



Australian Libraries Copyright Committee

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*Proposal for a Plurilateral
Anti-Counterfeiting Trade Agreement
(ACTA)*

**Submission of the
Australian Libraries Copyright Committee**

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Submitted by email: IP@dfat.gov.au

1. Introduction

This submission is made on behalf of the Australian Libraries' Copyright Committee (ALCC).

The ALCC is the main consultative body and policy forum for the discussion of copyright issues affecting Australian libraries and archives. It is a cross-sectoral committee which represents the following organisations:

- National and State Libraries Australasia
- National Archives of Australia
- The Council of Australasian Archives and Records Authorities
- The Australian Society of Archivists
- Australian Library and Information Association
- Council of Australian University Librarians
- Australian Government Libraries Information Network
- National Library of Australia

The ALCC considers the impact of copyright law reform on Australian libraries and archives and provides advice to the Federal Government on how to maintain a balance between reasonable access to creative works for copyright users on the one hand and an incentive for copyright creators and owners on the other.

The ALCC thanks the Department of Foreign Affairs and Trade (DFAT) for the opportunity to comment on the Discussion Paper on an International Proposal for a Plurilateral Anti Counterfeiting Trade Agreement (ACTA) (the **Discussion Paper**).

The ALCC endorses in full the comments and recommendations contained in the submission of the Australian Digital Alliance (ADA). We discuss below some of these comments and recommendations in more detail, with particular emphasis on the implications for ALCC's member organisations.

2. The Need for Balanced Law

The ADA discussed the need for balance in intellectual property law. The ALCC's member organisations support copyright law that balances reasonable access to creative works for users of copyright materials with an incentive to create for copyright creators and owners.

We therefore agree with the ADA that Australia is not in need of any further enforcement provisions.

If Australia were to incorporate any further enforcement provisions via the ACTA, an issue that could have a significant effect on libraries and archives is how the provisions might work in with existing exceptions available under the *Copyright Act (Cth) 1968*.

The ALCC is against any provisions being included in the proposed ACTA that would have the effect of curtailing existing exceptions. The exceptions to the rights of copyright holders are the counter-balance to strong IPRs and enforcement provisions.

The exceptions are integral to institutions like libraries and archives being able to provide users with access to copyright materials for socially beneficial purposes like research and study. The exceptions are also necessary for internal library functions such as preservation of materials.

3. The Effect of Enforcement Provisions on Institutions

A second point that the ALCC wishes to make is that any enforcement provisions should not be directed at the activities of institutions like libraries and archives whose services are offered for the public good.

The magnitude of collections of copyright works within a number of institutions, as well as the problem of materials whose copyright owner is difficult or impossible to trace (orphan works) means that it is likely that some uses within the collections might be infringing copyright. The ALCC believes it would be highly detrimental to the services institutions can offer if the ACTA had the effect of introducing harsh penalties on these institutions.

The ALCC thanks the Department of Foreign Affairs and Trade for the opportunity comment on the proposed involvement of Australia in the ACTA.

Please contact us should you have any further queries or would like further information.

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