



**RESPONSE BY THE QUEENSLAND
GOVERNMENT TO THE DISCUSSION
PAPER RELEASED BY
COPYRIGHT LAW REVIEW COMMITTEE:
ON
CROWN COPYRIGHT**

23 August 2004

INTRODUCTION

The Queensland Government creates a considerable amount of copyright material through the execution of its various portfolio responsibilities. Copyright protection over this material is necessary to ensure its integrity and to encourage its production and dissemination.

However, it is recognised that government copyright material plays an important role in providing a basis for private sector innovation. This has led to a significant change in policy direction in relation to copyright material created for and on behalf of the Queensland Government by external person/organisations. This change in policy direction includes greater access to public sector copyright materials and increased ownership by the private sector of copyright materials created for and on behalf of the Queensland Government.

The Queensland Department of Natural Resources, Mines and Energy made a submission (Submission No.65) to the Committee in April 2004. The matters raised in that submission have not been repeated in this submission but aspects of the arguments raised by the Department do appear in response to the particular questions addressed in this document.

In response to the Copyright Law Review Committee's discussion paper released prior to the forum held in Sydney on 27 July 2004, the Queensland Government makes the following submissions:

- Copyright protection for government material does provide an incentive to government to produce high quality information for access to the private sector and the community. Governments have significant discretion in the way in which their portfolios are administered and copyright protection ensures that the public has access to high quality data and information.
- Copyright protection for government material serves the public interest. It provides a means of maintaining the integrity of government materials and ensuring that governments can control the form and manner in which their materials are disseminated through reproduction, publication and electronic communication.
- It is not Queensland Government policy or practice to rely on copyright to prevent access to information, although copyright may be relied upon to prevent the reproduction of a document.
- Rather than preventing access to information, the certainty that copyright subsists in government works is a positive factor in facilitating access by others to information held by Government. As a result of this certainty, Queensland Government is able to deal confidently with the information and provide access without the complications arising regarding ownership or having excessive administrative burdens with respect to joint ownership.
- Government copyright should exist in the entire range of works and other subject matter. The Queensland Government does not favour excluding specific materials such as judicial and legislative materials from copyright protection.
- The Queensland Government submits that the principle of competitive neutrality does not apply to the interpretation of the Crown copyright provisions
- The Queensland Government submits that the relationship between Parts III and VII of the Copyright Act should be clarified.

- Governments should continue to be vested with first ownership of copyright in materials made under their “direction or control” but the concept of “direction or control” should be clarified by a statutory definition.
- Section 177 should be retained in its present form.
- While accepting that there may be difficulties in determining which entities can be considered to be the “State”, the Queensland Government does not support any of the options outlined in the Discussion Paper.
- The Queensland Government does not support the introduction of a blanket licence or statutory waiver of government copyright which would permit government material to be reproduced and communicated to the public for non-governmental purposes. The Queensland Government has ensured that members of the public have ready access to a wide range of government material by making it “freely accessible”, in accordance with the policy set out in Information Standard 33 – Information Access and Pricing (IS33).
- The Queensland Government does not support the amendment of s 182A and views the current arrangements which permit a single copy to be made as appropriate for the protection of legislative materials and decisions of Courts and Tribunals.

BACKGROUND

In 1998, the Queensland Government released *Information Standard No 33: Information Access and Pricing*¹ which advocated that government information must be made accessible, directly or indirectly, to citizens of Queensland and those doing business in Queensland at no more than the cost of provision and in a manner which provides reasonable access to the community unless statutory requirements vary the access and pricing arrangements. Certain types of information such as legislative and parliamentary materials must be freely available.

