

**LIBRARY AND INFORMATION ASSOCIATION OF
NEW ZEALAND AOTEAROA (LIANZA)**

**Oral Submission to the Commerce Select Committee on the
Copyright (New Technologies and Performers' Rights)
Amendment Bill, 22 March 2006**

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While LIANZA supports much of what is in the Bill, we have serious concerns about some of its provisions. In order of importance, these are:

(1) CLAUSE 37 : NEW SECTION 57A : RETENTION AND INSPECTION OF DECLARATIONS (*Submission paragraphs 14-16*)

- The making and retention of declarations required under new section 57A will create an enormous amount of extra work for librarians.
- Possibly, those who drew up the Bill had no idea of the volume of copies supplied in electronic format to other libraries on Inter-Library Loan – more than 33,000 a year, or nearly 100,000 over three years.
- By far the majority of these copies (perhaps 95%) are periodical articles from journals published by overseas publishers.
- It is extremely improbable that the copyright owners will ever wish to inspect the declarations – and it will be very difficult for them to do so, given that they will be held by libraries throughout the country, and filed in chronological order, not by copyright owner (which would be impossible to do).
- The present Act in section 54(2)(b-c) already requires libraries to keep records of books copied for the collections of other libraries, which is really what copyright owners are concerned about. The new provisions are therefore unnecessary.
- To our knowledge, no copyright owner has asked to inspect the records required under the present Act in the 13 years it has been in force.
- Further, as noted by the NZVCC Standing Committee on Copyright in its submission to the Commerce Committee, the provisions of new section 57A raise serious confidentiality and privacy issues.
- New section 57A creates a bureaucratic nightmare for no purpose whatsoever. LIANZA very strongly recommends that it be deleted in its entirety.

(2) CLAUSE 36 : NEW SECTION 56A : ALLOWING ACCESS TO WORKS IN DIGITAL FORMAT (*Submission paragraphs 8-11*)

LIANZA has several concerns about new section 56A:

- We are unclear as to the meaning of “obtains”, and whether this new section applies to works in digital format that libraries provide access to.
- These works are subject to licence agreements signed with copyright owners, and whether intentionally or not, new section 56A seems to imply (particularly in subsection (4)(b)) that its provisions override the terms of these licence agreements. LIANZA considers that this needs to be clarified, and has suggested wording on how this might be done.
- Subsections (2) and (3) of new section 56A draw a distinction between on-site and remote access (which is fine), but also impose different restrictions which in LIANZA’s view apply to both categories. Again, we have suggested some re-wording.

(3) CLAUSE 34 : NEW SECTION 55(3) : COPYING BY LIBRARIANS TO REPLACE COPIES OF WORKS (*Submission paragraph 7*)

- We have suggested an 8-word addition to new section 55(3)(c), to permit access to the original of a digitised work where the purposes of research require it.
- LIANZA also supports the submission of the Joint Standing Committee on Interloan (JSCI), that clause 34’s proposed new section 55(3) should also permit the supply of a copy to another prescribed library for the purposes of replacing the item in its collection, as is currently permitted in the present Act’s section 55(1)(b).

(4) DIGITISING OF WORKS (*Submission paragraphs 17-21*)

- LIANZA would have liked the Bill to have allowed libraries to digitise works in their collections: digitisation provides so many advantages in making works and their contents more widely available – keyword searching, for example, and access from wherever users are located.
- Given that this has not been done, there is nevertheless one specific class of material which LIANZA believes that libraries in educational institutions should be permitted to digitise. These are materials in short-term “Course Reserve” collections, which need to be made available both to distance students, and to on-Campus students at times when the libraries are closed.
- LIANZA therefore recommends that a new section 55A should be added to the Bill, to allow copying for Course Reserve collections. Suggested wording is given in our submission, paragraph 21.

(5) STORING FOR EDUCATIONAL PURPOSES (Submission paragraphs 5-6)

- LIANZA recommends insertion into the Bill of a new section 52A, paralleling clause 25's proposed new section 44A, allowing the storing by libraries of works made available on a website or other electronic retrieval system.
- As put forward in other submissions to the Commerce Committee, LIANZA sees absolutely no point in prohibiting access until the works are removed from the original websites, since this would create considerable extra work for libraries.
- There is no impact on the commercial interests of the website owners, as they have already made the material freely available on their websites.

(6) OTHER POINTS (Submission paragraphs 22-24)

- The remaining points in the LIANZA submission recommend some minor changes to wording.

Thank you for the opportunity to address the Committee.