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Copyright Law and Policy Section

Department of Communications and the Arts

GPO Box 2154

Australia

# Submission on the Copyright Amendment (Disability Access and Other Measures) Bill 2016

The Association of Parliamentary Libraries of Australasia (APLA) welcomes the opportunity to provide feedback on the exposure draft of the Copyright Amendment (Disability Access and Other Measures) Bill 2016.

## Role of APLA

APLA is the representative association for Federal, State and Territory Parliamentary Libraries within Australia, New Zealand and Papua New Guinea. This submission is presented on behalf of all Australian parliamentary libraries. APLA as an organisation provides *support, encourages understanding of, and co-operation between, research and information services attached to National, State and Territory Legislatures and considers any matters affecting the common interests or operations of Parliamentary Libraries.*

APLA believes it is important to respond to the Department on the proposed changes to the *Copyright Act 1968.*

## Current Legislative Position

Sections 48A and 104A of the [*Copyright Act 1968*](http://www.comlaw.gov.au/Details/C2013C00145) (Cth) contain exceptions to the rights of copyright owners for the benefit of parliamentary libraries in Australia, where library staff are responding to requests by and therefore assisting parliamentarians in the performance of their duties.

Protection afforded by ss 48A and 104A is extremely broad. The reference to ‘anything done’ could encompass printing, downloading, saving to disk, e-mailing and long term electronic storage (archiving).

These copyright infringement exceptions are critical for the provision of affordable and timely services to members of Parliament. The exceptions facilitate the operation of representative democracy at every level of government and contribute to and underpin the legislative and constituency role of parliamentarians.

## ALRC Discussion Paper

However, the digital environment raises issues with the operation of the current parliamentary copyright exemptions. APLA and the Commonwealth and State parliamentary libraries raised the current difficulties in the context of the Australian Law Reform Commission’s Discussion Paper, Copyright and the Digital Economy. These difficulties relate particularly to the archiving of digital copies of works and to the increasing practice in the digital environment for contracts with publishers and copyright holders to limit or negate the parliamentary library copyright infringement exceptions.

While the government has not yet responded to the ALRC report, the parliamentary library community noted that the ALRC’s final [report](http://www.alrc.gov.au/sites/default/files/pdfs/publications/final_report_alrc_122_2nd_december_2013_.pdf) recommended that the current parliamentary library exceptions be extended to apply to all types of copyright material and all the rights encompassed by copyright. Similarly the ALRC recommended that the exception in section 50(1)(aa), be updated to include digital works. In relation to contracts with publishers that appear to limit the scope of the exceptions for parliamentary libraries, the ALRC recommended that a contractual term that excludes or limits the libraries exceptions is not enforceable.

For additional information the APLA submission to the ALRC is attached.

## Current Draft Bill

APLA supports the proposed sections 113H and 113J of the Bill which are aimed at simplifying copying by libraries for research and preservation.

However the Parliamentary library community requests that consideration be given also to including the ALRC recommendations specific to parliamentary libraries. These recommendations are not controversial. As the ALRC report submits, no rights holders opposed or took issues with the parliamentary library copyright infringement exceptions.

In particular, APLA requests consideration be given to extend the parliamentary library copyright infringement exceptions to include all material in digital form and provide that a contractual term that excludes or limits the libraries exceptions is not enforceable.

I once again thank you for the opportunity to provide feedback on the exposure draft.

Yours sincerely

Katherine Brennan

President

Association of Parliamentary Libraries of Australasia