In April 2003, the Queensland Government released the *Queensland Public Sector Intellectual Property Principles*² which provides high-level strategic guidance to agencies on how to appropriately manage and commercialise their IP assets. Included in this document was the following principle regarding ownership of IP created by a consultant:

When engaging a consultant, agencies should explore whether ownership of IP developed by the contractor/consultant on behalf of the Queensland Government (“the default position”) is the best option for maximising benefits to Queensland. An agency may agree to a consultant engaged by the agency retaining the ownership of some or all of the IP rights created by the consultant during the course of the contract if other public interests, such as supporting Queensland industry or enabling or facilitating the more efficient delivery of services to the Queensland taxpayer, are considered to be of greater benefit to the public than the ownership of IP by the agency or the State.

However, where an agency agrees to a consultant/contractor retaining ownership of some or all of the IP rights created by the consultant during the course of the contract, the agency must ensure the Queensland Government retains appropriate access to the IP that it has paid for.

¹ Available at <http://www.iie.qld.gov.au/site/informationstandards/current.asp>

² Available at <http://www.sdi.qld.gov.au/innovation/publications/ip/default.asp>

The Queensland Government was the first jurisdiction in Australia to apply this change in policy direction for all copyright materials created for and on behalf of the Queensland Government. This change means that the Queensland Government has facilitated significantly increased opportunities for the private sector to maximise the copyright materials they create on behalf of the Queensland Government, particularly those which have wider application to the community and industry, for example software. This change in policy direction has also been reflected in the *Government Information Technology Conditions Version 5.0* currently being drafted by the Queensland Department of Public Works.

In September 2003, the Queensland Government followed the IP Principles with the *Queensland Public Sector Intellectual Property Guidelines*³ which provide practical guidance to agencies to effectively manage and commercialise their IP portfolios. This includes setting minimum recommended practice statements and a comprehensive guide in determining whether or not agencies should retain ownership of copyright materials created by a consultant/contractor.

Submission to the CLRC by the Queensland Government

- **What is the justification for government ownership of copyright? Can copyright be used to protect the integrity of government material? (para 13)**
 - Copyright protection for government material serves the public interest. It provides the most effective means of maintaining the integrity and authenticity of government materials and ensures that governments can control the form and manner in which their materials are disseminated through reproduction, publication and electronic communication, by preventing unauthorised reproduction, publication and electronic communication. The reasons for government ownership of copyright material outlined in paragraph 11 of the Discussion Paper are supported.

<i>Examples:</i>
<p><i>Queensland Department of Primary Industries and Fisheries (QDPI&F)</i></p> <p><i>QDPI&F regularly receives requests for the release of copyright in technical documents. Often these are not simple requests because of the nature of the material or passage requested. It may be technically out of date, for example, recommend now banned chemicals or practices or the piece requested does not stand alone as requested but is qualified by latter statements in the text. This means that the content needs to be checked by a technically qualified person prior to release.</i></p>

³ ibid

Queensland Department of Public Works (QDPW)

The Queensland Department of Public Works retains copyright ownership in the design and drawings of institutional buildings (e.g. schools, courthouses, government offices, sporting stadiums, galleries) as these designs are often adopted as “standard designs” and are continually evolved and adapted using both public and private sector input. If the Queensland Government did not retain ownership of these copyright materials, the Government would be unable to refine and enhance these designs after the first change by an outside consultant. In most instances, copyright ownership is retained by the State (e.g. building designs) but there are opportunities for co-ownership and licensing to enable commercial exploitation of copyright.

Queensland Health (QH)**1. Informed Consent Forms**

QH has created a suite of patient consent forms that:

- Inform patients about their impending medical procedure (often in significant detail); and
- Enable QH to obtain the patient’s signed consent prior to the procedure.

Retaining accuracy information within the forms is essential due to the high risk (e.g. legal action) which may eventuate if forms are amended with incorrect information.

2. “Alcohol Tobacco and Other Drugs materials”

- QH produces large amounts of public health educational materials;
- QH has relied on the Crown’s ownership of Copyright to impose conditions of use to ensure that only the latest and most up to date information is approved for use.

