metadata and the common principles for searching metadata.

Kinetica

The system to replace ABN has been named Kinetica According to the National Library:

Kinetica is derived from 'kinetic' with its connotations of motion, energy, and speed. The name was chosen to reflect the dynamic nature of the services which are currently being developed and of services which are developed in the future to meet the changing needs of Australian libraries. The syllables 'kin' and 'net' emphasise the commitment of the new service to supporting co-operation and resource sharing within the Australian library community, while the final letter 'A' stresses the Australian aspect of the new service.¹⁴

¹¹ <http://www.ogit.gov.au/publications/IMSC/imscrept.htm>

¹² Launched in March 1998: <http://www.fed.gov.au>

¹³ http://www.aa.gov.au/AA_WWW/AGLSfinal.html

¹⁴ National Library of Australia's Network Services Project Website Available: <http://www.nla.gov.au/nsp/amicqar.html> [Accessed 1 June 1998]

Legislative Instruments Bill

The Legislative Instrument Bill was reintroduced into the House of Representatives as the Legislative Instruments Bill [No. 2] 1996. The Bill was last debated in the Senate on 14 May 1998. At that time the Opposition parties passed a number of amendments to the Bill particularly in respect to parliamentary scrutiny of section 8 certificates, sunset provisions, consultation and parliamentary scrutiny of public service terms and conditions of employment.

The Legislative Instruments Database (the precursor to the Federal Registrar of Legislative Instruments) is now available on the Internet.¹⁵ According to Bernadette Metschke from the Federal Attorney-General's Department the database currently contains regulations (most of which are still in force). New regulations are being added to the database the day after they are made by the Governor-General at Executive Council. Parliamentary scrutiny information for regulations is also being included in the database the day following the actual parliamentary event.

Council of Chief Justices Electronic Appeals Project

The final report of the Council of Chief Justices Electronic Appeals Project was released during May.¹⁶ The Project investigated the feasibility of introducing electronic appeal books to replace the current hardcopy appeal books. An appeal book is defined as "everything the judge needs to hear and decide a case at hand."¹⁷

The rationale was that electronic appeal books would be more convenient and cost-effective as they would cut down on photocopying and collation, would solve storage and transportation problems, while search facilities would make locating relevant documents or passages easier. Electronic appeal books could also be used in subsequent appeals.

¹⁵ <http://frli.law.gov.au>

¹⁶ Available at <http://www.ccj.org>

¹⁷ Council for Chief Justices Electronic Appeals Project *Final Report*, May 1998. Brisbane, Queensland Law Foundation, 1998 at p 5.

One of the key issues identified in the report was the need for consistency in judgments and transcripts. The report states:

Data consistency is the cornerstone for electronic solutions. If judgments, transcripts and filed documents can be produced by the relevant agencies (courts, court reporters, and parties) in a manner that is electronically consistent and, therefore, predictable then this will enable those documents and the information contained within them to be electronically processed so that EABs can be generated in a cost effective manner.

This approach is preferable to the cumbersome manual processes that are required when source materials vary greatly from one document to another and the information format is largely unpredictable. *Consistency at the source* would not only make EABs more feasible, it will also bring considerable savings to courts, publishers and the technology industry that services the justice arena.¹⁸

To achieve this end the report makes a number of recommendations:

- that courts introduce paragraph numbering for their judgments to be applied by the court and not by external agencies;¹⁹
- that courts adopt medium neutral citation for their judgments;²⁰ and
- that there be consistency in the preparation and production of electronic judgments²¹ and transcripts.²² The report suggests that this may be achieved by the use of uniform templates, stylesheets and macros and uniform markup of electronic judgments.²³

A prototype electronic appeal book is available on the Internet.²⁴ The prototype uses a browser interface and contains documents such as the trial judgment, the trial transcript, filed documents, exhibits, criminal history and authorities.

¹⁸ Id at p 25

¹⁹ Id at p 37 (Recommendation 3)

²⁰ Id at p 38 (Recommendation 4)

²¹ Id at p 39 (Recommendation 6)

²² Id at p 40 (Recommendation 7)

²³ Id at pp 26-28

²⁴ <http://www.ccj.org>

The report also recommended that the Working Party keep a watching brief on areas such as security of electronic material, storage and archiving of electronic material, electronic communication and digital signatures.²⁵

AusInfo

The Australian Government Publishing Service (AGPS) has changed its name to AusInfo. It has also changed its role from publishing and printing government information to disseminating government information, advising on style and standards for Commonwealth government publications and facilitating access to government information.

To achieve this last objective AusInfo is maintaining the *Australian Government Index of Publications (AGIP)* which is available on the Internet.²⁶ *AGIP* contains entries for titles published or produced by AusInfo, titles sold by AusInfo and titles produced by other Commonwealth agencies that have been reported to AusInfo.

Strait to the Future

Planning is well underway for the 8th Asia-Pacific Specials, Health and Law Librarians' Conference to be held in Hobart from 22-26 August 1999. Broad themes for the Conference have been approved and are as follows:

Looking Forward, Looking Back

- The roles of information, reading, research and archives – future, present, past
- Islands – overcoming isolation
- Innovations – meeting the challenges

²⁵ Council of Chief Justices Electronic Appeals Project. *Final Report*, May 198, Brisbane, Queensland Law Foundation, 1998 at p 44 (Recommendation 12)

²⁶ http://www.fed.gov.au/n_index13.htm

Information Ecology

- The information landscape
- Knowledge management
- Transience and permanence, access and ownership
- Training and education

The Vision

- Technovision – boon or bust
- The wired planet – information and IT trends
- Communication networks
- Balancing lives on the cutting edge – human resource issues

- The specialist niche in cyberspace
- Experience and visions – invasions and colonization on the WWW

Strait to the Future

- Scenarios
- Hypothetical
- Panels

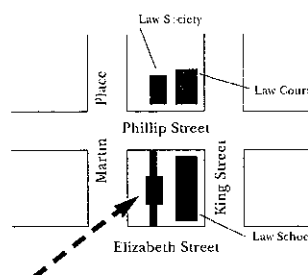
The Conference Web Site is <http://www.alia.org.au/conferences/strait/index.html>

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