The Government and Copyright

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The Government as Proprietor, Preserver and User of Copyright Material Under the Copyright Act 1968

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Introduction

Most people contemplating the modern law of copyright think of it as the embodiment of private rights and the exploitation of those rights—an increasingly pervasive set of rights—that underpin the computer software, music, print and electronic publishing industries, the film and broadcasting industries, and other fields of intellectual endeavour. It touches our daily life and affects the way we behave. Government is seen as the forum for the advancement and further protection of those private rights through legislative enactment.

Nonetheless, government has played a crucial role in the development of copyright law from its beginnings through a system of patronage and grants, control and censorship of the media, through its ownership, production and dissemination of its own intellectual products and through the preservation of, and access to, its own and its society’s endeavours. As an institution in society, government has had a unique role and status under copyright law. Today, there are special provisions in the Australian Copyright Act 1968 (Cth) dealing with the role of government as proprietor, preserver and user of copyright material.

This book examines the role of government as proprietor, preserver and user of copyright material under the Copyright Act 1968 and the policy considerations that Australian law should take into account in that role. There are two recurring themes arising in this examination that are significant to the recommendations and conclusions. The first is whether the needs and status of government should be different from private sector institutions, which also obtain copyright protection under the law. This theme stems from the 2005 report on Crown Copyright by the Copyright Law Review Committee (CLRC) and the earlier Ergas Committee Report, which are discussed in Chapters 1 and 7 of this book. The second is to identify the relationship between government copyright law and policy, national cultural policy and fundamental governance values. This theme goes to the essence of the book. For example, does the law and practice of government copyright properly reflect technological change in the way we now access and use information and does it facilitate the modern information management principles of government? Is the law and practice of government copyright consistent with the greater openness and accountability of government?
Over the last decade and a half, some governments in Australia and overseas have changed their view of their own copyright material, from treating it as a commodity to be licensed and exploited for profit to freely releasing that material for the benefit of government and the community.

The central hypothesis of this book is that each of the three roles of government recognised under the Copyright Act 1968 should be maintained, but both copyright law and policy should be made more consistent with, and responsive to, the needs of modern democratic governance values and national cultural policy.

The principal questions in this book are:

1. What rights does the government presently have, and what rights should it have, to own copyright in material it produces? Should government-produced material be in the public domain? Does ownership or non-ownership conflict with the principle that all citizens in a liberal democratic society should have fair and open access to government information?

2. Should the government have a role as preserver of its own and privately owned copyright material? If so, what should that role be? How adequate is the present law to achieve this objective? How does preservation accord with the principle that all citizens have fair and open access to government information?

3. What rights does the government presently have, and what rights should it have, to use copyright material owned by other persons? How are these rights justified on information management principles?

The discussion in this book focuses on the Australian federal government that is embodied within the term the ‘Commonwealth’ in the Copyright Act 1968. The scope of that term—and in particular the departments and other emanations of the executive government within the meaning of the ‘Commonwealth’—is discussed in detail in Chapter 1. Reference is also made in various chapters of this book to the law and developments in the States and Territories of Australia. These have, in some cases, been innovative and influential in change, particularly in promoting open content policies. Significant developments in accessing and re-using government information in other comparable common law countries and at an international level are also discussed in Chapter 3.

The interests of government as owner, preserver and user of copyright material under the Copyright Act 1968 are the three principal interests of government beyond its constitutional responsibilities for the administration of copyright as a whole.

The analysis in this book poses questions about the extent to which the interests of government are distinct from the interests of other owners and users of copyright material under the Act and the extent to which the law should accommodate those interests. The analysis also poses broader questions about copyright policy, embodied in the law, concerning the balance of interests between owners and users of copyright material and the relationship the law has to practice. This in turn explores the nature of copyright and the public interest considerations that lie at its heart.
The book seeks to contribute to knowledge of the factors in the development of government copyright law: past, present and prospect. It looks at the copyright origins of the present legal deposit provisions and provides a comprehensive and historical analysis of the role of government across all three copyright interests—as owner, preserver and user of copyright material—and the relationship each bears to the management of information in the information age. The legal and public policy issues are not peculiar to Australia and the book looks beyond Australian developments to those in other comparable common law countries and at a wider international level.