- The CLRC refers to the economic/utilitarian rationale for copyright protection, that is, encouragement of creative effort through reward of effort and investment. However, this justification for recognising copyright is only one of many. Another, more fundamental justification for the recognition of intellectual property rights is that which is acknowledged in relation to individuals in Article 27(2) of the Universal Declaration of Human Rights:

“Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.”

This statement encompasses a Lockean rationale for intellectual property rights, that is, that such rights are natural rights earned through adding labour to the common resource of information. According to Lockean theory, a person who puts intellectual effort into creating something should have a natural right to own and control what has been created through his or her labour. Such a justification also applies in the government context, where materials are created for or on behalf of a government.

- The Queensland Government does not agree with the CLRC’s assertion in paragraph 6 of the Discussion Paper that it is difficult to see how copyright provides an incentive to create new materials. While the advantages offered by copyright’s exclusive rights may not act as an incentive for the production of certain categories of government material (eg legislation and judgments), this is not universally the case for government materials. The fact that property rights in the form of copyright will come into existence provides an incentive for the creation of new materials in the government context, particularly in cases where that kind of material would not otherwise be produced in the pursuit of a department or agency’s core functions.

Example:***Queensland Department of State Development & Innovation (QDSI)***

QDSDI has a function to maximise industry development within the State of Queensland. This function is partially achieved through the provision of training to small-to-medium enterprises (SME's) to assist in business planning and product/service development. This objective can be achieved through training seminars but it can also be enhanced through supporting publications and websites (for example, Ideas2Market) which attract copyright protection. Lack of copyright protection may alter the agency's decision to provide these additional support mechanisms.

- Obviously, in many instances government material is produced primarily because it is needed for the administration of the State (eg legislation) or the management of the State's land and resources (eg mining exploration reports and survey plans). Such materials would clearly be produced without the incentive to create that is afforded by the subsistence of copyright in the resulting work. However, in many situations what is of value to the community at large is not the individual pieces of copyright material produced by or for the government in the administration of the State's functions or the management of its resources but the collection of those materials into extensive, computerised, searchable and publicly accessible databases (eg the Department of Natural Resources, Mines and Energy's QDEX and Digital Cadastral databases). Here, the availability of the exclusive rights of copyright (especially the rights to reproduce in a material form, publish and electronically communicate to the public) provide the State with an incentive to put in the effort, planning, skill and (often considerable) resources required to create the databases which will enable widespread access to the compiled material by members of the public. While the government's performance of its functions requires it to receive and collate the documents needed for the performance of those functions, copyright operates as an incentive for governments to develop the complex, computerised, searchable, internet-accessible databases.
- Rather than preventing access to information, the certainty that copyright subsists in the name of the Crown is a positive factor in facilitating access by others to information held by government. The government is able to deal confidently with the information and provide access without the complications of not knowing with certainty who owns copyright, assertions by others to copyright ownership, or having to deal with claims of joint ownership.
- The fact that governments may use contracts and/or technological measures to prevent or limit the unauthorised use of their materials does not provide a reason why they should not also be able to avail themselves of the exclusive proprietary rights conferred on copyright owners. The nature of much of the material produced by or for governments means that reliance on contractual arrangements to prevent unauthorised use will be impractical. While it may be possible for governments to apply technological measures to the materials they distribute to ensure their integrity and authenticity, it is important to understand that they have no redress against those who tamper with or remove such technological measures if copyright does not subsist in the material to which they are applied.

The definition of “technological protection measure” in s 10(1) of the Copyright Act means that the prohibition in s 116A of certain dealings in devices designed to circumvent technological protection measures applies only if the material to which the technological protection measure is applied to restrict access or copying is itself the subject of copyright protection.

