

Australia 2020 Submission:

1. The future of the Australian economy

The Australian Digital Alliance is a non-profit coalition of public and private sector interests formed to promote balanced copyright law and provide an effective voice for a public interest perspective in the copyright debate. ADA members include universities, schools, consumer groups, galleries, museums, IT companies, scientific and other research organisations, libraries and individuals. Members are united in their support of copyright law that balances the interests of rights holders with the interests of users of copyright material.

The members of the ADA have a keen interest in the development of the digital economy. We strongly support the National Broadband Plan and the enormous potential this offers to Australia. However, we believe that at the simplest level there is a poor fit between the legal framework of copyright law, and the digital world.

Web 2.0 sites such as Facebook, MySpace, YouTube and Flickr originated in the United States, and have been able to justify innovative use of copyright works under the 'fair use' provision. It is highly unlikely that sites like this could be developed in Australia, as their activities would need to fit under a specific exception provided under the Copyright Act 1968. The flexible "fair use" provision under US Copyright law has allowed businesses enough room to explore new business models without being suffocated by prescriptive and restrictive copyright laws.

In order to realise the potential of the 'digital economy' in Australia, it is necessary for copyright law to strike an appropriate balance between protection of copyright owners and encouragement of creation and innovation.

While the participative web has enormous economic and cultural potential, the rise in participative web has also seen an increase in litigation aimed sites such as YouTube for authorising copyright infringement. Australian Digital Alliance believes there is a need for reform of the safe harbour regime in Australia. This regime limits liability for authorising copyright infringement, however currently only telecommunications carriers and internet service providers are afforded this protection. It does not extend to search engines, and would certainly not apply to Web 2.0 sites like YouTube, MySpace, Wikipedia and Flickr.

The ADA recommends:

- Introduction of a flexible dealing provision that is more similar to the US “fair use” provision than the one introduced in Australia in 2006, which all people and businesses can utilise.
- Broadening of the safe harbour regime to encourage Australians to participate in innovative new digital developments.