Australian and International Background

This book is written against a background of various Australian and international reports and initiatives into the ownership of, and in accessing and re-using, government copyright material.

Australia

In 2000, the Intellectual Property and Competition Review Committee (Ergas Committee) in its report, Review of Intellectual Property Legislation under the Competition Principles Agreement, concluded:

The Committee does not believe that the Crown should benefit from preferential treatment under the Copyright Act as compared with other parties. As a result, we recommend that s 176 of the Copyright Act be amended to leave the Crown in the same position as any other contracting party.1

In 2004, Stage 1 of a project known as GILF (Government Information Licensing Framework) commenced. It was initiated by the Queensland Spatial Information Council to review licensing practices and options in its business environment. It found inconsistent licensing practices by Queensland Government agencies. In 2005–2006, Stage 2 of the GILF Project resulted in a recommendation that state government agencies pilot the move to an information licensing framework based on Creative Commons for qualifying information where no issues of privacy, confidentiality or other legal or policy constraints applied.

In April 2005, the report of the CLRC on its Crown copyright reference was released by the Australian Government. The committee considered the Ergas Committee’s views and recommendation on government ownership of copyright and itself recommended the abolition of the specific government ownership and subsistence provisions in the Copyright Act 1968, the abolition of government copyright in certain judicial, executive and legislative materials and changes in the management practices of state, territory and federal governments dealing with Crown copyright material.

In September 2008, a review of the National Innovation System, entitled Venturous Australia: Building Strength in Innovation (the Cutler Report), was released. It stated ‘Australia

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is behind many other advanced countries in establishing institutional frameworks to maximise the flow of government-generated information and content. Its recommendations included that Australian governments should adopt international standards of open publishing as far as possible and material released for public information by Australian governments should be released under a Creative Commons licence.\(^3\) In its response of May 2009 in Powering Ideas: An Innovation Agenda for the 21st Century, the Australian Government stated that it controlled ‘mountains of information, and it is determined to make more of this vast national resource accessible to citizens, business people, researchers and policy makers’ and announced it would take steps to develop a more coordinated approach to Commonwealth information management, innovation, and engagement involving the Australian Government Information Management Office (AGIMO) and other federal agencies.\(^4\)

The Economic Development and Infrastructure Committee (EDIC) of the Victorian Parliament in its report of June 2009, entitled Inquiry into Improving Access to Victorian Public Sector Information and Data, stated:

The Committee believes that open access should be the default position because:

- PSI [public sector information] is publicly funded and is generated for the purpose of administering the state and undertaking core functions of governance. As a resource created on behalf of all citizens, PSI should be accessible to all citizens; and
- economic and social benefits arising from the release of the Victorian Government PSI will likely outweigh the benefits of treating it as a commodity.\(^5\)

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\(^3\) The Cutler Report followed earlier reports that pointed out the advantages to be gained from re-use of government-held materials in the digital content sector, such as Cutler & Company Pty Ltd, Commerce in Content: Building Australia’s International Future in Interactive Multimedia Markets (1994) 43, which recommended that government provide access to culturally significant data in digital form to IMM content developers and users by early digitalisation of national collections and archives and Department of Communications, Information Technology and the Arts, Unlocking the Potential: Digital Content Industry Action Agenda, Strategic Industry Leaders Group report to the Australian Government (2005) 46–7, where it reported that there were insufficiently developed mechanisms for accessing Crown IP for exploitation by digital content firms and proposed work in the area of alternative approaches to intellectual property licensing, such as Creative Commons.