- **Is it appropriate to rely on copyright to restrict access to and control the use of government information, in the light of FOI and privacy laws which provide government with a means of regulating the appropriate use of and access to information? (para 17)**

- It is not Queensland Government policy or practice to rely on copyright to prevent access to information, although copyright may be relied upon to prevent the reproduction of a document. To rely upon copyright in government documents to restrict or prevent access to information would be to over-extend the scope of the FOI legislation.
- The Office of the Information Commissioner (Queensland), has issued an Information Sheet which states that:

[c]opyright is not a ground for exemption under the FOI Act and the agency may decide to give the FOI applicant access to that document. However, if an agency accepts that a document is protected by copyright, the agency may grant access to the document by way of inspection only and may refuse to provide a copy. The Information Commissioner does not have power to review an agency’s decision to give access for inspection, or to decide whether copyright exists.

- **What is the scope of the materials in which government copyright should exist and what material, if any, (eg Bills, Acts, judgments, parliamentary debates, reports) should be excluded or subject to particular exceptions? (para 22)**

- Government copyright should exist in the entire range of works and other subject matter. The Queensland Government does not favour excluding specific materials such as judicial and legislative materials from copyright protection.
- In the absence of measures applied to ensure the security and authenticity of documents, digital technology makes it easy to alter documents such that the changes cannot be detected by an ordinary observer. Removal of copyright from materials such as Acts and judgments would leave the State with no effective means of controlling the making and distribution of altered copies of these documents, other than through reliance on technological protection measures such as digital rights management.
- The exclusion of specific categories of materials (eg Acts, parliamentary debates, reports) from copyright protection would raise the prospect of a private market developing with the attendant risks associated with long-term continuity of commercial activities which may cease to be profitable.
- If materials such as Acts, parliamentary debates, reports were to be excluded from protection (“excluded material”), it would be necessary to ensure that the exclusion did not extend to other copyright works (eg an artistic work such as a badge, coat of arms, depiction of a State emblem) that are typically included in or associated with the excluded material. It would be undesirable for any exclusion from copyright protection to extend to other written or graphic representations used to depict the State.

- **What is the role and relevance, if any, of the prerogative right in the nature of copyright? Should it be clarified and what would be the effect of abolishing or limiting it? (para 28)**

- The scope of the prerogative is not clear. However, it does not require legislative clarification and should be retained in its present form in light of the fact that it is not considered to be presenting difficulties.

- **What are the implications of the principle of competitive neutrality for government copyright? (para 31)**

- The National Competition Policy (NCP) requirement to apply competitive neutrality principles to selected government businesses is outlined in clause 3.(1) of the Competition Principles agreement.

Clause 3.(1) sets out the objective of competitive neutrality policy as the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities – that is, Government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership. These principles only apply to the business activities of publicly owned entities, not to non-business, non-profit activities of these entities.

- Under NCP, each jurisdiction is free to determine its own agenda. In practice this means larger businesses are subject to corporatisation or commercialisation as separate business units and the imposition of:
 - full Commonwealth, State and Territory taxes or tax equivalent systems;
 - debt guarantee fees directed towards offsetting the competitive advantages (of lower interest rates) provided by government guarantees; and
 - those regulations to which private sector businesses are normally subject, such as those relating to the protection of the environment, and planning and approval processes, on an equivalent basis to private sector competitors.

For smaller activities or those which form a minor part of a larger department, competitive neutrality is more likely to involve the above elements plus the application of full cost pricing.

- In essence, how competitive neutrality is applied is up to each government and its application varies widely across jurisdictions. Competitive neutrality does not apply to all government businesses – only to those where governments elect to do so.

Even where a government business does enjoy an apparent advantage, competitive neutrality does not require the removal of the mechanism that gives rise to the advantage (in this case the Crown copyright provisions). Removal of the advantage more often relies on the use of proxies or a variety of other measures. A clear example is the exemption government businesses enjoy in relation to income taxes. This exemption has not been removed – the businesses are subject instead to tax equivalent regimes

where an amount equivalent to the tax which would otherwise apply is paid to the owning government rather than the Commonwealth.

