

Response to Productivity Commission interim report: Building a skilled and adaptable workforce

September 2025

SUMMARY OF POSITION

Improved access to quality learning materials is best achieved via a complementary relationship between the public sector and the private sector.

Private sector educational resource providers invest in expertise and skills to provide quality education materials for the Australian education sector, that are aligned to education needs, standards and curriculum requirements. It is inefficient, and ultimately not in the best interests of teachers and students, for the public sector to replicate what the private sector does. The public sector does, however, have a key role in ensuring the best educational value from private sector educational materials and services, which includes ensuring sufficient ongoing investment to sustain the future production of quality materials.

A key piece of infrastructure is the education statutory licence scheme, a principles-based technology-neutral regulatory setting that has been applied successfully to major technological changes such as the widespread shift to remote learning during the COVID-19 pandemic, and more recently the emergence of AI tools that are enhanced by third party content. Part of the Copyright Act, the scheme allows teachers to copy and share content from any source, in any format, subject to fair compensation arrangements.

DRAFT RECOMMENDATION 1.1: SINGLE PLATFORM FOR LESSON PLANNING MATERIALS

This recommendation does not address the problem identified by the PC:

Teachers spend much of their time on activities other than lesson delivery and are working long hours to finish all required tasks.

As has been pointed out by the Australian Education Union, lesson planning is a core element of lesson delivery.¹ Teachers need to be released instead from administrative activities that are *not* connected to teaching.

In addition, the recommendation risks wasting public funds on replicating resources provided by the private sector. Those funds are better spent on services that complement and leverage resources provided by the private sector. Education authorities should be supporting, not undermining, Australia's educational publishing industry. A proposal in the UK for government-funded resources to replicate resources available from the private sector has been extremely controversial, resulting in legal action by the educational publishing industry and opposition from the teachers' union (concerned, in part, about reduced diversity and choice).

The PC's interim report confuses *discoverability* with *availability* of resources. The PC reports that some teachers find it difficult to locate suitable materials (e.g. curriculum-aligned). This can be addressed by helping teachers locate suitable available materials, rather than governments spending money on replicating materials that are already available.

¹ <https://www.aeufederal.org.au/news-media/media-releases/2025/productivity-commission-misses-mark>

Harnessing Australia's unique copyright system for student outcomes

Australia's copyright system has unique features that facilitate student and teacher access to educational materials and reduce teacher workload, while contributing to investment in future quality education materials.

The Australian Copyright Act includes a statutory licence scheme for education that allows all Australian teachers to copy and share educational materials from any source, from anywhere in the world. The scheme is principles-based and technology neutral, following consensus amendments in 2017 that were agreed between representatives from the education sector and creative industries sector. It covers AI-related uses of materials in the education sector, such as use of third-party materials in connection with prompts for AI tools. Compliance requirements are minimal, because the scheme requires fair compensation to creators of educational resources (compliance requirements are understandably higher for unremunerated uses of other people's content).

Maximising the benefits for teachers and students

It is not clear that teachers and students are getting maximum benefit from the scheme.

Unfortunately, the Copyright Advisory Group (CAG), whose role includes advising teachers on copyright, appears to have misunderstood the scope of the education statutory licence, and we are concerned that teachers and students may be being denied its full benefits as a result. CAG's questionnaire response to the Productivity Commission² is perplexing given that it was a key proponent of the consensus recommendations to the Government for future-proofing the education statutory licence in 2017.³

The Explanatory Memorandum for the 2017 amendments⁴ says:

The changes introduced by the Bill would consolidate and simplify provisions relating to educational use of copyright material, providing flexibility for both the educational sector and the copyright collecting societies (with whom educational institutions enter into the licences). It is envisaged that these changes would ensure that the licensing schemes continue to balance the economic interests of copyright owners with the copying requirements of educational institutions.

...

These measures promote the right to education by removing duplicated administrative provisions, and unnecessary complexity for educational institutions and collecting societies, in making copyright material available for students. **These provisions would also amend technology-specific provisions that currently restrict educational institutions from using new technologies.** [emphasis added]

In his Second Reading Speech,⁵ the Minister said:

The [Bill] responds to views expressed by copyright stakeholders. They have said that reform is needed to address outdated, prescriptive and overly complex provisions of the Copyright Act. They also said that these provisions impact unfairly on the ability of libraries, archives and educational institutions, and persons with a disability, to access and use copyright material. **The bill is designed to be technology- and format-neutral so that these important reforms will remain relevant in an environment of rapid technological change.** [emphasis added]

² Questionnaire response 60

³ CAG said that the amendments 'resulted from collaboration between the education sector (schools, TAFEs, universities) and collecting societies (Copyright Agency and Screenrights) in an effort to streamline and simplify the educational statutory licences': <https://www.adcet.edu.au/resource/9774/australia-copyright-law-reform-update-a-lot-to-celebrate-and-a-lot-to-look-forward-to>

⁴ https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r5832

⁵ https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r5832

...

I now turn to the educational provisions in the bill. These will streamline the educational statutory licence provisions for the copying and communication of works and broadcasts for educational purposes, and permit the use of copyright material for online examinations. **The intention is to reduce red tape and adapt to technological advancement.** [emphasis added]

That future-proofing served teachers and education authorities well during the COVID-19 pandemic, when schools needed to make a rapid switch to online teaching.⁶ More recently, the scheme has been sufficiently flexible to apply to the use of materials in connection with AI.

It is in the interests of teachers and students that they receive clear and simple guidelines that enable them to make the intended and best use of the education statutory licence. We have published some simple guidelines [here](#).

We are writing to CAG to explain that the Copyright Act, including the education statutory licence, applies now to AI activities, including in the school sector. It is important to ensure that Australian schools are not unnecessarily holding back from exploring the benefits of AI as a result of unfounded copyright concerns. Such misunderstandings both impede access to quality learning resources via the use of new technologies, and unnecessarily add to teacher workload.

Educational use of material available online

The education statutory licence allows teachers to copy and share any material that is available online, where they would otherwise require permission under the Copyright Act (e.g. if the terms of use for the material limit use to personal use only). Teachers know that they are covered by the statutory licence, and that they do not need to check the terms of use. Other people do need to check the terms of use. For example, a person who wants to use a photograph from a photographer's website (where the photographs are displayed to attract clients, and the terms of use prohibit copying and sharing) needs permission from the photographer. A teacher does not.

CAG negotiates the fair compensation payable under the education statutory licence for the entire Australian school sector. Under the current four-year agreement with us, CAG and we agreed to a flat, fixed fee (similar to an 'all you can eat' subscription) that was reached via commercial negotiation. The fee represents the value of the content to teachers and students, as well as the utility of frictionless access. It covers everything that would otherwise require permission under the Copyright Act, without ascribing a value to any particular activity (where the value may range from high to negligible).

DRAFT RECOMMENDATION 1.2: AI AND EDTECH TOOLS

The PC report recommends assessment of available AI tools to establish which are most suitable for Australian schools.

Many AI tools produce better results if they work with quality relevant content, for example via Retrieval Augmented Generation (RAG). The assessment of tools should therefore be accompanied with an assessment of how they could be enhanced by associated content, such as curriculum-aligned quality educational resources. Solutions for providing content to enhance AI tools are developing rapidly, including to enable access to large datasets.

⁶ While education resource creators regarded remote learning as clearly covered by the education statutory licence, some in the school sector reported perceived uncertainties about this. As a result, there was agreement between CAG and representatives from the creative industries on amendments to the Copyright Act to remove the perceived uncertainty.