EDIC also recommended a consistent copyright licensing system over government information for use across all government departments, developed and administered through a central office.\(^6\)

In February 2010, the Victorian Government tabled its response, which agreed that the default position for the management of PSI should be open access. The Victorian Government committed itself to the development of a whole-of-government Information Management Framework (IMF) whereby PSI is made available under Creative Commons licensing by default with a tailored suite of licences for restricted materials.\(^7\)

In July 2007, the Council of Australian Governments, Online and Communication Council commissioned the development of a national information-sharing strategy. This was aimed at promoting better government service delivery and improved policy development through focused interagency collaboration and was widely supported across agencies and jurisdictions. In August 2009, AGIMO published a report, entitled *National Government Information Sharing Strategy*, endorsing nine information-sharing principles aimed at providing benefits to governments and the public. Included among the principles were: agencies should facilitate whole-of-government approaches to information management through inter-departmental communication and collaboration and consistency across government, and should promote information re-use: that is, agencies need to investigate the conditions of use they should apply to the different elements of their information catalogue, for example, legislation, classification, freedom of information and licensing requirements, and to do so ensuring privacy and security requirements are met.\(^8\)

In December 2009, the Australian Government's 2.0 taskforce delivered its final report, entitled *Engage: Getting on with Government 2.0*, whose central recommendation was a declaration of open government by the Australian Government stating that:

- using technology to increase citizen engagement and collaboration in making policy and providing service will help achieve a more consultative, participatory and transparent government
- public sector information is a national resource and that releasing as much of it on as permissive terms as possible will maximise its economic and social value to Australians and reinforce its contribution to a healthy democracy

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\(^6\) Ibid xxvi. **Recommendation 11**: That the Victorian Government develop a consistent copyright licensing system for use across all government departments. **Recommendation 12**: That the Victorian Government establish a central office to develop a copyright licensing system, and provide advice on government copyright.


• online engagement by public servants, involving robust professional discussion as part of their duties or as private citizens, benefits their agencies, their professional development, those with whom they are engaged and the Australian public. This engagement should be enabled and encouraged.9

The report noted that meeting these key points at all levels of government was integral to achieving the government’s objectives, including public sector reform, innovation and using the national investment in broadband ‘to achieve an informed, connected and democratic community’.10

In July 2010, the then Minister for Finance and Deregulation released a Declaration of Open Government, which implemented this recommendation. Subsequently, the statement of Intellectual Property Principles for Australian Government Agencies11 was amended to reflect government decisions in relation to the ownership of intellectual property in software procured under ICT (Information and Communications Technology) contracts and the free use of PSI. The statement advises agencies to licence PSI under Creative Commons BY licence (otherwise known as the ‘attribution licence’) or other open content licences12 and also states that, when Commonwealth records become available for public access under the Archives Act 1983, PSI covered by Crown copyright should be automatically licensed under an appropriate open content licence. In January 2011 the Australian Attorney-General’s Department released Guidelines for Licensing Public Sector Information for Australian Government Agencies to assist agencies in implementing this policy.13

On 29 June 2012 the then Australian Attorney-General gave a reference to the Australian Law Reform Commission (ALRC) for inquiry and report into Copyright and the Digital Economy. The terms of reference required the ALRC to report by 30 November 2013 on ‘whether the exceptions and statutory licences in the Copyright Act 1968, are adequate and appropriate in the digital environment’, having regard among other things to ‘the importance of the digital economy and the opportunities for innovation leading to national economic and cultural development created by the emergence of new digital technologies’.14 In its report, the ALRC made a number of recommendations for the repeal of a


10 Ibid.


range of specific exceptions and their replacement with a broad ‘fair use’ exception, covering in a non-exhaustive list, research or study, criticism or review, parody or satire, reporting news, professional advice, quotation, non-commercial private use, incidental or technical use, library or archive use, education, and access for people with disability. The ALRC also recommended the modification of various statutory licences in the Copyright Act 1968 by making them ‘less prescriptive’ and making it clear that the institutions to which the statutory licences apply, such as the Crown, may also rely on unremunerated exceptions to infringement including fair use. Under the proposals, whether a use is fair will be determined by factors similar to those presently set out in s 107 of the Copyright Act of 1976 (US), that is, the purpose and character of the use, nature of the material used, the amount and substantiality that is used and the impact on any potential market for the material. The ALRC also recommended the addition of some specific exceptions to infringement dealing with the government use of copyright material and with orphan works, which are discussed in Chapters 6 and 7 of this book.