- While in theory, the Crown Copyright provisions under sections 176 and 178 could have competitive neutrality implications, in practice, any such implications would be negligible and would not be sufficient to warrant repeal or amendment of those sections:
 - the provisions provide for copyright to rest with the Crown as a default where the material is created under the direction or control of the government e.g. by employees or consultants. The circumstances are little different than those that apply in practice in the private sector;
 - the implications are limited as, in relation to competitive neutrality, any advantage accruing from Crown copyright provisions only applies to government business activities and then only those business activities where a government has chosen to implement competitive neutrality reform. This narrows the field considerably and may not apply at all to some separate Government Owned Corporations (or the equivalents in other jurisdictions);
 - competitive neutrality does not require the removal of the mechanism or statute that may confer the advantage, merely that where appropriate and cost effective, the advantage is nullified in some way. This could just as easily be done by the application of policies designed to address the particular circumstances (e.g. *Queensland Public Sector Intellectual Property Principles and Guidelines* state that agencies should explore whether ownership by a consultant/contractor of copyright works created for and on behalf of Government is the best option for maximising benefits to Queensland and provides guidance to Queensland Government agencies as to when copyright works should be owned by the third party); and
 - the advantages if any are very small. Most importantly, it is open to a private sector competitor to remove any small disadvantage it does face by contracting to achieve the same outcome as for the government business.

Similar arguments apply to any competitive neutrality implications of s.177. As well, an examination of its likely use has not provided any information which would suggest it is being used in such a way as to disadvantage any government businesses' private sector competitor. There is no case for its repeal on competitive neutrality grounds.

- **Should the words “under the direction or control” in ss 176 and 178 be replaced with the words “in the course of employment” and what would be the impact of doing so? (para 40)**
 - The Queensland Government submits that the relationship between Parts III and VII of the Copyright Act should be clarified to state that Part VII prevails to the extent of any inconsistencies between the two Parts.
 - Governments should continue to be vested with first ownership of copyright in materials made under their “direction or control” but the concept of “direction or control” should be clarified by a statutory definition.

- There may be advantages in re-stating these provisions to ensure that their intended application is clearly and expressly stated. In particular, the provisions should be re-drafted to expressly state that the government copyright exists in materials produced:
 - (1) by employees, volunteers, students and other persons who work on an unpaid basis eg those on work experience;
 - (2) by independent contractors and consultants, who are commissioned to produce materials for the government; and
 - (3) pursuant to a legislative, regulatory or administrative requirement where the material is required to be provided to government to enable it to perform a governmental function.

Example:
<i>Queensland Department of Natural Resources, Mines and Energy (QNRME)</i>
<i>Mining exploration reports (containing text, maps, graphs, bar codes and other data) which are required to be produced and lodged by holders of exploration titles pursuant to express directions set out in the Mineral Resources Act 1989 (Qld) and the Petroleum Act 1929 (Qld).</i>

- The Committee states in paragraph 31 of the Discussion Paper that the operation of ss 176 – 178 “is limited to those situations where the general copyright ownership provisions of the Act do not apply”. This statement is ambiguous. The Queensland Government agrees with the CLRC if its intended meaning is that Part VII of the *Copyright Act* sets out a specific set of rules applying to government copyright which take precedence over any inconsistent general rules set out in Part III. However, the Queensland Government does not agree with any interpretation of ss 176 or 178 which would involve the subsections in each section being read conjunctively. In ss 176 and 178, subsections (1) and (2) should be read disjunctively, i.e. subsection (1) deals with the subsistence of copyright in situations where copyright would not otherwise arise, eg because of the absence of certain connecting factors, while subsection (2) separately deals with the issue of the ownership of copyright, independently of the question of subsistence and connecting factors.
- The CLRC has proposed the amendment of ss 176 and 178 by the substitution of the words “under the direction or control” with the words “in the course of employment”. As amended in accordance with the CLRC’s proposal, the provisions would read: “by, or in the course of employment [of], the Commonwealth or a State.” The Queensland Government does not support the amendment in the form proposed by the CLRC as it would unduly narrow the operation of the government copyright provisions. The proposed amendment would exclude persons such as volunteers, students and those on work experience placements in category (1) above.
- It would also exclude the important category of materials required to be produced specifically for the purpose of lodgement with a government department or agency pursuant to a legislation or regulatory requirement (described in category (3) above). In the form proposed by the CLRC the amendment is in any case ambiguous and does not throw any light on the meaning of “by” in the context of ss 176 – 178. By retaining the reference to materials produced “by” a government, the amended version of the sections

