



Freedom of Information (FOI) Reform

Submission from the Australian Library and Information Association (ALIA)

The ALIA submission is supported by the following additional associations:

Australian Government Libraries Information Network
Australian Law Librarians' Association
Australian School Library Association
Public Libraries Australia

1. Background

The Australian Library and Information Association (ALIA) is the peak body representing the library and information services sector. It represents 6000 members, the library and information profession, Australian library and information services, and the interests of over 12 million library users.

ALIA's first objective is "To promote the free flow of information and ideas in the interest of all Australians and a thriving culture, economy and democracy". Freedom can be protected in a democratic society only if its citizens have unrestricted access to information and ideas.

Libraries and information services have a fundamental concern for the preservation of information contained in the published and documentary record in order to ensure enduring access. ALIA is committed to the preservation of the published and documentary record in all formats, and to ensuring enduring access to information.

2. Proposed FOI legislation

ALIA congratulates the government on developing the draft legislation and, in a timely manner, seeking to ensure that information is managed as a national resource. Improvements in FOI are vital for an informed nation, and expanding digital access will contribute significantly to an effective democracy and a digital nation.

ALIA's comments are on the exposure draft of the *Freedom of Information Amendment (Reform) Bill 2009*. The principles contained in the bill are vital to secure or ensure scrutiny of government and promote a well founded democracy in the twenty first century. There are areas in clauses 7 and 8 which ALIA suggests could be further considered.



Clause 7 requires the establishment of an information plan for agencies to ensure that “Information published by an agency must be kept accurate, up-to-date and complete”. Providing access to accurate up-to-date information online is essential; however a number of agencies currently consider that providing up-to-date information means that older information, such as reports are not provided online. The Workplace Authority, International Air Services Commission, Civil Aviation Safety Authority (CASA) and Australian Government Solicitor (AGS) only make their current annual reports available online, for example. Superseded reports are removed from the internet when new annual report are published, thereby severely limiting access by the Australian community to information on the operation of these agencies in previous years.

We recommend that clause 7 be strengthened with the inclusion of a request to retain policies and statements from the past. The ability to compare old and new policies and directions is essential in ensuring the transparency of government. The example of the change of government in November 2007 can be used, when many agencies removed information that related in to policies set by the previous government.

Clause 8 provides for publication of specific information including:

- (e) the information in annual reports prepared by the agency that are laid before the Parliament;
- (g) the information in documents to which the agency routinely gives access in response to requests under Part III (access to documents);
- (h) the information held by the agency that is routinely provided to the Parliament in response to requests and orders from the Parliament.

ALIA believes that there are three major issues that could limit the effectiveness of the operation of this clause.

Firstly, the obligation of publication can only apply to existing entities. When government entities change, through machinery of government, or other administrative changes, or where agencies only exist for a specific time, such as Royal Commissions and Commissions of Enquiry, their online publications may end with the cessation of the entity and disappear. This is a consequence of a completely devolved system where decisions are made by each agency on long term availability. The National Library of Australia maintains an Australian digital archive, *Pandora*¹, which unlike agency web sites, meets long term preservation requirements and is managed for this purpose. If entities were required to deposit a copy of their online publications and appropriate funding was provided to the National Library for this purpose the ‘disappearance’ of government information would be prevented.

ALIA recommends that proper management for long term access needs to encompass digital publication and preservation through an archive managed consistent with internationally accepted preservation standards.

Secondly, ALIA notes that not all government publications are available online. We recommend that it be mandatory to digitise government publications which are

¹ <http://pandora.nla.gov.au/>

currently only published in print. ALIA notes that the ANAO has found, for example, that only 90% of parliamentary papers are available online.

Thirdly, while government publications may be available online many are extremely difficult to locate. A study of papers order to be printed by the Joint Committee on Publications in 2008 found that approximately 50% could not be found easily through publications.gov.au, many could not be found through search engines on agency web sites, and others could only be found with very complex advanced searches on Google. If government information is published online, but cannot be found, the Australian community cannot easily exercise any scrutiny of government, or benefit from the publications.

ALIA also recommends that the legislation be expanded to include online publication of research, including data, commissioned by agencies; for example, by the Australian Research Council and National Health and Medical Research Council. Other countries have delivered schemes which ensure that publicly funded research is available to those than funded it – the public. The US National Institute of Health, for example, has mandated free community access to publicly funded research in 2008. Its policy is clear: “Enhancing public access to archived publications resulting from NIH funded research)” requires the outputs of research (manuscripts) to be deposited in PubMed Central. Making this research available produces significant public good: it enables quick and effective access to publicly funded research, while reducing duplication and creating a platform for collaboration.

In many other countries, agencies (such as the Canadian Institutes of Health Research) have similar policies to the National Institute of Health. In Australia, the National Health and Medical Research Council guidelines are less demanding. They state that, “Researchers have a responsibility to their colleagues and the wider community to disseminate a full account of their research as broadly as possible.”

ALIA recognises that some government records do not constitute public sector information and should not be freely available electronically. For those documents we recommend that an appropriate charging regime be in place to recoup production costs.

3. International developments

The development of open access to information/publications of government entities has been identified as a critical issue around the world. Earlier this year, the US Office of Science and Technology published a report calling for government scientific digital data to be unleashed. The authoring Interagency Group of 24 agencies called for new structures and approaches, commenting that, “Data are not consumed by the ideas and innovations they spark, but are an endless fuel for creativity”.

The European Union has regulated for an open approach to public sector information. Its directive is intended to remove the barriers that limit cross-border re-use. With approximately EUR 27 billion in PSI assets, increasing commercial benefit has been seen as vital. The directive sets out how public sector bodies should make their information available for re-use and outlines a range of conditions. The European Union has been vigilant in monitoring its implementation. On 19 March 2009, it

launched an infringement proceeding against Italy for “incomplete and incorrect transposition of the EU Directive on the re-use of public sector information”.

Developments in the US, UK and Europe have emphasised the benefit of access to information for science, research and business. By using, for example, geospatial information with scientific data, improved research can occur supporting national resource discovery, building infrastructure and resulting in better environmental management. Businesses can identify potential user communities for product innovation. Robyn Archer, launching Music Australia, gave an insight into a commercial benefit of PSI through digital collections. She described being able to promote Australian musical talent to Europe and the US by linking to performers online in the National Library’s digitised music collection.

Productivity Commission chairman Gary Banks noted at a public lecture earlier this year that data was an essential ingredient for public policy-making. He suggested that transparency was also vital, and that data, assumptions and methodologies should be open to ensure that analysis can be replicated. Additionally, data needs to be available to prevent duplication and enable rapid and effective policy-making. A new approach to access to information could deliver all these goals.

4. Conclusion

The proposed legislation is a major step forward in seeking to provide proactive publication of government information for an informed nation.

ALIA recommends that to be truly effective further consideration should be given to:

- a. supporting a national archive of information to ensure long term access (Pandora);
- b. digitisation of government publications currently produced in paper;
- c. ensuring information can be found readily, meeting accessibility standards; and expanding coverage to include research funded by the Commonwealth.

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