International

These Australian developments have occurred against a background of significant international reports and initiatives aimed at promoting better access to public information. The reports and initiatives have originated from a common understanding of the benefits of accessing and re-using environmental, spatial, technological and other scientific information produced by publicly funded institutions, particularly in dealing with common and often global problems. They have widened and gathered momentum in the light of the fundamental technological changes in the way people communicate and access information and are enabled to interact with government.

The 1999 UK Government White Paper, Future Management of Crown Copyright, stated that ‘opening up access and encouraging public participation in government requires official information to be readily available to all’. Likewise it and the subsequent 2006 review by the Office of Fair Trading, The Commercial Use of Public Information, and the 2007 review, The Power of Information, spelt out substantial economic and social benefits of opening access to much public information. The Office of Fair Trading in The

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17 Ibid [1.1], [9.1–9.3].


Commercial Use of Public Information summarised its conclusions on the use of PSI in the following terms:

1.4 We have concluded that improvements can be made. We estimate that, with these improvements, the sector could double in terms of the value it contributes to the UK economy to a figure of £1 billion annually. This would mean the production of a wider range of competitively priced goods and services for consumers and the generation of wider-spread productivity improvements across the economy.20

The Cross Cutting Review of the Knowledge Economy, published by HM Treasury in December 2000,21 and the earlier White Paper, Future Management of Crown Copyright22 in March 1999, were the sources of two key initiatives: the creation of a single point of licensing for most Crown copyright material and the liberalisation of licensing arrangements, with a presumption in favour of public information being made available in digital format. An online class licence for PSI was launched as the Click-Use Licence in 2001. In 2010, a revised policy of access to PSI was introduced, entitled the UK Government Licensing Framework, promoting the use of an Open Government Licence, the terms of which are aligned to be interoperable with any Creative Commons Attribution licence. This further simplified free access to PSI.

In May 2011, the Hargreaves Report, Digital Opportunity: A Review of Intellectual Property and Growth, made ten recommendations to the IP framework in the United Kingdom to support innovation and promote economic growth in the digital age. The report recommended measures to improve copyright licensing and to provide copyright exceptions for personal use, format shifting, quotation, parody, non-commercial research and library archiving which were implemented by the UK Government in 2014.23 These recommendations are discussed in Chapters 4 and 7.

In November 2003, the European Parliament and Council passed a Directive to facilitate the re-use of PSI held by public sector bodies of member states.24 The Directive was a response to the lack of uniformity on the re-use of public information across the national laws of the European Union. The general principle of the Directive was to ensure that documents held by public sector bodies were re-usable for commercial and non-commercial purposes and, where possible, through electronic means. Article 8(1) of the Directive provides that member states may allow for re-use without conditions

20 United Kingdom. Office of Fair Trading, above n 18.
22 United Kingdom. Cabinet Office, above n 16.
or may impose conditions, where appropriate, through a licence. These conditions shall not unnecessarily restrict possibilities for re-use and shall not be used to restrict competition. By May 2008, all 27 member states had notified complete transposition of the Directive. The Directive was formally implemented in the UK by The Re-use of Public Sector Information Regulations 2005.

At the World Summit on the Information Society held in Geneva in December 2003, representatives from 175 countries declared their common commitment to build a people-centred, inclusive and development-orientated Information Society. One plan of action agreed to at the Summit, and further confirmed in Tunis in 2005, concerned the importance of access to information and knowledge. In particular, paragraph C3 10 (b) stated that ‘[g]overnments are encouraged to provide adequate access through various communication resources, notably the Internet, to public official information.’ In the Tunis Commitment of 2005, the World Summit further urged governments ‘using the potential of ICTs, to create public systems of information on laws and regulations, envisaging a wider development of public access points and supporting the broad availability of this information.’

