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Att: Mr Nelson de Sousa

The Director
Copyright Law Review Committee Secretariat
Attorney-General's Department
Robert Garran Offices
National Circuit
BARTON ACT 2600

Dear Mr de Sousa

Comments on the Crown Law Review Committee's Issues Paper on Crown Copyright

I refer to your recent telephone conversation with Ms Helen Monten, Director, Parliamentary and Ministerial Section, regarding an extension of time for the Australian Electoral Commission (AEC) to make submissions on the Copyright Law Review Committee's Issues Paper on Crown Copyright, and thank you for agreeing to receive our comments by 23 April 2004.

The AEC provides the following comments relevant to the issues raised in your paper:

General remarks

The Australian Electoral Commission is an independent statutory authority established under the provisions of the *Commonwealth Electoral Act 1918* (the Electoral Act) to conduct federal elections and referendums and maintain the Commonwealth Electoral Roll. The Commission is appointed by the Governor-General and its officers are accountable to the Commonwealth Parliament.

Currently copyright in material created by the AEC is vested in the Commonwealth Government. A wide range of material is produced by the AEC or at the AEC's direction, including literary works such as reports, submission, guides, and facts sheets; election statistics and other databases; and spatial data including electoral boundaries and maps.

Issues 1, 2 and 4

The AEC strongly believes that Commonwealth ownership of copyright material should continue to extend to all works and subject-matter, including databases and statistics.

The AEC holds material (for example, election statistics, and other electoral data) which is commercially valuable. However, the AEC considers that, in the spirit of the Electoral Act, it is in the public interest for this material to be freely available and not commercially exploited. It is equally important that the material is managed

cohesively and is guaranteed with respect to its accuracy and integrity. While some safeguards may already exist regarding access and use through other legislative provisions, the AEC believes that universally applicable protections such as Commonwealth ownership are necessary to ensure ongoing accuracy, integrity and public availability of its materials.

For these reasons, the AEC also considers it important that Commonwealth ownership extends to materials produced by employees and contractors.

Issue 3

The AEC supports the current position relating to moral rights. This is a matter for consideration in usual contractual arrangements as circumstances demand. The AEC notes that this issue is of particular significance with respect to Aboriginal and Torres Strait Islander works.

Issue 6

The AEC is currently viewed as part of 'the Commonwealth' for the purposes of copyright, and, as a statutory authority accountable to the Parliament, the AEC believes it is important to ensure that this continues to be the case. The AEC suggests that the entities for inclusion could be determined based on relevant precedents with respect to "government instrumentalities", as cited in Footnote 30.

Issue 17

For reasons already stated, the AEC favours a uniform and universally applicable copyright framework under which individual agencies manage production and distribution of materials. Based on the outlines provided, it would seem that the New Zealand model offers these features.

The AEC understands that the Committee will prepare a final report following consideration of submissions received and the AEC looks forward to an opportunity to comment on any proposals for reform to the law relating to Commonwealth ownership of copyright material.

If you have any queries, please do not hesitate to contact Mr Brien Hallett, Assistant Commissioner Public Awareness, Media and Research on (02) 6271 4477.

Yours sincerely

Paul Dacey
Acting Electoral Commissioner

23 April 2004