apparently envisages that government copyright would subsist in materials created by governments through the efforts of employees, volunteers, students, work experience and other unpaid personnel.

- It is unclear whether the CLRC has envisaged that the category of materials created “by” governments would also include works produced for valuable consideration by persons who are not employees working under contracts of service but who are independently contracted by governments to produce works. In any case, the inclusion of a specific reference to materials created “in the course of employment” would appear to be superfluous if ss 176 and 178 are to continue to refer to materials made “by” governments. Since the most obvious means by which governments create materials is through the efforts of their employees, it is not necessary to include an express reference to the creation of materials in the course of employment.
- On the other hand, since many persons participate in activities in government workplaces on an unpaid basis (e.g. as volunteers, students or on work experience placements), the operation of the provisions would be unduly limited if they were to apply only to persons employed under a contract of service.
- The abolition of government copyright for materials falling within category (3) has not previously been proposed by an intellectual property law review body in Australia. The Intellectual Property and Competition Review Committee (the Ergas Committee) did not recommend the repeal of the government copyright provision in s 176 of the *Copyright Act* but instead proposed that s 176 be amended so that governments are “in the same position as any other contracting party” in relation to copyright ownership of commissioned works. The Ergas Committee’s recommendation concerning s 176 related only to the situation where governments commission the production of copyright materials by independent contractors. Section 176 operates to vest first ownership of copyright in governments across a much broader range of circumstances than those considered by the IPCRC. The IPCRC made no recommendation – and indeed did not address – the situation where copyright materials are produced by non-government entities pursuant to governmental “direction or control” exercised in a form other than a commissioning agreement.
- Any revised definition should make it clear that the concept of materials produced under government “direction or control” includes materials produced by independent contractors and consultants for the government, and for valuable consideration (see for example, s 35(5)). This position on first ownership of copyright in materials produced pursuant to an agreement with the government would be subject to any provision in the agreement to the contrary which provides that first ownership of copyright is to vest in someone other than the government, eg the contractor or consultant.

If the “default” rule were removed, it would be necessary to ensure that the question of copyright ownership is addressed in every instance where the government commissions the production of copyright materials. The current practice of most Queensland government agencies is not to rely on the “default” rule in ss 176 and 178 but to expressly address the question of copyright ownership in pre-contractual negotiations with contractors and consultants.