The emerging international view around improved access to, and re-use of, PSI is reflected in the Organisation for Economic Co-operation and Development’s (OECD) The Seoul Declaration for the Future of the Internet Economy, which was endorsed at the ministerial meeting on the future of the internet economy in June 2008. The declaration recommended that PSI and content, including scientific data, and works of cultural heritage be made more widely accessible in digital format. The background document to the declaration also proposed, under the OECD Recommendation of the Council for Enhanced Access and More Effective Use of Public Sector Information, that OECD member countries consider other recommendations in the context of improved access to PSI, including:

- maximising the availability of PSI for use and re-use based upon the presumption of openness as the default rule to facilitate access and re-use; and

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encouraging broad non-discriminatory competitive access and conditions for re-use of PSI, eliminating exclusive arrangements, and removing unnecessary restrictions on the ways in which it can be accessed, used, re-used, combined or shared.  

In January 2009, the President of the United States of America, Barack Obama instructed the Director of the Office of Management and Budget (OMB) to issue an Open Government Directive. That Directive, dated 8 December 2009, stated:

To increase accountability, promote informed participation by the public, and create economic opportunity, each agency shall take prompt steps to expand access to information by making it available online in open formats. With respect to information, the presumption shall be in favour of openness (to the extent permitted by law and subject to valid privacy, confidentiality, security, or other restrictions).

In May 2010, the Administrator, Office of Information and Regulatory Affairs, reported on measures the Obama Administration had taken to promote open government, including:

- Agencies have launched their own open government pages and plans. They have published online previously unavailable high-value data sets. They are adopting new, innovative approaches to public outreach and collaboration.
- ... the Consumer Product Safety Commission [CPSC] launched an initiative that is making important information more accessible to millions of consumers. Families can now find the latest safety information on CPSC’s blog, which has articles, videos, podcasts and other information that can keep kids and families safe from a variety of product-related hazards. Among other tools, the site features a ‘Recall Search’, which provides the latest updates on recalls affecting products families use every day.

In 2014 the US Department of State reported that it was implementing two flagship open government initiatives—Innovating with Geographic Data and Embracing Technologies and Platforms—to increase public access to information.

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These reports and initiatives demonstrate that governments see greater efficiencies and better engagement and decision-making in the sharing of information between agencies and between government and the public, which will provide social, political and economic benefits to the community and will contribute to a healthy democracy. They reflect a widespread change in governance values, from treating government information as a commodity to be sold, to an understanding of the benefits to government and to the community at large of the greater sharing of information held by government. This has led to a greater community engagement with government and a strengthening of the goals of government responsiveness and accountability.

About the Book

This book examines the legal and policy basis for government copyright law and related practices of government across all three roles. While it canvasses social, political and economic influences in the development of the law and government policy, it does not seek to analyse the economic merits of arguments nor does it seek to analyse the social and political merits of doing so other than to point to policy inconsistency in these areas and suggest how that should be resolved in the Australian law. Specifically, while the book examines the relationship between government copyright and national cultural policy and governance and democratic values—that is, how copyright law and policy responds to these values—it does not seek to analyse fundamental arguments about why accountability of government is good or why preserving cultural heritage is good, although both are the subject of Australian treaty obligations set out in the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights. It assumes the merits and validity of these political and social values. These values make up the public interest considerations that are at the heart of the balance of interests between government and users of its copyright material.

Australian copyright law has developed within a framework of international copyright conventions, which prescribe a system of national treatment and minimum standards of protection for copyright owners. These conventions are discussed in more detail in Chapter 1. While there is little on the protection of government works per se, the conventions contain general provisions that seek to balance the rights of copyright owners against the users of copyright material. While this book discusses Australia’s obligations under the provisions of these treaties, it is beyond the scope of this book to address the merits of those standards or reform of these international obligations. Rather, the book argues for domestic reforms that may translate into common international experience and international reform in the long term.

This examination is undertaken within the context of Australian treaty and constitutional obligations, governance values and technological change.

