

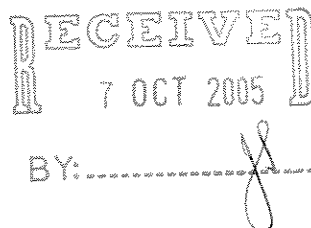
Submission No. 20

Date Received



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**Submission to Inquiry into Technological Protection Measures (TPM)**  
**Exceptions: A Review of Circumstances Where Circumvention of a TPM**  
**Should be Allowed (& thus exempted from infringement)**

This submission is made by the Australian Government Libraries Network which represents the interests and concerns of member libraries and information services in wider government forums<sup>1</sup>.

The view of AGLIN is that there is a need for an exception in the Copyright Act which would permit the circumvention of a TPM where the proposed use of a work was for the 'services of the state', under section 183 of the Copyright Act.

The normal procedure for a government library would be to negotiate with the copyright owner or supplier and reach an agreement regarding access to material. In the absence of reaching an agreement, print equivalent material would be used where available.

An exception which allowed circumvention of a TPM would be used in a limited number of cases, and only where access to the material was essential, and no print alternative was available. Examples where circumvention of a TPM might be required would include:

- Where a publisher had refused to sell a commercially available product because they consider that the nature of the work of the agency would have a detrimental effect on the perceptions of their suppliers or clients if they knew the material was accessible to the agency.

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<sup>1</sup> Attachment 1 provides further information about AGLIN and a list of its members.

- Where the copyright owner could not be identified, or could not be contacted (eg orphaned works).
- Where negotiations with copyright owners could not provide access within a suitable time to meet an agency's operational requirements, for example due to location, language or multiple copyright owners.
- Where a copyright owner had given permission to use the material, but the material had TPMs installed.
- Where a work was out-of-copyright, but where a TPM prevented access.
- Where agreement could not be reached with the copyright owner, but where access to the material was required to meet operational requirements (eg works 'bundled' into large databases where access was required to a single work).
- Where regional coding on DVDs prevented access to legitimately acquired material.

Government agencies have agreements with collecting societies and pay copyright fees which cover the digital copying of print materials under Section 183.

Unless an exception is included in the Copyright Act which allows government agencies to circumvent a TPM to exercise their rights under Section 183, there is potential for government agencies to be denied access to important material in the time frame within which the material is required for the conduct of government business.

AGLIN further supports the Australian Libraries Copyright Committee (ALCC) and the Australian Digital Alliance (ADA) submission.

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Executive Convenor, AGLIN

## Attachment 1

### ABOUT AGLIN

The Australian Government Libraries Information Network (AGLIN) was formally established in May 1993 as FLIN (the Federal Libraries Information Network), following discussions during the late 1980s and early 1990s on the need for a body to co-ordinate Commonwealth Government Libraries. At the end of 2003, the name was changed to AGLIN to reflect contemporary terminology and better position the Network for the future. AGLIN is an independent organisation, and is *not endorsed or funded by the Australian Government*.

AGLIN membership is open to Australian Government (Commonwealth) libraries and information services.

AGLIN is managed by an Executive in accordance with its Constitution. The Executive is drawn from the general membership, is elected at the Annual General Meeting and is further supported by nominated State and Territory representatives. There are also a number of specific Taskforces - namely Learning & Development, Consortium and Copyright.

Following a Strategic Planning Day in July, we are now planning towards AGLIN's future development. This includes a move to paid membership, which will assist in the achievement of broader goals.

### Aims of AGLIN

AGLIN's aims are to:

- a) represent the interests and concerns of member libraries and information services in wider government forums
- b) develop and implement co-operative schemes and resource sharing activities among Australian Government libraries and information services
- c) serve as a forum to consider and reach consensus on issues and policies which affect Australian Government libraries and information services
- d) promote
  - improved access to information by Australian Government agencies and their staff
  - research and development in the application of new technologies and information systems relevant to Australian Government libraries and information services, and
  - improvements in the management of Australian Government libraries and information services.
- e) develop a capacity for the provision of expert advisory services to its members and other organisations as appropriate in such areas as:
  - cost effective procurement of library materials, systems and other services
  - guidelines and standards for library management in strategic planning, and
  - performance measurement, staff development and training, marketing of library services and other matters.
- f) foster and facilitate the dissemination of Australian Government publications to the wider community by:
  - ensuring appropriate bibliographical control is achieved for all publications of Australian Government agencies

- supporting the maintenance of library deposit arrangement for all Australian Government agency publications, and
- promoting the use of appropriate commercial distribution arrangements



Membership to  
AGLIN July 2005....