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UNIVERSITY OF
TECHNOLOGY

Not Friends Any More? Innovation and Copyright

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Derek Whitehead
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Swinburne Library, Swinburne Circus



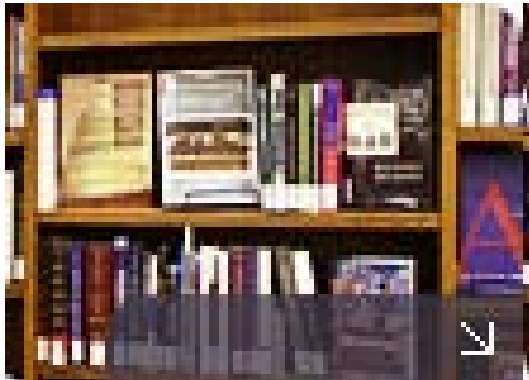
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Swinburne Research Bank

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Swinburne



- > Dual sector university – 13,000 EFTSU uni students, 13,000 technical and further education FTE
- > Rapid growth based on international students
- > Five campuses in Melbourne, one in Malaysia
- > Technological university – engineering, Information and communications technology, design, life and social sciences, business.
- > Strong research focus



Outline

1. Copyright: we got it wrong
2. The Cutler Report: how we got there
3. The Government response
4. Ice TV Pty Ltd vs Nine Network Australia Pty Ltd
5. Long Way to Go

Copyright: we got it wrong

- > Copyright is a balance
- > Encourage innovation by rewarding innovation and creativity
- > But also make sure that information flows and is available to everyone
- > Simple principles
 - YOUR innovation is built on someone else's
 - Intellectual property is not the same as property
 - The digital/online world changes everything

Copyright: we got it wrong

- > We got it wrong
- > Trade and markets – IP ignores the understanding we have of free trade and open markets
- > Competition policy: copyright is a monopoly, and an old-fashioned one too
- > Much more
 - Development economics
 - Science and technology policy
 - Social equity and distributive policies
 - Arts
- > How did we get it so wrong? – it is about money

How we got it wrong

- > There are powerful industry interests in copyright – especially movies and music – such as the RIAA and MPAA
- > User and consumer interests are disparate and have fewer resources
- > Lawrence Lessig has written on this
- > There is an ongoing debate – like Copyright and Wrongs: are draconian copyright laws restricting creativity and progress? See <http://goliveinternet.economist.com/debate/overview/144>
- > At the end, 71% voted that existing copyright laws do more harm than good

Australia's Cutler Report (1)

Six conclusions about intellectual property

- > IP policy is economic policy – “an important front of micro-economic reform”
- > Argument for a National Information Strategy – to parallel the National Competition Policy. Information underpins innovation just as competition does
- > Government “research, information and content” must be widely available – “Australia is behind many other advanced countries in establishing institutional frameworks to maximise the flow of government generated information and content.”

Australia's Cutler Report (2)

- > International standards of open publishing – in other words an open licence, Creative Commons
- > National collections are important. They include open access institutional repositories. They need to be funded.
- > Australian content should be part of the “global public commons” and Australia must “energetically and proudly maximize the extent to which it makes government funded content available as part of the global public commons.”

Cutler Report – Initial Response

- > From the Minister for Innovation, Industry, Science and Research, Senator Kim Carr
- > “The overzealous protection of intellectual property rights in this environment raises the cost of knowledge to the community. When that knowledge is created using tax-payer dollars, the community might reasonably feel that it has paid for it once already.”
- > The Minister personally welcomed the proposals

Cutler Report – a Formal Response

- > May 2009 Australian Commonwealth budget increased funding for research and innovation
- > A White Paper – Powering Ideas: an Innovation Agenda for the 21st Century

<http://www.innovation.gov.au/innovationreview/Pages/home.aspx>

Australia – a rethink?



Response to the Cutler report



Not a rethink: the White Paper

- > May 12, 2009 budget statement
- > “A \$3.1 billion investment in new ideas, industries and jobs” – Super Science
- > Increase from \$6.9 billion to \$8.6 billion
- > But limited response on IP issues in the White Paper
- > The Innovation Agenda is not an agenda for innovation in Australia intellectual property regime

Not a rethink



Three directions in public sector innovation

- > Innovative approaches to procurement and service delivery
- > Creating a regulatory environment which favours innovation, including intellectual property
- > Improving the flow of information to consumers, researchers and industry

White Paper – Innovative Services



Innovative approaches to procurement and service delivery

- > Increased used of ICT including Web 2.0 in service delivery
- > Innovative procurement – the government as “a demanding and discerning customer” of industry
- > Commitment to free trade
- > Parenthetically: a review of parallel importation by the Productivity Commission

White Paper: Innovative Regulation



- > Innovative regulation
- > National Enabling Technologies Strategy
- > A clear intention to reform patent legislation because “the degree of inventiveness needed to obtain a patent is lower in Australia than in other countries.”
- > Improve IP education for researchers and business
- > An acknowledgement that we may have gone too far in providing excessive protection – the balance is wrong

White Paper: Information Management

- > **Innovative information management**
- > “The free flow of information fuels innovation.” ALIA could not have said it better.
- > “The Australian Government controls mountains of information, and is determined to make more of this vast national resource accessible to citizens, businesspeople, researchers and policy-makers.”
- > The Government will work through rights, privacy, security and cost issues.
- > It will appoint an Information Commissioner, Jan 2010

New Directions? Ice TV

- > IceTV Pty Ltd vs Nine Network Australia
- > High Court of Australia judgement 24 April 2009
- > Appeal by IceTV from Federal Court of Australia was upheld by the High Court
- > ADA given leave to appeal as amicus curiae by the High Court
- > Australian law now closer to US and Canada
- > About compilations of data, originality, and substantiality

Long Way to Go



Here's the agenda

- 1) New licensing models
- 2) New ways of handling government information for the benefit of all
- 3) New approaches to research
- 4) Rethinking copyright as economics
- 5) New business models
- 6) Legislative change

Thank you

- > Derek Whitehead
- > Director, Information Resources and University Copyright Officer
- > Swinburne University of Technology
- > dwhitehead@swin.edu.au