Chapter 1 aims to provide an understanding of the legal and policy framework in which the Australian government operates as proprietor, preserver and user of copyright material and, in particular, its treaty and constitutional obligations. It outlines the scope and

33 Refer to Chapter 1, ‘Australia’s International Civil and Political Treaty Obligations’.
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diversity of modern Australian government and the legal scope of 'government' under the 
Copyright Act 1968; that is, what constitutes 'the Commonwealth or a State' under Part VII 
of the Copyright Act 1968.

Chapter 1 then provides a brief historical overview of the role of government under Anglo-
Australian law as proprietor, preserver and user of copyright material before turning to 
legal and policy factors which are important in evaluating the future direction of the role 
of government in these three areas of governmental interest.

Chapters 2 and 3 explore the first principal question of this book, namely: What rights does 
the government presently have, and what rights should it have, to own copyright in ma-
terial it produces? Should government-produced material be in the public domain? Does 
ownership or non-ownership conflict with the principle that all citizens in a liberal demo-
cratic society should have fair and open access to government information?

Chapter 2 is aimed at understanding the rights and policy behind present Crown own-
ership of copyright in Australia. To provide a deeper understanding of the basis of the 
present Australian law, Chapter 2 examines the origins of the law vesting copyright in 
government and the major policy considerations evident in its development; first, by de-
scribing the origins and scope of the prerogative right in the nature of copyright, which 
is preserved by s 8A of the Copyright Act 1968, and then by describing the origins and 
scope of Part VII of the Copyright Act 1968, from which government rights mostly derive. 
It concludes by making some comments on the fragmentation between state and federal 
governments of official electronic dissemination and licensing of laws, in which the public 
interest in dissemination is strong.

Chapter 3 further explores the first principal question by comparing Australian rights and 
policy to those in selected comparable countries as a basis for evaluation of the Australian 
law. It examines developments in the laws and practices of selected comparable coun-
tries in facilitating access to public official information. Of particular relevance to this 
comparative analysis, for reasons of legal heritage or legal influence, are law and policy 
developments in the United Kingdom, the European Union, New Zealand, Canada and 
the United States of America. This chapter examines copyright law and policy in these 
countries, dealing with both the ownership and management of PSI, and then makes some 
observations on the open content movement which has been promoting access to pub-
lic and private information worldwide. It concludes that the open content movement has 
highlighted fundamental questions facing all governments as to what information should 
be released or not released and, if released, whether access should be limited in some ways 
(through price, licensing arrangements or through accessible media). Governments must 
also decide what proactive steps they must take to disseminate information; that is, to pro-
vide access through a ‘push’ model as opposed to a ‘pull’ model. This, in turn, provides a 
basis for evaluation of Australian law and practice.

Chapters 4 and 5 explore the second principal question in this book, namely: Should the 
government have a role as preserver of its own and privately owned copyright material? 
If so, what should that role be? How adequate is the present law to achieve this objective? 
How does preservation accord with the principle that all citizens have fair and open access 
to government information?
Chapter 4 examines the role of government as preserver of its own copyright records under the *Copyright Act 1968*. It outlines the development of present federal archival practices and laws and the scope of *Copyright Act 1968* provisions relating to the preservation of, and access to, those records and examines the legal and policy aspects of access and re-use of government archival material including policies for the better management of government information. It argues existing laws and practices, which are aimed at promoting an open and accountable government and of preserving national culture and heritage, should be reviewed in the light of technological changes in the way we access, create and communicate works and in the light of further moves towards openness in government.

Chapter 5 further explores the second principal question by examining the long-established role of government as compulsory acquirer and preserver of national copyright material under the *Copyright Act 1968*. What is the justification for these laws? Should these laws as a matter of policy be linked with copyright protection? If there is a justification, should the extent of material deposited under these laws be specific and limited in scope, or should it be all-embracing of everything disseminated to the public?

