

Country Report AUSTRALIA

Annual report to the IFLA CLM committee
Quebec Canada 2008

The federal election held in Australia in December 2007 meant there was a period leading up to the election when no changes were made by the government to legislation. As the election resulted in a change in government there has been a change in priorities such that issues such as Orphan Works have moved down the agenda and it may be some time before they become a priority.

WIPO Director, Dr Francis Gurry

On 14 May 2008, the World Intellectual Property Organization selected an Australian, Dr Francis Gurry, for the position of Director General of WIPO. Dr Gurry is currently a Deputy Director General of WIPO and the most senior Australian in the United Nations system. Dr Gurry's appointment is scheduled to be confirmed by the WIPO General Assembly at its next meeting in September 2008.

Copyright

Review of Exceptions for Private Copying of Photographs and Films

The *Copyright Amendment Act 2006* introduced a number of new copyright exceptions including provisions that allow consumers to reproduce material in a different format for personal use (eg to copy a sound recording from a CD to a portable player). The amendments also required that the Attorney-General carry out a review of the operation of two of these exceptions by 31 March 2008.

These two exceptions (ss 47J and 110AA) permit photographs and films to be copied for personal use, under strict conditions. A primary purpose of the review was to examine whether these conditions should be broadened. The Copyright Amendment Act also required that the Attorney-General table the report of the review in both Houses of Parliament. The two exceptions began operation in December 2006.

The Attorney-General, the Hon Robert McClelland MP, asked the Department to carry out the review. In January 2008, the Department published an Issues Paper requesting public submissions. The resulting report was tabled in Parliament on 18 June 2008. It makes three recommendations, the main one being that no changes be made to ss 47J and 110AA at this time but that relevant market developments be monitored.

The Attorney-General has issued a media release which supports the report's assessments and notes that the current provisions have only been in operation for eighteen months and more time is needed to assess their impact.

New legislation

Orphan works

No further developments have occurred, though the Attorney General's Department has flagged that they will be considering the issue in the future.

Public lending rights

Australia has effective and efficient legislation covering Public Lending Right

http://www.arts.gov.au/books/lending_rights

Legal matters

Productivity Commission Review of Parallel Importation of Books

The Council of Australian Governments (COAG) announced on 3 July 2008, that the Australian Government will request the Productivity Commission conduct a review of the copyright restrictions on the parallel importation of books into Australia. Terms of reference are not yet available and the inquiry will include a public consultation process.

Trade agreements

Australian-Chile Free Trade Agreement: agreed text negotiated

On 27 May 2008, the Minister for Trade, the Hon Simon Crean MP, concluded an agreed text for the Australia-Chile Free Trade Agreement with his Chilean counterpart, Minister Alejandro Foxley.

The Agreement was tabled in Parliament on 17 June 2008. This commences the domestic ratification processes. Both countries are aiming for an entry into force date of 1 January 2009. It is expected that the Agreement will be signed in late July 2008.

The intellectual property chapter is quite detailed as it is largely modelled on each country's equivalent chapter in their Free Trade Agreements with the United States. As Minister Crean notes, transparent, high-standard protection has been locked in for IP rights, including copyright. The e-commerce chapter builds upon common understandings in relation to e-commerce.

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