

14 April 2012



Submission: Consultation on extending legal deposit

Background

National & State Libraries Australasia (NSLA) represents the State, Territory and National Libraries of Australia and New Zealand. These ten major public research libraries work together to enable people to access, use and share local and global knowledge and ideas. Through a series of projects called Re-imagining Libraries, NSLA works to make our collections accessible in the digital environment and to share expertise and best practice.

NSLA has shared principles on the rights of Australians and New Zealanders that include the right to information, the right to participate in cultural, civic and intellectual life, and the right to enjoy their documentary heritage knowing that its collection, preservation and transmission are secure.

All NSLA Libraries are working towards expansion of their digitisation, digital collecting and digital preservation programs, as are international libraries, educational and cultural organisations. Information is expected to be online and we are digitising physical collections and collecting the born-digital record of life in the 21st century, in a complex environment where formats, channels and devices change at a rapid rate.

Role of legal deposit

Legal deposit legislation has been an essential mechanism in providing access to Australian research, culture and heritage. As formats change, so must the legislation to encompass online publishing. NSLA supports the initiative of the Attorney-General's department in pursuing this issue in 2012 and recognises the importance of the legislation already enacted in other jurisdictions, both internationally and in state legislation.

Legal deposit legislation is not just about collecting and preserving published works. It is about ensuring these works are available and easily accessible to the community, both now and into the future. Practices that restrict access necessarily restrict research, scholarship, learning, creativity and innovation. In the digital world, knowledge is being created online and must be easily accessible online.

Our libraries work within the information access and supply chain, abiding by Copyright law for restricted content and acknowledging the role and commercial imperative of publishers. As stated in NSLA's recent [position statement](#) on public domain (out of copyright) works:

"NSLA supports the principle that public domain works should be publicly accessible and available for re-use. NSLA also endorses the principle that in a democratic society, the public domain and copyright are of equal importance: both drive social and economic benefits through innovation and the creation of new knowledge."

The National Library of Australia has demonstrated a particularly strong record in the secure management and archiving of web content in the PANDORA service, active for 15 years and already providing a unique snapshot of Australian life during this time. NSLA Libraries are partners in this initiative and will continue to be contributors as the archive develops as part of the National Library's digital infrastructure upgrade.

Definitions

In extending the legal deposit provisions in Commonwealth legislation to include electronic works, NSLA recommends that this is enabled, as far as possible, without specifically stating formats or technologies.

The digital environment has already generated numerous formats and technologies that rise and fall in popularity and usefulness, sometimes very rapidly, and this trend is likely to continue. Broad non-specific terminology that is technology-neutral should be used in the changed legislation so that it can be effective for an extended period.



Cost-effective collecting

Administering legal deposit, whether of physical items or electronic works, must be feasible and cost-effective. The Consultation Paper recognises that legal deposit of electronic works must be selective or 'on demand' because of the scale of activity, but mechanisms to make this process also practicable and automated will need to be developed by the National Library of Australia.

NSLA supports the investigation of web harvesting and automatic deposit solutions, and the allowance for the use of these mechanisms to be included in the legislation.

Fair dealing provisions

NSLA Libraries work to enable people to access, use and share information. We collect and make available the creative output and research of our communities and open our collections to use and re-use as far as possible within legislative restrictions.

The "fair dealing" provisions of the Copyright Act must also be technology-neutral and appropriate to the online environment. Websites that are freely and openly available on the internet should remain openly available after they become subject to legal deposit. Publishers intended this content to be openly accessed on the internet without encumbrance. The "fair dealing" provisions may require adaptation for electronic works to remove any perceived anomalies.

NSLA supports the extension of Commonwealth legal deposit provisions to electronic works and the deposit of these works in the National Library of Australia. This legislation will be an important enabling framework for the National Library to effectively collect and preserve the born-digital record of Australian life. Knowledge and culture are now being created online and this legislation will assist its long-term availability.

Yours sincerely,



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Please note: Each of the ten NSLA member libraries works within different government jurisdictions. The National Library of New Zealand is part of the Department of Internal Affairs. The views expressed in this letter do not reflect New Zealand Government Policy.