Chapter 5 also examines the historical and policy basis of these laws. It argues that the laws have, at times, been used for motives of scholarly endeavour and censorship, but in Australia, and some other jurisdictions, they have subsisted as an element of national copyright policy. Nonetheless, this chapter argues that the laws have their most convincing rationale in the preservation of national culture and heritage and that it is important that present deposit laws should therefore embrace a wide range of media.

Chapter 6 explores the third principal question in this book, namely: What rights does the government presently have, and what rights should it have, to use copyright material owned by other persons? How are these rights justified on information management principles? This chapter examines the Crown use of copyright material. Specifically, it examines the rights of government under the *Copyright Act 1968* and related laws to use copyright material owned by other persons for the purposes of government.

The nature, scope and operation of the Crown use provision in the *Copyright Act 1968*, the extent to which licences may be implied to government to reproduce or publish copyright material sent to it, and the breadth of other statutory rights held by government and their relationship to s 183 of the *Copyright Act 1968*, are discussed in more detail in this chapter. In particular, it examines arguments for construing s 183 to complement, rather than override, the special defences to infringement such as s 40 (fair dealing for research or study) which users of copyright material may rely on generally under the *Copyright Act 1968*. It also examines the law in the light of the needs of government information management to transfer information across agency boundaries and to develop access systems for that information.

Chapter 7 argues that the government has roles and responsibilities under the *Copyright Act 1968* which are of significance to society and which should continue to be protected and promoted, and that reform of the law is not in itself the complete solution to rapid changes in the way we communicate with government or in the way we access government information. This chapter commences by examining the wider questions of whether there is any justification for copyright ownership vesting in the government, the extent of the public interest in accessing government information across the spectrum of current government publishing and communication activity and whether copyright protection poses
a barrier to access to government information. It then turns to reform of the subsistence and ownership provisions of the Commonwealth and States under the Copyright Act 1968 and reform of the laws dealing with the role of government as preserver and user of copyright material. It concludes by discussing attempts by proprietors of copyright material to impose contractual and technological restrictions on the use of copyright material and it argues such practices, whether imposed by government or the private sector, should be prohibited where they conflict with public policy established by the Copyright Act 1968.

The Conclusion draws together themes which have been examined in earlier chapters and summarises reform proposals to the Copyright Act 1968 dealing with copyright ownership, archival practices, library deposit and Crown use with a view to an improved legal framework for more effective access to government information and more efficient communication of information within government and between government and the wider community. It concludes government copyright law and practice in each of the roles as owner, preserver and user of copyright material has not responded adequately to the information age and to the desire and the ability of individuals to access information quickly and effectively.

The solution offered in this book is reform of the law and of public policy and, in particular, the introduction of a clearer, more coordinated and consistent licensing policy and one that is in step with access to information policy.

The rate of technological change and evolving views about the role of government in a liberal democracy suggest that laws and policy concerning government ownership, preservation and use of copyright material should be reviewed taking into account the policy considerations mentioned in this book. However, the government’s role in all three areas should be continued for reasons of government accountability, effective administration and the preservation of national culture and heritage.34

34 The recommendations are consistent with the Five Goals in the Australian Government’s National Cultural Policy, Creative Australia, released by the Australian Government in May 2013; see Australia. Department of Regional Australia, Local Government, Arts and Sport, Creative Australia: National Cultural Policy (2013) 44–49 http://creativeaustralia.arts.gov.au/assets/Creative-Australia-PDF-20130417.pdf. They are: 1. Recognise, respect and celebrate the centrality of Aboriginal and Torres Strait Islander cultures to the uniqueness of Australian identity. 2. Ensure that government support reflects the diversity of Australia and that all citizens, wherever they live, whatever their background or circumstances, have a right to shape our cultural identity and its expression. 3. Support excellence and the special role of artists and their creative collaborators as the source of original work and ideas, including telling Australian stories. 4. Strengthen the capacity of the cultural sector to contribute to national life, community wellbeing and the economy. 5. Ensure Australian creativity thrives in the digitally enabled 21st century, by supporting innovation, the development of new creative content, knowledge and creative industries.