- **Should the “first publication” provisions in s 177 be removed and what would be the impact of doing so? (para 40)**
 - Section 177 should be retained in its present form.
- **What is the appropriate method for determining the entities that are included within the “Commonwealth” and/or a “State”? (para 43)**
 - While accepting that there may be difficulties in determining which entities can be considered to be the “State”, the Queensland Government does not support any of the options outlined in the Discussion Paper. An extensive body of case law has developed over many years on the issue of whether entities, including those engaged in commercial activities, can be considered to be part of the “Crown” and this is relevant to the question of whether entities can be considered to be part of the Commonwealth and/or a State (see, in particular, *Townsville Hospital Board v the City of Townsville* [149] CLR 282 and Hogg and Monahan, *Liability of the Crown*). The CLRC’s attention is drawn to the recent decision of the Full Court of the Federal Court in *NT Power Generation v Power and Water Authority* [2002] FCAFC 302 in which the court considered whether a power and water authority which supplied essential services to the community could be considered to be part of the Crown in right of the Northern Territory. The Full Court’s decision has been appealed to the High Court which heard the appeal in March 2004 and has reserved its judgment.
 - It is not considered advisable at this stage to attempt to develop a non-exhaustive list of factors, based on the principles that have developed through the case law, to be included in the *Copyright Act* and which would be applied to determine whether an entity is part of the Commonwealth or a State specifically for the purposes of copyright law.
 - Any attempt to provide a definitive list of agencies included with “the State” would be problematic as the list would need to be constantly updated if it were to remain current.
- **What exceptions to infringement should apply in the light of the public policy justifications for government ownership of copyright and the type of material in which the government owns copyright? In particular, should there be a blanket licence or statutory waiver of government copyright so that all government material can be reproduced and communicated for non-governmental purposes? (para 48)**
 - The Queensland Government does not support the introduction of a blanket licence or statutory waiver of government copyright which would permit government material to be reproduced and communicated to the public for non-governmental purposes. The Queensland Government has ensured that members of the public have ready access to a wide range of government material by making it “freely accessible”, in accordance with the policy set out in *Information Standard 33 – Information Access and Pricing (IS33)*⁴.
 - Under IS33, the following categories of government documents are required to be made “freely accessible” i.e. “available to citizens at no charge in a widely accessible form and at their reasonable convenience either electronically or, if necessary, in paper format”:
 - Legislation and subordinate legislation;

⁴ Available at <http://www.iie.qld.gov.au/site/informationstandards/downloads/is33.pdf>

- Parliamentary bills (including exposure drafts of bills) and Parliamentary papers;
- Hansard;
- Queensland Government Gazette and Industrial Gazette;
- Commissions of Inquiry reports;
- Annual reports;
- Budget papers;
- Papers inviting public comment;
- Statements of Affairs and policy documents (as specified by the *Freedom of Information Act 1992*); and
- Corporate plans.

The strategy of making these documents “freely available” is regarded as appropriate in view of the highly decentralised nature of the State. However, in adopting this strategy, the State has not granted a waiver or a blanket licence of copyright in these materials. Any use of these materials by members of the public continues to be subject to the principles of copyright law, including any limitations or exceptions to the scope of copyright such as fair dealing.

- o In light of the public policy justifications for government copyright, the introduction of a blanket licence or statutory waiver would increase the likelihood of inaccurate or altered versions of government material being disseminated to the public, thereby making it more likely that persons who rely upon the inaccurate or altered material will suffer loss.
- **If copyright subsists in all government material, is amendment of s 182A or the introduction of a blanket licence scheme more appropriate for the purpose of providing access to certain government copyright material? (para 58)**
 - o The Queensland Government does not support the amendment of s 182A and views the current arrangements which permit a single copy to be made as appropriate for the protection of legislative materials and decisions of Courts and Tribunals.
 - o There are licence agreements in place between the State and commercial publishing companies covering electronic databases and printed publications.
 - o Under Information Standard 33, Acts of Parliament, Statutory Rules, Hansard and Parliamentary papers are “freely available” to the public in electronic and hard copy form.
 - o The Queensland Government does not support the adoption of a blanket licence to use these materials.
- **How can government copyright be effectively managed? (para 64)**
 - o The Queensland Government will generally agree to requests to license copyright material on a non-exclusive basis, but would rarely agree to license government material on an exclusive basis.
 - o The Queensland Government does not support the establishment of a central agency for the administration of government copyright and takes the view that each department or agency should administer its own copyright, in accordance with its core objectives.

- The Queensland Government agrees that seeking to achieve uniformity in government practice in the management of government copyright is a desirable goal. However, it is submitted that there is no single model which is suitable for the administration of government copyright either within or among the States, Territories and the Commonwealth.