

Open Letter in Support of a Sustainable, Creative Future for Australia

With all due respect to the Australian Productivity Commission (APC) and their 2016 report now under consideration by the Australian federal government, we would like to urge those in government who represent the people to consider a different direction, one more accurately in support of innovation and productivity.

The recommendations to move to a Fair Use system and reduce the length of copyright, among other measures, seem ill advised given the already extreme imbalance in the current marketplace. The proposals by the APC will compound this unfair exploitation of the Australian arts and culture community. Fair Dealing can be more reliably adjusted to address specific creative content issues in the non-profit and institutional sector than by adopting a system of vagueness which is Fair Use. The US experience has been contentious, requiring costly legal opinions resulting in inconsistent outcomes, satisfying few. Instead, tweaking exceptions to Fair Dealing, where warranted, will result in a more productive outcome of clarity and consistency.

We can't see how it can reasonably be argued that those suffering the greatest losses with respect to the distribution technologies of today are the tech enterprises themselves. The enormous value lost to the nation is clearly shouldered by the creative class, with the lost value transferred offshore.

A recent statement by a Member of the European Parliament, Christian Ehler, of Germany, cuts to the core of the issue:

"We are living now in the time of the second level of revenues – this is the data the consumers are giving to these platforms [...] Consumer data becomes more and more important and it's not well understood that this is not for free [...] We are selling our future. Creativity is the USP of Europe. They [the digital companies] accumulate money [via advertising and data mining]... We are simply selling our economic future if we are going to lose this battle."

~ [The Value Gap is Bigger than you Thought: Member of EU Parliament Calls Out Google's Data Harvesting](#), 9 June, 2017.

And what content most effectively drives eyeballs to the pages so that precious data can be captured? Visual arts, music, poetry, creative writing.

Changes to a copyright system in such an unequal marketplace, then, should be favouring those who create this value yet shoulder the losses. To be at the forefront of innovation, it makes sense for government to join similar efforts in the US and the EU that attempt to create and refine fair models of remuneration, in addition to advancing robust content recognition technologies to aid artists of every disciplines to better exercise their moral and financial right to control where and under what conditions their content is used. We know of no economic model where goods with such high value are given away freely to satisfy demand. Government must intercede to right the scale and keep the value where it is created.

The Artists Bill of Rights wholeheartedly supports the National Association for the Visual Arts ([NAVA](#))'s efforts to protect the rights of artists of every discipline who deserve their fair share of the value proposition. If government wishes to encourage innovation and foster creativity, its first steps should be to encourage initiatives that achieve that end for the producers of creative content.

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